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## Art World on Display to Law Enforcement

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Art has become more than a reflection of its creator's vision and owner's style; it has emerged as an investment and important asset class. Billions of dollars exchange hands in art transactions every year. Unlike other markets, however, there is little government regulation or oversight. The opaque nature of the art market presents opportunities for individuals to engage in money laundering, traffic in stolen and looted art, and peddle forgeries. Rising concerns about illegal art transactions have led law enforcement agencies around the world to increase their scrutiny of the art market.

### **Areas of Law Enforcement Focus**

#### *Money Laundering Through Art*

Lack of transparency makes the art market susceptible to money laundering. Buyers and sellers can often remain anonymous if they choose, and no one is required to report the details of many art transactions. As such, Transparency International UK recently identified arts and antiques as an area of risk for money laundering.<sup>1</sup> Brazilian banker Edemar Cid Ferreira attempted to capitalize on this secrecy by laundering money through art, but he was convicted in Brazil of money laundering, and the art used as part of his scheme—including an \$8 million Basquiat smuggled into the United States—was seized and forfeited by US authorities.<sup>2</sup>

Cases like this show law enforcement's appetite to "follow the money" outside of traditional financial institutions, and we anticipate further scrutiny of alternative means of laundering funds. For example, earlier this month, the US Treasury Department announced that certain US title insurance companies are now required to identify the natural persons behind companies paying all cash for real estate in New York and Miami.<sup>3</sup> In light of reports of international collectors using art to launder money,<sup>4</sup> the art market could become the target of a similar federal probe.

#### *Stolen and Looted Art*

Law enforcement authorities around the world are seeking to curb the sale of stolen art and artifacts. In 2012, US law enforcement raided a Madison Avenue gallery suspected of smuggling and dealing in stolen Indian artifacts, which led to the head of the gallery being imprisoned in India and an employee pleading guilty in a New York court to criminal possession of stolen property looted from India.<sup>5</sup> In December 2015, actor Nicolas Cage agreed to forfeit a 67-million-year-old

Tyrannosaurus bataar skull, looted from Mongolia, which he purchased at an auction for \$276,000, after the US Attorney's Office for the Southern District of New York filed a civil forfeiture complaint seeking to repatriate the stolen skull to Mongolia.<sup>6</sup>

The recovery of the skull comes at a time of heightened concern over the connection between the trade in stolen antiquities and terrorism. Evidence that ISIS has looted and sold antiquities from Syria and Iraq in order to finance terror operations prompted the FBI to issue an alert encouraging art dealers to be cautious when engaging in sales of antiquities from that region and warning that individuals who purchase looted artifacts may be criminally prosecuted.<sup>7</sup> In addition, lawmakers in the United States and Europe are considering legislation to prevent trafficking in looted art and artifacts, which may increase prosecutions.<sup>8</sup>

### *Forgeries and Fraud*

Knoedler & Company, formerly one of New York's oldest and best known galleries, may ultimately be best remembered for its demise amidst an art forgery scandal. The gallery itself was named as a defendant in a number of lawsuits in connection with sales of forged artwork, and dealer Glafira Rosales pled guilty to nine criminal counts, including conspiracy to sell fake works, money laundering and tax crimes.<sup>9</sup> Rosales will soon be sentenced, but the fate of her own (authentic) trove of art has already been decided—US authorities forfeited her art, and the US Marshals Service and a Texas auction house sold her collection.<sup>10</sup>

### **What You Can Do**

In light of increased law enforcement scrutiny, art dealers and galleries should consider implementing the following strategies:

- *Implement Anti-Money Laundering and Know Your Customer policies:* To ensure that you comply with relevant laws and are not inadvertently involved in a money laundering transaction, consider developing Anti-Money Laundering and Know Your Customer policies. These policies both protect your organization and demonstrate your organization's commitment to compliance.
- *Conduct an internal investigation:* If you are aware of potentially improper conduct, or suspect that your organization may have been involved in or is a victim of an illegal transaction, consider conducting an internal investigation to determine what happened and who was involved. Outside counsel can often lend credibility to the investigation, contribute resources necessary to conduct a thorough investigation, and ensure compliance with relevant legal obligations.
- *Reach out to law enforcement:* If you discover that your organization has been involved in an illegal transaction, consider reaching out to law enforcement. Outside counsel can be a valuable resource in this process, especially if they have a background in law enforcement and experience working with law enforcement to resolve investigations.

<sup>1</sup> Transparency International UK, *Don't Look, Won't Find: Weaknesses in the Supervision of the UK's Anti-Money Laundering Rules 60-61* (2015).

<sup>2</sup> Press Release, U.S. Attorney's Office Southern District of New York, [Manhattan U.S. Attorney Returns Two Paintings Linked to Bank Fraud to Brazilian Government](#) (Sept. 21, 2010).

<sup>3</sup> Press Release, U.S. Dep't of the Treasury Financial Crimes Enforcement Network, [FinCEN Takes Aim at Real Estate Secrecy in Manhattan and Miami](#) (Jan. 13, 2016).

<sup>4</sup> See, e.g., Sophia Yan, [Chinese Snap Up Fine Art for Use in Laundering Schemes](#), CNN, Feb. 21, 2014; Patricia Cohen, [Valuable as Art, but Priceless as a Tool to Launder Money](#), N.Y. TIMES, May 12, 2013; Abigail R. Esman, [China's \\$13 Billion Art Fraud – And What It Means For You](#), FORBES, Aug. 13, 2012.

<sup>5</sup> See Tom Mashberg, [Assistant to Antiquities Smuggler Pleads Guilty to Possessing Looted Items](#), N.Y. TIMES, Dec. 4, 2013.

<sup>6</sup> See, e.g., Joseph Ax, [Actor Nicolas Cage Returns Stolen Dinosaur Skull He Bought](#), REUTERS, Dec. 21, 2015.

<sup>7</sup> [FBI, ISIL and Antiques Trafficking](#) (Aug. 26, 2015).

<sup>8</sup> Joe Parkinson and Duncan Mavin, [West Seeks Tighter Curbs on Trade in Antiquities Looted by Islamic State](#), WALL ST. J., Mar. 30, 2015.

<sup>9</sup> FBI, [Art Dealer Pleads Guilty in Manhattan Federal Court to \\$80 Million Fake Art Scam, Money Laundering, and Tax Charges](#) (Sept. 16, 2013).

<sup>10</sup> Graham Bowley, [Up for Auction: Real Art, Owned by a Seller of Forgeries](#), N.Y. TIMES, Jan. 8, 2016.

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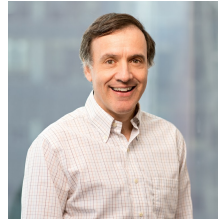
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