



ÆGIS e-journal

Addressing threats that affect your bottom line

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Intellectual property being stolen or at risk? Call us!

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1. Due Diligence — Art

“Art forgery is the most marvelous crime Lots of money to be made without penalty.”

Many financial institutions have literally pallets of art items in their vaults. The art items are there for storage, collateral, and as an asset base. Who's to say an object d'art is real or fake? It's to the benefit of all that have touched a piece of artwork that once it is considered an original — even when the artist himself says he didn't do it — to keep mum the story of it being possibly a fake.

The risks of using counterfeit art as collateral or as an asset are obvious. However there are real risks of even taking it on for storage. A Swiss bank was sued because the painting delivered to them to be stored was returned to the owner years later and declared a fake. The owner made quite a scene at the bank when it was shown to him. The owner claims the venerable institution switched out his original. The owner's finger prints all over the painting in storage ended this particular incident, but many institutions have had similar problems with less-happy endings.

When an art item is passed as an original the dealer will claim it is an original. The buyer, not wanting to look like a rube and an idiot, will also claim it to be an original. Authentication cannot come from an interested party. Only a third party should be allowed to authenticate. If the art object is a forgery it doesn't mean it is worthless. Elmyr de Hory's acknowledged forgeries, signed by de Hory after his conviction, have great stories behind them and have a brisk market at about \$20,000 USD per painting.

Art forgery is not limited to old masters or even recent masters. LeRoy Neiman has had a heck of a time controlling the distribution of his work: As lithographs, his artworks are easily photographed and duplicated with the aid of modern computer equipment and skilled printers.

That leads us to the next question: Why forge art? Art forgery is a high yield program that is untraceable. All in the chain of ownership must remain a part of the myth. It gouges the rich and sophisticated consumer who is too supercilious and embarrassed to squeal (or dares not squeal if a gallery) when stuck. It may not be a pretty picture, but....

A constant question with any piece of art is where did it come from? If indeed the object d'art is an original, then what is the history behind the art? What is the provenance and origin of the objet d'art? A genuine item may be stolen or illegally obtained. Is there an un-erasable cloud on the art object's title?

Take the Quedlinburg treasure (indeed, somebody did just that!) .It was an accumulation of medieval objects including bejeweled texts, silver reliquaries, etc., that were looted from the Quedlinburg church in Germany at the end of World War II. These items came up for secret sale in the 1980's by the heirs of an American soldier who was in Quedlinburg at the time of the treasure disappeared in 1945. They were eventually returned to the Quedlinburg church but not until they had been seen at auction houses and in catalogs all over the world.

The other issue has to do with how the objects were gathered and sold. Italy has draconian laws surrounding their antiquities. Most of these laws were past just after World War II. In the 1960's a particular type of Apulian vase was discovered in a remote part of Italy in graves. These vases showed up for sale in Geneva and London within months of their first discovery. What's the problem? No permits were ever issued to dig and recover the vases offered for auction. Italy expressly prohibits the export of antiquities unless accompanied by a permit. No permits since 1945 were issued to export these very rare and unique items. Thus the looted vases were smuggled out of Italy. These vases continue to appear on the world market and have appeared in Sotheby's catalogue without an explanation of provenance or explicit origins.

The moral of all this?

- Being a gentleman and an art dealer are generally recognized to be mutually exclusive.
- The hot potato rule is that the last one stuck with the bogus or tainted object d'art is the loser.
- You must do your own due diligence before you buy art. Never do business with any dealers or auction houses that won't guarantee what they sell.
- In an art transaction you must be concerned not only with authenticity but also with provenance and origin since there are no international statutes of limitations of the recovery of stolen or looted art.

2. OPSEC, Economic Espionage, and Competitive Intelligence — The English translation of The China Spy Guide

There has been a lot of talk recently about the China Spy Guide. It is, in fact, both interesting and informative. For those wishing to read it, rather than printing it here, we refer you to <http://www.gertzfile.com/ChinaSpyguide.htm>

Note that while the document is interesting, and possibly entirely authentic, a former FBI counterintelligence agent, who specialized in China, has noted that the document bears little or no relation to Chinese practice of espionage. Even so, it is worth reading.

3. Executive Protection — Why you have to pay for two trips

In the best of all possible worlds nobody would need executive protection (and we would have to look for real work). Unfortunately, this is not the best of all possible worlds. Because of this, people need protective services, and these services are expensive.

One part of this process is the advance. In essence, the trip is taken, in advance, by an individual or group of individuals. For those just getting involved with protective services, it can apparently seem puzzling that we have to send a team to visit an area with which we have some familiarity.

As it turns out, however, advance work is arguably the most important part of any detail. If the advance work is done properly the likelihood of anything bad happening is greatly reduced. And, if something bad does happen, the likelihood of it being dealt with appropriately is greatly increased.

What is done during the advance work? This can vary, but in general someone does a walkthrough of the trip going everywhere that you will be going to on the real trip, checking security at each point, looking for areas of possible difficulty, checking your lodgings, assuring that all anticipated services will be available, checking that all the arrangements that need to be made have actually been made.

Other things that may be done might include checking that appropriate medical facilities will be available, making alternative plans for exit in case of an emergency, and checking in with appropriate contacts. If the corporate plane will be used for transportation, airport security will be reviewed as well as alternative airports.

If the advance work is done properly, there is a high probability that the trip itself will be problem-free.

4. Technical Issues — Power supply

Do you know what “interruptible tariff” means. Most people, industries, and institutions did not know, or forgot, until it occurred to them. It occurred to them when their power was turned off. Yes turned off!

Interruptible tariff agreements are fee schedules (contracts) that an industrial company, an educational institution, or another large power consumer will sign with their electric utility to contract for lower electricity rates. The interruptible tariff electricity rates are substantially lower than the regulated tariffs set by local and state regulatory boards. But interruptible tariff rate agreements allow the power grid manager to shut off those power consumers who have signed these interruptible tariff agreements when demand is beginning to outstrip supply, in order to avoid system wide power blackouts or brownouts.

This came to light in California this past several months as everyone from students and industrial plant workers were sent home when the power at their places of study and work were turned off. One university student is so irate she is suing for a return of her tuition. She is a film and theatre student who cannot even do her homework in the dorm - let alone do her homework at the film laboratory or act in the theatre since all of the power keeps getting turned off.

What are the technical issues - well several. One do you know if your employer or land lord (if power is part of the tenant agreement) has signed an interruptible tariff agreement. Further - if you derive power from one of the Electrical Co-Ops has your co-op signed an interruptible tariff agreement. Next, call your local power grid manager and find out what the likelihood for power interruption could be and if there is any short fall in supply of electrical power line capacity to meet forecasted demand. If you could fall into the category of electrically challenged then review all of the following.

A. Backup systems - if they are in place such as battery and backup generators are they all in working order and can they run for, not just several hours, but several days. If not is it a question of insufficient emergency generation capacity, not enough fuel etc.... Find the fatal flaws. You don't have to cure them - but you need to be aware of them - prevention!.

B. How does your security system react when the power fails? Is there an automatic message sent to police, do battery powered alarms ring, do all of the fire doors close and or lock - does all of the water go off because your pumps are electrical, what happens? If possible - turn the power off and find

out - if not ask all of the building systems people what happens when the power goes out after a weather event.

C. Computers - not just main frames and desk top PC's are affected. Don't forget copiers, fax machines, telephone systems, monitoring equipment, overhead cranes. Also how do you charge all of your emergency systems batteries if the systems could be down for an extended period of time.

D. Insurance. You may have business interruption insurance that would cover power loss for an act of god. It may not cover you for an act of contract weather or not it is you fault.

The losses than can occur from business interruption, for power or other means, can be an ongoing problem for many years, not just a few days. You fixed costs don't go away just because the power went out. Salaries must be paid, taxes, rent, interest payments on loans, etc., all go on with or without the power.

Was this problem foreseeable. Yes! In the 1980's when the state of California discussed de-regulation, many of the utilities stopped building power plants and quit honoring PURPA power purchase agreements (agreements by the utilities to purchase electricity generated by a co-generation facility or a renewable resource). When asked why these wouldn't be honored, a representative of PG&E told this editor " We don't need and don't want your power, and if you don't like it you can sue us." He then showed me a room with literally stacks of litigation. The public relations side gushed about how profitable they would be when new power supply capacity would be expanded through savings and conservation. When the utilities were deregulated the utilities had all of the power generation and wholesale deregulated but most of the demand was still at regulated fixed prices. Hence, the only component of the equation that could respond to "market forces" was the cost of the supply. Dumb. Really dumb. And predictable.

5. Real Stories from the Field — More art

At an art fair in Portland, Ore. three years ago, John spotted a watercolor by American illustrator Maxfield Parrish. Erwin Flacks, the ponytailed dealer offering the art, apparently knew his stuff. He pointed out his name on the title page of a book on Maxfield Parrish, which he had nearby. Flacks' own book, Maxfield Parrish, advises collectors how to spot fake Parrishes.

Impressed, Hammer paid Flacks \$3,600 for a Parrish watercolor. Over the next few months he paid the dealer \$15,100 for what he thought were three more Parrish studies.

He should have bought Flacks' book instead. Had they been genuine, the watercolors would have fetched at least \$10,000 apiece. But the Maxfield Parrish Family Trust told Hammer that he was holding worthless fakes. The same drawings had been bounced from a Phillips auction in 1981. "I feel so stupid," laments Hammer, a real estate developer in Eugene, Ore. The art was taken by the FBI in November.

Who can prove that Flacks knew they were fake? It is not a crime in the U.S. to sell phony art and antiques unintentionally.

A burgeoning number of dealers peddle art that turns out to be bogus. And occasionally they hit the jackpot. Just ask actress Whoopi Goldberg. She bought five "Parrish" drawings from Flacks about three years ago. New York art dealer Judith Goffman, and several other art dealers, visited Goldberg at her Los Angeles home and fingered the drawings as counterfeits.

Christie's and Sotheby's wouldn't touch them either. Goldberg promptly sued Flacks and his wife, Gail, for her money back. The dealer responded with his own lawsuit--against Goffman--for "interference of trade." After a two-year court battle, Flacks collected in excess of \$100,000 from Goffman's insurance company. He and his wife gave Goldberg her money back--a reported \$45,000. Not a bad exchange. The art has since been taken by the FBI. Groans Goldberg: "Your dealer can't tell you whether something they spot on your wall is fraudulent, because they might get sued."

Fakes are a growing cottage industry. There are now so many forgeries floating around that the American Art Dealer's Association plans to publish bulletins warning collectors what to stay away from.

One of the more brazen characters in this sector of the art trade is a lawyer, currently suspended, named Ronald Causey. He and his wife, Sandra McElwee Causey, run the Louisiana Auction Exchange in Baton Rouge. Its catalogs offer Degas, de Kooning, Gauguin--at bargain prices.

A New York art dealer Richard Feigen was surprised to pick up one of Causey's catalogs and see Matisse's "Fleurs par la fenetre" advertised for an upcoming auction (see photo above). Feigen, who has sold several Matisse during his career, smelled a fake. He sent a transparency of the painting to Wanda de Guebriant, archivist for the Matisse estate in Paris and the world authority on Matisse. De Guebriant wrote back that the painting was an outright forgery, that the provenance ascribed to it was "utmost fantasy." Feigen sent a copy of that letter to the Louisiana Auction Exchange, in an effort to halt the sale. Causey responded with a letter to de Guebriant insisting on the legitimacy of the painting and its provenance. "I advise you

to refrain from further defamation of this painting,” he threatened. On Dec. 7, 1996 Causey says he hammered down the “Matisse” for \$242,000 to a “European buyer.” “It’s highway robbery!” sputters Claude Duthuit, Matisse’s grandson.

Why do people buy artworks at prices that broadcast the art’s essential phoniness? For the same reasons they buy overhyped penny stocks and other worthless goods: greed, and the arrogance to think they’ve stumbled onto a great deal.

Where are the art cops? Outgunned. Shutting down a shady dealer usually requires an elaborate sting. With the help of Manhattan-based International Foundation for Art Research (IFAR), the U.S. postal inspectors did manage to crack one of the world’s largest counterfeit art rings in 1993. But it took them seven years and help from Interpol, the FBI, and dozens of art experts to nail sisters Kathryn and Joanne Amiel, and Kathryn’s daughter Sarina. They were convicted of conspiracy and mail fraud for distributing thousands of phony Dali, Chagall, Miro and Picasso prints. Last month they began serving 33 months to 6 1/2 years each in federal prison. Prosecutors estimated that collectors would have lost \$200 million if the Amiel ring’s 80,000 fakes hit the market. Now the government doesn’t know what to do with the prints and may cycle them back onto the market.

Unthinkable? Hardly. The Postal Inspection Service auctioned off about 11,000 fake Dali prints, which agents had seized ten years earlier. The \$347,550 take went toward covering the cost of that bust. Because there are so many fakes, neither Sotheby’s nor Christie’s will handle Dali prints any longer.

Auctioneer named C.B. Charles in Pompano Beach, Fla. was all set to auction off 294 paintings attributed to Piet Mondrian, Georgia O’Keeffe, Jasper Johns, and other renowned artists. Charles advertised the sale in national art magazines, with estimates that were far below what paintings by these artists typically fetch. The FBI, alerted by the Manhattan-based Art Dealers Association of America, took possession of the paintings.

Charles pleads ignorance, of course. “I’m no art expert,” he said. However one Florida collector has offered him more than \$1 million--the price of a single genuine O’Keeffe--for his entire collection of fakes once the FBI returns the haul, which it probably will.

Condensed from articles in Forbes, Financial Times and Offshore Alert.

6. Book and Product Reviews

Money Laundering, A New International Law Enforcement Model

Guy Stessens

Cambridge University Press ISBN 0 521 78104 3 (hb) \$80.00.

This is a wonderful book: It should become part of the permanent reference library for all regulators, bankers, international finance professionals, and for attorneys in process for the prosecution or defense of a money laundering case.

This book is a translation of Mr. Stessens' Ph.D. thesis at the University of Antwerp, and has all of the history and detail to support his research, presentation and conclusions. Mr. Stessens traces back to 1874 the first piece of anti "money laundering legislation" in an extradition treaty between Belgium and Switzerland, and rolls forward from there. Mr. Stessens also explores how these criminal statutes will be used in the future for civil actions and has anticipated the thought process of many legal minds struggling with those very same problems today.

The book is divided into four parts:

- New instruments in the fight against acquisitive crime: confiscation of proceeds from crime and criminalization of money laundering
- The Prevention of Money Laundering
- Jurisdiction over money laundering
- International co-operation in combating money laundering.

This book is not for the faint hearted. It is a robust piece of work and should be purchased and treated as such.

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The Guide is a resource publication with listings of sources of information for background checks or, for that matter, most any non-standard research that will involve contacting governmental agencies or educational institutions. This reviewer has some familiarity with the assembly and compilation of these books, having done one in 1997. It is a lot of work, and the sources of information (the governmental agencies) are not always too most co-operative, or sometime you reach — how do we say this — the dimmest bulb in the chandelier as you try to compile *correct* information and points of contact.

Once again TISI's *Guide to Background Investigations*, 9th Edition, is an accurate, thorough, useful, and CORRECT bundle of information. *The Guide*, at 2000+ pages, is a work to behold.

As always, the real test is the use of the book. Previous editions of this book are always dirty, written on, and no more than an arms reach from the user's desk. We believe this version will be equally well used.

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