

Money Laundering and Antiquities

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Abstract: Recent amendments to anti-money-laundering regulations in Europe and the United States have implicated antiquities in money laundering. This is despite the fact that there is very little evidence that antiquities are actually used for money laundering. There is in contrast ample evidence that the antiquities themselves are laundered, as are the criminal proceeds of antiquities sales. Some information suggests that antiquities might be used for trade-based money laundering, though if they are, the financial thresholds incorporated into money laundering regulations would radically diminish the effectiveness of the regulations.

Keywords: Art; antiquities; trade; money laundering; terrorist financing

Introduction

Transactions involving cultural objects are becoming increasingly and explicitly subject to anti-money-laundering regulations. A recent flurry of legislative activity has been prompted by some high-profile investigations into the use of modern or contemporary art by kleptocrats or other criminals for money laundering,¹ together with the coopting of the antiquities trade for terrorist financing (though terrorist financing is not the central concern of this paper).² Unfortunately, we believe that recently introduced and proposed laws in Europe and the United States, which represent many of the primary final market places for antiquities, are sub-optimal because they conflate radically different categories of material and are not sufficiently clear about the nature of the criminal problems they are intended to address. These legislative shortcomings are due in turn to a poor

understanding of the activities or crimes to be regulated because of limited research and a consequently inadequate evidence base. This scarcity of evidence is undermining policy and legislation, reducing their effectiveness and potentially raising questions about their proportionality – about the equitable balance between the costs of regulation and its beneficial outcomes.

The Financial Action Task Force defines money laundering as “the processing of criminal proceeds to disguise their illegal origin”,³ which presents a straightforward and common understanding of the problem. ‘Dirty’ money is laundered through the buying and selling of ‘clean’ assets. Recent legislation suggests that cultural objects can be used in this way – as clean assets to launder dirty money. But discussions of money laundering through ‘cultural objects’, ‘cultural goods’, ‘cultural property’ or ‘art’ often fail to make explicit the distinctions between different categories of cultural objects. This is problematic on many levels, but perhaps most importantly because different types of cultural objects also have different financial and legal characteristics. For the purposes of this paper, we are making a coarse and perhaps simplified distinction between artworks and antiquities (including ancient coins). Generally speaking, in most jurisdictions, artworks, mainly paintings, are private pro-

1 Tom Mashberg: The Art of Money Laundering, in: Finance and Development 56 (2019), 31-34, <https://www.imf.org/external/pubs/ft/fandd/2019/09/the-art-of-money-laundering-and-washing-illicit-cash-mashberg.htm>, <30.03.2022>; Antiquities Coalition: Reframing US Policy on the Art Market. Recommendations for Combatting Financial Crimes, Washington DC 2020, <https://theantiquitiescoalition.org/developing-implementing-solutions/financial-crimes-task-force/>, <30.03.2022>.

2 Neil Brodie: The Looting and Trafficking of Syrian Antiquities since 2011, in: Layla Hashemi / Louise Shelley (eds.): Antiquities Smuggling: In the Real and the Virtual World, London 2022, 21-58, here: 39-43.

3 Financial Action Task Force: <https://www.fatf-gafi.org/faq/money-laundering/#d.en.11223>, <30.03.2022>.

property and legitimate objects of commerce. While some jurisdictions place restrictions on the export of certain artworks in certain circumstances, private ownership remains the norm and unless they are stolen, artworks can be bought and sold openly and legally. Antiquities on the other hand are ancient objects obtained from archaeological sites or monuments. In most jurisdictions, there is no legal opportunity to excavate, export, or trade antiquities and ownership is inalienable from the government, which often holds the objects in public trust as ‘property of the nation’. Thus, many if not most antiquities on the market have been illegally transferred or transacted at some point in their commercial history and their availability for legal exchange might be questionable – they are characterized as illicit. In short, paintings and other artworks are usually clean assets and thus suitable for money laundering as defined by the Financial Action Task Force, while many antiquities, particularly those without any verifiable prior history of ownership, might be considered dirty and therefore unsuitable for money laundering.

In this paper, we provide a brief overview of the inclusion of cultural objects in recent anti-money-laundering legislation before discussing what evidence there is for the use of antiquities in money laundering – and to pre-empt the discussion, we find very little. Antiquities transactions are more likely to generate criminal proceeds than to clean them, and we provide examples of how these proceeds are themselves then laundered. Finally, we suggest how the antiquities trade might be used for trade-based money laundering and highlight the inadequacy of recently introduced anti-money-laundering regulations for guarding against such an eventuality.

Recent anti-money-laundering legislation

European Union Directive 2018/843 on anti-money-laundering and countering the financing of terrorism (Anti-money-laundering Directive 5) amended the preceding Directive 2015/849 (Anti-money-laundering Directive 4) by among other things including the art trade.⁴ Anti-money-laundering

4 EU Directive 2018/843 on anti-money-laundering and countering the financing of terrorism, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32018L0843>, <30.03.2022>.

dering Directive 5’s Amendment 1 added persons trading or acting as intermediaries in the trade of works of art if the value of the transaction or a series of linked transactions amounts to 10.000 EUR or more to Anti-money-laundering Directive 4’s list of obliged entities. Anti-money-laundering Directive 5 does not define ‘work of art’, but its regulation seems generally to be regarded as applying to art and antiquities.⁵ Anti-money-laundering Directive 5’s Amendment 44 added “cultural artefacts and other items of archaeological, historical, cultural and religious importance” to Anti-money-laundering Directive 4’s list of potentially high-risk evidence and situations for money laundering (and terrorist financing).

Echoing Anti-money-laundering Directive 5, the United Kingdom’s Money Laundering and Terrorist Financing (Amendment) Regulations 2019,⁶ which came into force on 10th January 2020, amended the preceding Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 by including “art market participants”, with a participant defined in Amendment 4(6) as an individual or firm who trades in, or acts as an intermediary in the sale or purchase of, works of art and the value of the transaction, or a series of linked transactions, amounts to 10.000 EUR or more. A ‘work of art’ is defined with reference to the Value Added Tax Act 1994, where it is listed separately from “any collection or collector’s piece that is of ... historical, archaeological, palaeontological, ethnographic, numismatic ... interest”. In other words, for the 2019 Money Laundering and Terrorist Financing (Amendment) Regulations the category ‘art market participants’ excludes

5 Confédération Internationale des Négociants en Œuvres d’Art: CINOA Position Paper (April 2018) on the proposed revision of the 4th EU Anti Money Laundering Directive, 2018, <https://www.cinoa.org/cinoa/perspectives?action=view&id=AWJwp9yN1B8G-fYskag3i>, <30.03.2022>; Responsible Art Market: Guidelines on Combatting Money Laundering and Terrorist Financing, 7, <http://responsibleartmarket.org/guidelines/guidelines-on-combatting-money-laundering-and-terrorist-financing/>, <30.03.2022>.

6 The Money Laundering and Terrorist Financing (Amendment) Regulations 2019, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/860279/Money-Laundering-and-Terrorist-Financing-Amendment-Regulations-2019.pdf, <30.03.2022>.

antiquities dealers.⁷ Confusingly, Amendment 5(3) then states that enhanced due diligence is necessary for transactions related to “... cultural artefacts ... or other items of archaeological, historical, cultural or religious significance or of rare scientific value”. So, on the face of it, the Money Laundering and Terrorist Financing (Amendment) Regulations requirement for enhanced due diligence applies only to art dealers who are not antiquities dealers but who happen to be selling antiquities.

On 23rd September 2021, the United States Treasury’s Financial Crimes Enforcement Network announced a public consultation on proposed amendments to the Bank Secrecy Act in implementation of Section 6110 of the 2020 Anti-Money Laundering Act, which would include persons “engaged in the trade of antiquities”.⁸ Alongside questions relating to what rules might be appropriate, the public consultation canvassed opinions on what exactly might be classed as an antiquity, whether there should be a financial threshold for regulation and, if so, what that threshold should be. The 2020 Anti-Money Laundering Act makes the useful distinction between ‘antiquities’ and ‘works of art’ that we have adopted for this paper. At the same time as announcing the proposed amendments relating to the antiquities trade, the United States Treasury’s Financial Crimes Enforcement Network also announced that a study was to be made to assess the nature of money laundering and terrorist financing through the trade in works of art.⁹

Assuming commonality of purpose across jurisdictions, when viewed as a whole, this body of law is confused. For the European Union, Anti-money-laundering Directive 5 applies to all cultural objects valued at more than 10.000 EUR. For the United

Kingdom, the Money Laundering and Terrorist Financing (Amendment) Regulations apply to works of art valued at more than 10.000 EUR but not antiquities. For the United States, the 2020 Anti-Money Laundering Act applies to antiquities but not works of art, with a possible financial threshold yet to be decided. We believe this confusion is caused by the conflation of what should be distinct material and juridical categories as well as the almost total absence of good-quality research into the problems of money laundering and terrorist financing that these laws are intended to address. They are the flawed product of an evidence-poor legislative process.

Art and antiquities

For cultural objects, a 2018 report prepared for UNESCO and the European Commission summarized money laundering thus:

*“As far as cultural property is concerned, money laundering refers either to the very act of buying art objects with criminally earned money (purchasing valuable assets helps to convert such ‘dirty’ cash into an asset that gains value and can be sold later), or to cleaning the tainted money through an art deal whereby an artwork is bought by an accomplice of the seller with money provided by the seller (fictitious auction)”.*¹⁰

But for antiquities, the situation is more complicated:

*“...an archaeological object clandestinely excavated in a source country and then illegally exported and sold to a collector in a market country, all those who have been knowingly involved in dealing with that relic or with the proceeds of the sale are vulnerable to prosecution for money laundering”.*¹¹

Thus, for artworks, transactions can be used to launder dirty money, but for antiquities, the transactions themselves might be illicit or implicate criminal action and generate dirty money that needs

7 British Art Market Federation: Guidance on Anti Money Laundering for UK Art Market Participants, London 2020, <https://www.ester-entertainmentlaw.org/post/the-impact-of-the-eu-fifth-money-laundering-act-5mld-on-uk-art-market-participants>, <30.03.2022>.

It is not known whether this exclusion of antiquities is intentional or instead an unfortunate cut-and-pasting error.

8 Financial Crimes Enforcement Network: FinCEN Informs Financial Institutions of Efforts Related to Trade in Antiquities and Art, 9th March 2021, https://www.fincen.gov/sites/default/files/2021-03/FinCEN%20Notice%20on%20Antiquities%20and%20Art_508C.pdf, <30.03.2022>.

9 Financial Crimes Enforcement Network: FinCEN Informs Financial Institutions of Efforts Related to Trade in Antiquities and Art, 9th March 2021, https://www.fincen.gov/sites/default/files/2021-03/FinCEN%20Notice%20on%20Antiquities%20and%20Art_508C.pdf, <30.03.2022>.

10 Marc-André Renold: The Legal and Illegal Trade in Cultural Property to and throughout Europe: Facts, Findings and Legal Analysis, Geneva 2018, 14, https://www.art-law.org/files/1915/9342/2620/UNESCO_Report_-_SUBMITTED_27.02.2018.pdf, <30.03.2022>.

11 Renold 2018 (see FN 10), 14.

to be laundered. The point is that when the use of cultural objects for money laundering as commonly understood is discussed, in the sense of cleaning dirty money through the buying and selling of clean assets, it is money laundering through artworks such as modern and contemporary paintings, not antiquities. Paintings are an attractive target for money laundering. They comprise a portable good that can be sold in many locations around the world, they store significant and manipulatable monetary value, they are usually perfectly legal to buy and sell, and practices of market secrecy conceal information relating to ownership, trading-chains and transactions. It is not even that unusual for payments to be made in cash or for artworks to be traded for other artworks. But these are characteristics of legal artworks – objects legally on the market that can be used to transfer or clean criminal proceeds. Antiquities transactions on the other hand appear to be a terrible way of laundering money. While also portable and price-manipulatable, they have often been stolen and trafficked from their countries of origin, rendering them illegal in some jurisdictions and at least illicit wherever they are traded. They are not a clean asset through which to launder dirty money: they are illicit goods that require laundering themselves before they can be consumed on the market. Material, value and origin are often fraudulently misdescribed on shipping papers to mislead customs inspections. Documentary evidence of prior ownership is often fabricated to dupe a naïve buyer or to provide a dishonest buyer with plausible deniability of knowingly purchasing stolen property.

Having said that, we are aware of one case where an antiquity was used for straightforward money laundering. In 1996, a United Kingdom court convicted Nevzat Tellioglu (aka David Telli) for heroin smuggling. The court established he had used the proceeds of heroin smuggling for purchasing antiquities with the intention of profiting from their sale. The antiquities were found stored in a bonded warehouse in Switzerland and included a first-century AD Roman bronze statue of Dionysus with an appraised value of 1.5 to 2.25 million

USD, which the court ordered to be confiscated.¹² The statue was subsequently shown to have been illegally removed from Turkey. United Kingdom authorities arranged for the confiscation of the statue and in 2002 it was returned to Turkey. Tellioglu had previously been involved in the 1984 smuggling of the so-called Elmali Hoard of nearly 2,000 ancient fifth-century BC Greek silver coins from Turkey.¹³

But that case was a long time ago. It is hard to find any more up-to-date examples of antiquities being used for money laundering. A recently published overview of the use of cultural objects for money laundering listed 20 case studies, but only three concerned antiquities and they all described the illicit trade of antiquities rather than the use of antiquities to launder dirty money.¹⁴ The United States Treasury's Financial Crimes Enforcement Network public consultation attracted 37 responses from various interested organizations, companies and individuals, expressing a range of opinions for and against the regulation, but most failed to provide much in the way of hard evidence.¹⁵ Again, however, the only cases of straightforward money laundering concerned paintings, while the antiquities examples were of illicit trade, where the antiquities were laundered but not the money. Academic papers examining the use of cultural objects for money laundering similarly focus upon artworks and not antiquities.¹⁶

That is not to say that there is no evidence of significant financial crimes related to antiquities.

12 England and Wales Court of Appeal (Civil Division): Telli (Appellant) and Revenue and Customs Prosecutions Office (Respondent), 21st December 2007; Gibbs: Drugs baron ordered to pay £2m more, in: *Argus*, 24th December 2007.

13 Özgen Acar / Melik Kaylan: *The Hoard of the Century. Part I*, in: *Connoisseur* (July 1988), 74-83; United States District Court, District of Massachusetts (civil action 89-3061-MC): *The Republic of Turkey against OKS Partners, Oxbow Corporation, Jonathan Kagan, individually and as he is a partner of OKS Partners, Jeffrey Spier, individually and as he is a partner of OKS Partners, William I. Koch, and Spring Creek Art Foundation, Inc.*, Boston 1990.

14 Antiquities Coalition: *Reframing US Policy on the Art Market. Recommendations for Combatting Financial Crimes*, Washington DC 2020, <https://theantiquitiescoalition.org/developing-implementing-solutions/financial-crimes-task-force/>, <30.03.2022>.

15 Financial Crimes Enforcement Network: <https://www.regulations.gov/document/FINCEN-2021-0006-0001>, <30.03.2022>.

16 Timothy Burroughs: *US and EU Efforts to Combat International Money Laundering in the Art Market are no Masterpiece*, in: *Vanderbilt Journal of Transnational Law* 52 (2019), 1061-1096; Saskia Hufnagel / Colin King: *Anti-money laundering regulation and the art market*, in: *Legal Studies* 40, No. 1 (March 2020), 131-150.

These include tax evasion whereby antiquities donated to charitable institutions such as museums are appraised with falsely raised values to inflate any consequent tax benefits,¹⁷ and fraud, whereby fake or trafficked antiquities are knowingly laundered as already described using falsified or dishonest documentation. In fact, fraud is a central and perhaps defining characteristic of the illicit trade in antiquities. However, with regard to money laundering, the money laundering in cases we know about happens after the antiquities are sold. The criminal proceeds obtained through the sale of looted, trafficked or faked antiquities need to be laundered. This means, as recognized in the quotes reproduced at the beginning of this section, that the nature of any money laundering crime related to antiquities is likely quite different to that of money laundering through art. Antiquities transactions are not a means to clean dirty money though may be a source of dirty money themselves. It follows that measures to detect and combat it will also need to be different.

Until recently, not much had been reported about how the criminal proceeds of antiquities trading are laundered, though that is now beginning to change, first because in the United States New York state and federal courts have started releasing comprehensive documentation into the public domain, and second because of the appearance of some antiquities dealers in papers leaked from offshore financial centers. We use information from those sources to provide some admittedly sketchy insights into the laundering of the proceeds of antiquities trafficking by two dealers: Eugene Alexander and Douglas Latchford. Generally, money laundering is characterized as a three-stage process.¹⁸ First, money derived from criminal enterprise is banked ('placement'). Second, once in the international banking system, the illegal source of the money is disguised through a series of finan-

cial transactions, ideally across jurisdictions ('layering'). Finally, the money is invested in legitimate business ('integration'). The Alexander and Latchford cases both reveal evidence of placement and layering whereby criminal proceeds are moved offshore to obscure their audit trail. The antiquities themselves were not used for money laundering. For Latchford at least, there is also some evidence of integration, with money invested in property that would then provide a legitimate income. We are aware of other cases where money obtained from illicit antiquities trading has been invested in property, but they have not been made public and so cannot be referenced here.

Eugene Alexander

Eugene Alexander (aka Evgeni Svetoslavov Mutafchiev) is a Bulgarian national resident in Germany. Some details of his antiquities dealings were revealed in court documents relating to the collection of Michael Steinhardt. Steinhardt is a New York-based billionaire who made his money from innovative hedge fund management. In 2017, the New York District Attorney's Office started investigating his antiquities collection for possible connections to antiquities trafficking.¹⁹ It determined that since 1987 at the earliest Steinhardt had spent over 200 million USD acquiring more than 1,000 antiquities. It further proved to its satisfaction that twelve different smuggling networks had handled at least 180 of these antiquities (at 2021 prices valued at nearly 70 million USD), stolen and smuggled from eleven different countries.²⁰ In December 2021, Steinhardt surrendered these 180 antiquities and was banned from acquiring any further antiquities in the future.²¹ Among the 180 surrendered antiquities were seven that Steinhardt had acqui-

17 Erin Thompson: The Relationship between Tax Deductions and the Market for Unprovenanced Antiquities, in: *Columbia Journal of Law and the Arts* 33 (2010), 241-265; Neil Brodie: The antiquities trade: four case studies, in: Duncan Chappell / Saskia Hufnagel (eds.): *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, Oxford 2014, 15-36, here: 27-31; Donna Yates: Museums, collectors, and value manipulation: tax fraud through donation of antiquities, in: *Journal of Financial Crime* 23 (2016), 173-186.

18 Financial Action Task Force: <https://www.fatf-gafi.org/faq/money-laundering/#d.en.11223,<30.03.2022>>.

19 New York County District Attorney: In the matter of a grand jury investigation into a private New York antiquities collector. Statement of facts, 6th December 2021.

20 New York County District Attorney: In the matter of a grand jury investigation into a private New York antiquities collector. Attachment A: List of stolen antiquities, 6th December 2021, 143-149.

21 New York County District Attorney: D.A. Vance: Michael Steinhardt surrenders 180 stolen antiquities valued at \$70 million, 6th December 2021, <https://web.archive.org/web/20211225160814/https://www.manhattanda.org/d-a-vance-michael-steinhardt-surrenders-180-stolen-antiquities-valued-at-70-million/>, <19.09.2022>.

red from Alexander.²² They were all Bronze Age in date and had been looted from Crete, Samos and Naxos in Greece. The New York District Attorney reported that since the early 2000s Alexander had been smuggling antiquities from Eastern Europe and the Mediterranean through Germany using a series of off-shore banks and shell companies for receiving and processing payments.

Alexander began selling antiquities to Steinhardt in 2006, and in 2008 he started requesting payment through *Establissement Finagran*, a financial company based in Lichtenstein. In December 2010, Steinhardt paid *Establissement Finagran* 100.000 USD for a third-millennium BC marble Cycladic figurine.²³ In April 2011, United States Customs and Border Protection intercepted a small fresco fragment stolen from a tomb at Paestum in Italy that had arrived in a FedEx shipment at Newark Airport. According to shipping documentation, the fragment had been dispatched by *Via Mat Artcare AG* in Kloten, Switzerland on behalf of Andrew Baker, who was then sole director of *Establissement Finagran*, and was addressed to Steinhardt.²⁴ Customs and Border Protection seized the fragment in March 2012. Baker and *Establissement Finagran* denied knowing that the fragment was stolen and claimed to have relied in good faith on statements made by the donor of the fragment to *Establissement Finagran*.²⁵ In 2013, the fragment was forfeited for return to Italy.²⁶

Following the Customs and Border Protection action, in 2012 Alexander started requesting payment through *E.E. Capital Ltd.*, a financial company based in Jersey. Between November 2012 and April 2014, Steinhardt paid 470.000 USD in five separate transactions for some third-millennium BC marble vessels from Naxos and a sixth-century BC bronze

griffin protome from the Sanctuary of Hera on Samos.²⁷ *E.E. Capital's* primary shareholder was the shell corporation *Signia Holding Ltd.* registered in Malta. *Signia Holding* appeared in the 'Paradise Papers' at the center of a networked group of financial companies,²⁸ with Alexander identified alongside *Christo Georgiev* as joint directors and shareholders.²⁹ *Signia Holding* was also a shareholder of the Maltese bank *Satabank*, established in 2014, where *Georgiev* was identified as a co-director.³⁰ In 2015, Alexander requested that Steinhardt switch his payments to *Fine Arts Management Services*, an off-shore company based in the Seychelles. In October 2016, Steinhardt paid *Fine Arts Management Services* (via *Satabank*) 575.000 USD for a second-millennium BC larnax (coffin) from Crete.³¹ *Fine Arts Management Services* is not listed on the Seychelles Business Register.³² After investigations starting in 2018, the European Central Bank revoked *Satabank's* banking license in 2020 because of suspected money laundering activities associated with fuel smuggling and drug trafficking.³³ In 2021, Alexander opened four accounts at the Central Cooperative Bank of Bulgaria, whose major shareholder is *Chimimport*,³⁴ a subsidiary of the Bulgarian TIM holding company that the New York District Attorney alleges has links to Bulgarian organized crime.³⁵ It is

22 New York County District Attorney: In the matter of a grand jury investigation into a private New York antiquities collector. Statement of facts, 74-81, 6th December 2021.

23 New York County District Attorney: In the matter of a grand jury investigation into a private New York antiquities collector. Statement of facts, 78-79, 6th December 2021.

24 United States District Court, Eastern District of New York (verified complaint CV13 6286): United States of America against One Triangular Fresco Fragment, New York 2013, 7.

25 United States District Court, Eastern District of New York (stipulation of settlement CV13 6286): United States of America against One Triangular Fresco Fragment, New York 2013.

26 United States District Court, Eastern District of New York (stipulation of settlement CV13 6286): United States of America against One Triangular Fresco Fragment, New York 2013.

27 New York County District Attorney: In the matter of a grand jury investigation into a private New York antiquities collector. Statement of facts, 81-89, 6th December 2021.

28 International Consortium of Investigative Journalists: Offshore trove exposes Trump-Russia links and piggy banks of the wealthiest 1 percent, 5th November 2017, <https://www.icij.org/investigations/paradise-papers/paradise-papers-exposes-donald-trump-russia-links-and-piggy-banks-of-the-wealthiest-1-percent/>, <30.03.2022>.

29 International Consortium of Investigative Journalists: <https://offshoreleaks.icij.org/nodes/55058844>, <30.03.2022>.

30 International Consortium of Investigative Journalists: <https://offshoreleaks.icij.org/nodes/55063327>, <30.03.2022>.

31 New York County District Attorney: In the matter of a grand jury investigation into a private New York antiquities collector. Statement of facts, 77, 6th December 2021.

32 Seychelles Business Register: <https://www.registry.gov.sc/BizRegistration/WebSearchBusiness.aspx>, <30.03.2022>.

33 Ivan Martin: Billions of euros in *Satabank* transactions deemed 'highly suspicious', in: *Times of Malta*, 27th January 2019, <https://timesofmalta.com/articles/view/half-of-satabanks-transactions-were-highly-suspicious.700280>, <30.03.2022>; Ivan Martin: *Satabank* loses its banking licence, in: *Times of Malta*, 1st July 2020, <https://timesofmalta.com/articles/view/satabank-loses-its-banking-licence.802062>, <30.03.2022>.

34 Central Cooperative Bank: <https://www.ccbank.bg/en/about-ccb/shareholders>, <30.03.2022>.

35 New York County District Attorney: In the matter of a grand jury investigation into a private New York antiquities collector. Statement of facts, 76, 6th December 2021.

not known if Steinhardt purchased any antiquities from Alexander after 2016 that were not among the seven surrendered in 2021.

Douglas Latchford

Douglas Latchford (aka Pakpong Kriangsak) was a British and Thai national who until his death in 2020 aged 88 was resident in Thailand. Starting in the 1970s through to at least the mid-2000s, while posing as a collector of Cambodian and Thai antiquities and wealthy cultural benefactor, Latchford was centrally involved in smuggling antiquities out of Cambodia and a major supplier of museums, dealers and auction houses in Europe and North America. As one example of his enterprise, between 2003 and 2008 he sold 35 antiquities from Cambodia and other Southeast Asian countries for an estimated 35 million USD to Netscape founder James H. Clark. In 2021, Clark was informed by Homeland Security Investigations agents that the antiquities were considered stolen property whereupon in January 2022 he voluntarily surrendered them for return to Cambodia and the other countries concerned.³⁶

United States investigations into Latchford started in 2012 with the attempted sale by Sotheby's New York of a Cambodian statue shown to have been taken illegally in the 1970s from the tenth-century AD Khmer temple site of Koh Ker and subsequently sold by Latchford through Spink auction house in London.³⁷ In 2019, Latchford was charged in the United States with fraud, smuggling and cri-

minal conspiracy.³⁸ Evidence relating to the financial activities of Latchford and his daughter Julia Latchford (aka Nawapan Kriangsak) together with her husband Simon Copleston was subsequently revealed in the 'Pandora Papers' leaked in 2021.³⁹ Soon after the start of the United States investigations, Latchford and his daughter had established two offshore trusts on Jersey named Skanda and Siva in 2011. The Skanda Trust held financial assets including bank and investment accounts alongside valuable antiquities in Latchford's possession, thought to have a collective value of more than 10 million USD. Skanda also assumed control of another Latchford company, Fleetwing Estates Ltd., incorporated in Hong Kong in 1976,⁴⁰ which in 2002 had purchased a London flat valued in 2021 at about 15 million USD. The Siva Trust was established in September 2012. Both trusts were registered as subsidiaries of a further trust, Skanda Holdings (PTC) Ltd., based in the British Virgin Islands. Assets in the Skanda Trust were later transferred to Siva. In 2021, Julia Latchford claimed that the trusts had been established for "legitimate tax and estate planning".⁴¹ A more cynical view was that Latchford used "trusts and off shore tax havens to pass his assets, including the Khmer antiquities, to his daughter to avoid them becoming liable to UK inheritance tax".⁴² Skanda Holdings went into

36 U.S. Attorney's Office, Southern District of New York: Major Collection of Cambodian and Southeast Asian antiquities is Subject of Forfeiture Action Filed in Manhattan Federal Court, 11th January 2022, <https://www.justice.gov/usao-sdny/pr/major-collection-cambodian-and-southeast-asian-antiquities-subject-forfeiture-action>, <30.03.2022>; Tom Mashberg: Netscape founder gives up \$35 Million in art said to be stolen, in: New York Times, 12th January 2022, <https://www.nytimes.com/2022/01/12/arts/design/james-clark-cambodian-antiquities.html>, <30.03.2022>.

37 United States District Court, Southern District of New York (amended complaint, 12 Civ 2600): United States of America against a 10th century Cambodian sandstone sculpture, currently located at Sotheby's in New York, New York 2013; Brigitta Hauser-Schäublin: Looted, trafficked, donated and returned: the twisted tracks of Cambodian antiquities, in: Brigitta Hauser-Schäublin / Lyndel Prott (eds.): Cultural Property and Contested Ownership, London 2017, 64-82.

38 U.S. Attorney's Office, Southern District of New York: Antiquities Dealer Charged with Trafficking in Looted Cambodian Artifacts, 27th November 2019, <https://www.justice.gov/usao-sdny/pr/antiquities-dealer-charged-trafficking-looted-cambodian-artifacts>, <30.03.2022>; United States District Court, Southern District of New York (sealed indictment 19 CRIM 748). USA 2019. United States of America versus Douglas Latchford a/k/a "Pakpong Kriangsak", New York 2019.

39 Malia Politzer et al.: From temples to offshore trusts, a hunt for Cambodia's looted heritage leads to top museums, 5th October 2021, <https://www.icij.org/investigations/pandora-papers/cambodia-relics-looted-temples-museums-offshore/#:~:text=PLUNDERED%20ANTIQUITIES-,From%20temples%20to%20offshore%20trusts%2C%20a%20hunt%20for%20Cambodia's%20looted,Met%20and%20other%20prominent%20institutions>, <30.03.2022>; International Consortium of Investigative Journalists: Frequently asked questions about the Pandora Papers and ICIJ, 19th October 2021, <https://www.icij.org/investigations/pandora-papers/frequently-asked-questions-about-the-pandora-papers-and-icij/>, <30.03.2020>.

40 Hong Kong Company Directory: <https://www.hkcompanydirectory.com/en/fleetwing-estates-limited>, <30.03.2020>.

41 Politzer et al. 2021 (see FN 39).

42 David Conn / Malia Politzer: Off shore loot: how notorious dealer used trusts to hoard Khmer treasures, in: Guardian, 5th October 2021, <https://www.theguardian.com/news/2021/oct/05/offshore-trusts-used-pass-on-looted-khmer-treasures-leak-shows-douglas-latchford>, <30.03.2022>.

voluntary liquidation in July 2019.⁴³ In September 2020, Julia Latchford agreed to repatriate 125 antiquities from Latchford's Bangkok and London properties.⁴⁴ She said of the continuing investigations into her father's financial affairs that "I am aware of and am voluntarily cooperating with the authorities on the investigations with respect to my father's estate and any proceeds of crime and am committed to their resolution".⁴⁵

Latchford claimed to have made his money through pharmaceuticals and property development,⁴⁶ and so, like Steinhardt, the money he spent on antiquities would have been earned legally. It would not have needed laundering through the purchase of antiquities. It was the money received by Latchford and Alexander for selling illicitly-traded antiquities that required laundering. It is true that the criminal proceeds of antiquities transactions could be recycled through further antiquities transactions, though that would not launder them, it would simply create more dirty money.

Money laundering and terrorist financing: conflicting priorities?

Part of the impetus for bringing cultural objects into the embrace of anti-money-laundering regulations has derived from the realization that terrorists and other armed non-state actors can derive funding from the antiquities trade. This fact has been known for a long time,⁴⁷ but it was not until the highly-publicized engagement of the so-called Islamic State of Iraq and Syria with antiquities

trading between 2013 and 2017 that it really penetrated through into the political consciousness.⁴⁸ Article 1(1) of the European Union's 2015 Anti-money-laundering Directive 4 made clear that "This Directive aims to prevent the use of the Union's financial system for the purposes of money laundering and terrorist financing". Anti-money-laundering Directive 5 was drafted alongside a risk assessment report that provided a "systematic analysis of the money laundering or terrorist financing risks of specific products and services",⁴⁹ noting specific concerns as regards "the looting and trafficking of antiquities and other artefacts".⁵⁰ The United States Treasury's Financial Crimes Enforcement Network notice on proposed amendments to the Bank Secrecy Act to include persons "engaged in the trade of antiquities" advised that "Crimes relating to antiquities and art also may include money laundering and sanctions violations, and have been linked to transnational criminal networks, international terrorism, ...".⁵¹

The new European Union and United Kingdom anti-money-laundering laws incorporate value thresholds of 10,000 EUR. The United States seems likely to follow suit. These thresholds reify the popular and policy understanding that high-value cultural objects are being used for money laundering. But while some antiquities are sold for prices

43 Notices (July 25th, 2019), in: BVI Beacon, 24th July 2019, <https://www.bvibeacon.com/notices-july-25-2019/>, <30.03.2022>.

44 Tom Mashberg: With a gift of art, a daughter honors, if not absolves, her father, in: New York Times, 29th January 2021.

45 Politzer et al. (see FN 39).

46 Politzer et al. (see FN 39).

47 Nancy Dupree: Museum Under Siege, in: *Archaeology* 47 (1996), 42-51, <https://archive.archaeology.org/online/features/afghan/>, <30.03.2022>; Nancy Dupree: Museum Under Siege. The Plunder Continues, in: *Archaeology on-line*, 26th May 1998, <https://archive.archaeology.org/online/features/afghan/update.html>, <30.03.2022>; Matthew Bogdanos: The Terrorist in the Art Gallery, in: New York Times, 10th December 2005, <https://www.nytimes.com/2005/12/10/opinion/the-terrorist-in-the-art-gallery.html>, <30.03.2022>; Tess Davis / Simon Mackenzie: Crime and Conflict: Temple Looting in Cambodia, in: Joris D. Kila / Marc Balcels (eds.): *Cultural Property Crime: An Overview and Analysis of Contemporary Perspectives and Trends*, Leiden 2015, 292-306; Sam Hardy: The conflict antiquities trade: A historical overview, in: France Desmarais (ed.): *Countering Illicit Traffic in Cultural Goods*, Paris 2015, 21-32.

48 Amr Al-Azm / Salam al-Kuntar / Brian Daniels: ISIS' Antiquities Sideline, in: New York Times, 2nd September 2014, <https://www.nytimes.com/2014/09/03/opinion/isis-antiquities-sideline.html>, <30.03.2022>; Andrew Keller: Documenting ISIL's Antiquities Trafficking: The Looting and Destruction of Iraqi and Syrian Cultural Heritage: What We Know and What Can Be Done, 29th September 2015, <https://2009-2017.state.gov/e/eb/rls/rm/2015/247610.htm>, <30.03.2022>; Brodie 2022 (see FN 2); Adnan Almohamad: The destruction and looting of cultural heritage sites by ISIS in Syria: The case of Manbij and its countryside, in: *International Journal of Cultural Property* 28 (2021), 221-260; Isber Sabrine / Ristam Abdo / Neil Brodie: Some New Evidence Documenting the Involvement of Da'esh in Syria with the Illicit Trade in Antiquities, in: *Journal of East Mediterranean Archaeology and Heritage* 10 (2022), 115-136.

49 European Commission: Report from the Commission to the European Parliament and the Council on the Assessment of the Risk of Money Laundering and Terrorist Financing Affecting the Internal Market and Relating to Cross-Border Activities, Brussels 2019, 1, https://ec.europa.eu/info/sites/default/files/supranational_risk_assessment_of_the_money_laundering_and_terrorist_financing_risks_affecting_the_union.pdf, <30.03.2022>.

50 European Commission 2019 (see FN 49).

51 Financial Crimes Enforcement Network: FinCEN Informs Financial Institutions of Efforts Related to Trade in Antiquities and Art, 9th March 2021, https://www.fincen.gov/sites/default/files/2021-03/FinCEN%20Notice%20on%20Antiquities%20and%20Art_508C.pdf, <30.03.2022>.

in excess of 10.000 EUR, most are not.⁵² Thus, most antiquities transactions would fall under the financial threshold and thereby outside the scope of the laws that are meant to regulate them. This is not an inconsequential observation. Antiquities have been centrally implicated in terrorist financing, and the anti-money-laundering laws are intended in part to combat terrorist financing. Yet by incorporating financial thresholds they are likely to exclude material most likely to be used for terrorist financing. In their design, they will have failed in their purpose.

While the antiquities trade does directly provide terrorist financing, it is far less likely that the art trade does. The report of the United States Treasury's Financial Crimes Enforcement Network study into the use of artworks for money laundering and terrorist financing was published in 2022. It concluded there was limited evidence for a link between terrorist financing and artworks, most likely because of geographical separation. Art is generally not produced or traded in areas of terrorist headquartering, and in any case conflict zones are risky for trade.⁵³ Thus, internationally, the developing regulatory regime seems intended simultaneously and uncomfortably to tackle the use of artworks for money laundering and antiquities for terrorist financing – two radically different criminal activities.

Trade-based money laundering

As we have established, antiquities are not routinely used for straightforward money laundering. They are eminently suitable, however, for use in trade-based money laundering operations, which

are attracting increasing international concern.⁵⁴ Trade-based money laundering involves using the international trade of goods to move criminal proceeds illegally across frontiers and hide their illegal source. It is defined by the Financial Action Task Force as "... the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimize their illicit origins".⁵⁵

Trade-based money laundering enables the transnational flow of criminal proceeds and is facilitated by long trading chains extending across several jurisdictions involving goods with wide price margins. Low-value goods are particularly at risk because transaction costs are lower, they are likely to be considered less important by customs agencies and therefore receive less scrutiny, and their final sale can be dispersed across multiple markets to avoid the sudden (and suspicious) saturation of a single market.⁵⁶ Trade-based money laundering techniques include over- and under-invoicing or multiple invoicing, over- and under-volume shipping, and misdescription.⁵⁷

Antiquities are well-suited for trade-based money laundering because they are traded in large quantities across multiple jurisdictions and there is no established pricing structure. On the open market, antiquities can be sold for prices ranging from a few dollars to a few million dollars each. Even ostensibly similar antiquities can exhibit wide price variation due to small differences in quality or scarcity or simply because of buyer preference or market uncertainty. Without standardized pricing, under- or over-invoicing is a simple exercise. As we have

52 Neil Brodie et al.: *Illicit Trade in Cultural Goods in Europe*, Brussels 2019, 87-96, <https://publications.europa.eu/en/publication-detail/-/publication/d79a105a-a6aa-11e9-9d01-01aa75ed71a1/language-en/format-PDF/source-101448915>, <30.03.2022>.

53 US Department of the Treasury: *Study of the Facilitation of Money Laundering and Terror Finance Through the Trade in Works of Art*, Washington DC 2022, 27, https://home.treasury.gov/system/files/136/Treasury_Study_WoA.pdf, <30.03.2022>.

54 Financial Action Task Force: *Trade-Based Money Laundering*, Paris 2006, <https://www.fatf-gafi.org/publications/methodsandtrends/documents/trade-basedmoneylaundering.html>, <30.03.2022>; Asia/Pacific Group on Money Laundering: *APG Typology Report on Trade Based Money Laundering*, Sydney 2012, https://www.fatf-gafi.org/media/fatf/documents/reports/Trade_Based_ML_AP-GRReport.pdf, <30.03.2022>; Terrorism, Transnational Crime and Corruption Center at the Schar School of Policy and Government of George Mason University: *Trade Based Money Laundering*, 2019, <https://tracc.schar.gmu.edu/wp-content/uploads/2020/09/TBML-Conference-Report.pdf>, <30.03.2022>; Financial Action Task Force-Egmont Group: *Trade-based Money Laundering: Trends and Developments*, Paris 2020, <http://www.fatf-gafi.org/publications/methodsandtrends/documents/trade-based-money-laundering-trends-and-developments.html>, <30.03.2022>.

55 Financial Action Task Force 2006 (see FN 54), i.

56 Financial Action Task Force-Egmont Group 2020 (see FN 54), 20.

57 Financial Action Task Force-Egmont Group 2020 (see FN 54), 26-27.

already described, material and price are commonly misdescribed to fool customs inspections. It is difficult for customs agents to distinguish between material legally and illegally traded, or to establish correct identities and values. Often the necessary specialist expertise is not available.⁵⁸ Also, the illicit trade in antiquities is considered less socially harmful than that in goods such as weapons or drugs, for example, and so not always considered a priority for law enforcement.⁵⁹

Saying that the antiquities trade would be a useful vehicle for trade-based money laundering is not the same thing as saying that it actually is used for such a purpose. We are not aware of any verifiable examples that would confirm it is, though there has to date been no systematic investigation of the problem. We are mindful of the old adage that absence of evidence is not evidence of absence. One problem is that the techniques of misdescription used for trade-based money laundering are similar to those used for antiquities laundering, as already described. For example, the country of origin of the Italian Paestum fresco fragment addressed to Steinhart and seized in April 2011 was variously described as Macedonia or Morocco.⁶⁰ In November 2011, Latchford shipped from London a tenth-century AD bronze Naga Buddha with surface indications of recent looting to New York dealer Nancy Wiener, who bought it for 500,000 USD.⁶¹ Latchford misdescribed the Buddha on shipping documentation as an “antique bronze” with its country of origin listed as the United Kingdom and valued at only 25,000 USD.⁶²

These and similar examples of under-invoicing and misdescription are more likely to indicate antiquities laundering than trade-based money laundering.

But looking more closely at what we know about the trade of low-value antiquities out of Syria and neighboring countries, trade-based money laundering remains a distinct possibility. Although it has been widely reported that terrorist groups inside Syria have been profiting directly from antiquities trading, that might be only part of the story. Prices inside Syria are consistently reported to be higher than would be expected so close to source,⁶³ collapsing the large price differentials that normally characterize the antiquities trading chain between source and destination.⁶⁴ To date, several not particularly convincing explanations have been offered for this contracted price differential, though none has been substantiated.⁶⁵ A previously unconsidered possibility is that organized criminal groups outside Syria are willing to pay high prices inside Syria in order to use the ongoing trade outside Syria for trade-based money laundering. The so-called Islamic State of Iraq and Syria was selling antiquities inside Syria to foreign buyers for hard cash – actual US dollar bills.⁶⁶ Once out of Syria, antiquities would then be traded further by organized criminal groups.⁶⁷ Passing through Turkey and Bulgaria, for example, Syrian antiquities (and fakes) would be intermingled with those from other countries. Some idea of the volume and therefore the value of the trade can be obtained from statistics and reports of law enforcement actions. Official Turkish statistics record that in 2018 police in the two southern Turkish provinces of Gaziantep and Hatay seized 17,080

58 Brodie et al. (see FN 52), 130-134.

59 Brodie et al. (see FN 52), 61, 159-160.

60 United States District Court, Eastern District of New York (verified complaint CV13 6286): United States of America against One Triangular Fresco Fragment, New York 2013, 7-8.

61 Nancy Weiner has herself been subject to US investigation and pled guilty to charges of criminal possession and conspiracy. A document in the ‘FinCEN Files’ revealed she had been channelling funds through Pantheon Worldwide Ltd. which the ICIJ described as a “shadowy shell company” registered in Hong Kong and London. See: Spencer Woodman: Mystery company ties accused temple raiders to art world elite, 22nd September 2020, <https://www.icij.org/investigations/finccen-files/mystery-company-ties-accused-temple-raiders-to-art-world-elite/>, <30.03.2022>.

62 Criminal Court of the City of New York: The people of the State of New York against Nancy Wiener, 21st December 2016, 3-4; United States District Court, Southern District of New York (sealed indictment 19 CRIM 748): United States of America versus Douglas Latchford a/k/a “Pakpong Kriangsak”, New York 2019, 12-13; Supreme Court of the City of New York: The people of the State of New York against Nancy Wiener, SCI 5091-2016, 30th September 2021, 11-12.

63 Neil Brodie / Isber Sabrine: The Illegal Excavation and Trade of Syrian Cultural Objects: A View from the Ground, in: *Journal of Field Archaeology* 43 (2018), 74-84, here: 82; Matthew Sargent et al.: Tracking and Disrupting the Illicit Antiquities Trade with Open Source Data, *Santa Monica* 2020, 26-28, https://www.rand.org/pubs/research_reports/RR2706.html, <30.03.2022>; Brodie 2022 (see FN 2), 36-39.

64 Neil Brodie: Pity the poor middlemen, in: *Culture Without Context* 3 (1998), 7-9; Masha Lafont: Pillaging Cambodia, *Jefferson* 2004, 70, figure 3.

65 Brodie 2022 (see FN 2), 36-39.

66 Sabrine / Abdo / Brodie 2022 (see FN 48).

67 Brodie 2022 (see FN 2), 26-29; Mahmut Cengiz: Antiquities Trafficking from Syria Along the Northern Route, in: Layla Hashemi / Louise Shelley (eds.): *Antiquities Smuggling: In the Real and the Virtual World*, London 2022, 137-157.

antiquities, reflecting the large quantities of material moving into Turkey from Syria.⁶⁸ A further 21.128 antiquities were seized in Istanbul, a long-established antiquities entrepôt.⁶⁹

The trade in ancient coins is particularly suspicious. Across Turkey in 2018, police seized 70.372 coins.⁷⁰ Shipments of ancient coins and other small antiquities are routinely seized at the Turkish and Bulgarian borders. In August 2021, for example, Turkish customs at the Cilvegözü border crossing from Syria discovered eight packages hidden in the tractor unit of a truck. They were found to contain 308 Hellenistic coins, 2.016 Roman coins and 209 Byzantine coins.⁷¹ On 21st March 2021, Bulgarian customs at the Kapitan Andreevo border crossing from Turkey arrested a Turkish national who was charged with smuggling 131 Byzantine and Persian gold and silver coins.⁷² The Bulgarian authorities valued them at 20.000 EUR. Delving back into the literature, many similar large seizures involving thousands of coins and small antiquities in Bulgaria or at the Turkish-Bulgarian border have been reported.⁷³ Thus tens-of-thousands of ancient coins are known to have been seized in Turkey and Bulgaria, though tens-of-thousands more must have passed through undetected to the European market, where they could then be sold unquestioned for a few hundred EUR each on the open retail market. They would realize a seemingly legitimate income worth millions of EUR. Given that magni-

tude of return, it would certainly be worthwhile for organized criminal groups in Bulgaria and Turkey to invest dirty cash in antiquities purchases in Syria for the expectation of a large legitimate return in Western Europe, raising prices inside Syria while doing so.

Although individually the aggregate value of these seizures would bring them into the purview of anti-money-laundering laws, before marketing, large shipments would be broken up and sold in smaller groups or even singly, probably by several retailers. In October 2014, for example, a previously unknown type of seventh-century AD Byzantine silver coin appeared on the European market. By the end of September 2015, five more examples had appeared. Expert opinion is that because the coins all appeared on the market at approximately the same time they would have been found together, probably in Syria or one of its immediately neighboring countries.⁷⁴ The six coins sold for an average price of 4.864 EUR each or 29.200 EUR in total in six separate sales at four different companies in two different countries (Germany and the United Kingdom). One was bought by Dumbarton Oaks.⁷⁵ So, although the value of the group as a whole would exceed the 10.000 EUR threshold, and a similar group reaching the market in 2022 would be subject to anti-money-laundering regulations, once it was broken down for sale across four retailers and two countries its coherence as a group would be lost and the price of individual coins would exclude the transactions from regulation.

Information relating to police or customs investigations into antiquities trafficking is patchy. Press releases and conferences usually highlight the quantity and value of material seized or recovered, but have little to say about associated criminality or any ongoing criminal investigations. In fact, from what is published, it would appear that most law enforcement agencies do not have the resources necessary to engage in the prolonged international investigations that would be needed to uncover evidence of trade-based money laundering or other international crimes. Even when law

68 Cengiz 2022 (see FN 67), 142-146.

69 Cengiz 2022 (see FN 67), 145-149.

70 Cengiz 2022 (see FN 67), 144.

71 Ayşe Böcüoğlu Bodur: Cilvegözü Gümrük Kapısı'nda 2 bin 533 sikke ele geçirildi, in: Anadolu Ajansı, 14th August 2021, <https://www.aa.com.tr/tr/kultur-sanat/cilvegözü-gumruk-kapisinda-2-bin-533-sikke-ele-gecirildi/2334417?fbclid=IwAR2tyx-YUOe82fjznBw7OBUHQfKu71v0ND0Nmnc2RCsIUMNw0TarCKAy-i4pg>, <30.03.2022>.

72 Daniel Valandovski: Turkish smuggler caught with dozens of Byzantine, Persian gold coins at Bulgaria-Turkey border, in: Archaeology in Bulgaria, 29th March 2021, <http://archaeologyinbulgaria.com/2021/03/29/turkish-smuggler-caught-with-dozens-byzantine-persian-gold-coins-at-bulgaria-turkey-border/>, <30.03.2022>.

73 Among others: Jonny Wrate: Bulgaria, Turkey and France Arrest 22 for Trafficking Ancient Antiques into Western Europe, 29th May 2017, <https://www.occrp.org/en/daily/6513-bulgaria-turkey-and-france-arrest-22-for-trafficking-ancient-antiques-into-western-europe>, <30.03.2022>; Ivan Dikov: 11,000 coins, archaeological artifacts seized on Bulgaria's border in attempted smuggling from Turkey into EU, in: Archaeology in Bulgaria, 26th May 2018, <http://archaeologyinbulgaria.com/2018/05/26/11000-coins-archaeological-artifacts-seized-on-bulgarias-border-in-attempted-smuggling-from-turkey-into-eu/>, <30.03.2022>; Sargent et al. (see FN 63), 39-41.

74 David Woods: Mu'āwiyah, Constans II and coins without crosses, in: Israel Numismatic Research 10 (2015), 169-182, here: 174, note 10, 180.

75 Dumbarton Oaks is a Harvard University research institute based in Washington DC. The coin acquisition is here: <https://www.doaks.org/resources/coins/catalogue/BZC.2015.003>, <30.03.2022>.

enforcement agencies are conducting investigations, the results are not being made publicly available and are not filtering through into the policy-making process. Laws and regulations can only be as good as the evidence they are based upon, and in the case of trade-based money laundering and the antiquities trade, that evidence is painfully thin and the resultant legislation is confused and likely ineffective.

Conclusion

Antiquities are unlikely to be used for straightforward money laundering, though they might potentially be used for trade-based money laundering and are used for terrorist financing. On the open retail market, most antiquities are priced at less than 10.000 EUR. Thus, the financial thresholds incorporated into anti-money-laundering regulations will limit the effectiveness of the regulations for deterring the use of antiquities trading for terrorist financing and trade-based money laundering. It has been argued figuratively that the reasoning behind the proliferating anti-money-laundering regulations for cultural objects is that “catching criminal fishes requires an ever widening and – at the same time – tightening of the legal net”.⁷⁶ To continue in this figurative vein, we would argue that because of financial thresholds, what we have instead is an ever widening but ever loosening legal net, through which criminal fishes are easily able to swim.

That is not to say that the regulations are totally hopeless. The Responsible Art Market and British Art Market Federation guidelines rightly emphasize risk assessment in relation to money laundering and terrorist financing and the need to “know your customer”, with a ‘customer’ defined as a buyer or seller.⁷⁷ But appropriate due diligence guidelines

are nothing new. They were described in Article 4(4) of the Unidroit Convention on Stolen and Illegally Exported Cultural Objects as long ago as 1995.⁷⁸ In relation to other criminal offences, such as fraud or receiving stolen goods, due diligence as regards customers and objects should be standard business practice anyway. But judging from the case studies presented here that is obviously not always the case, and given the character of the parties involved it is not clear that anti-money-laundering regulations would have made much difference to their due diligence. Steinhardt does not seem to have been unduly worried by needing to switch payments to Alexander through a series of different off-shore entities. Alexander and Latchford were not concerned about the source of the antiquities they were selling. The silver coins case is particularly illuminating. According to expert opinion they comprised a group probably found together in Syria or one of its neighboring countries and were sold in 2014 through 2015 when publicity about the so-called Islamic State of Iraq and Syria was at its height. By any measure the coins would have constituted a ‘high-risk’ category of antiquity, and yet that did not deter their sale by four different dealers, the acquisition of at least one by a major museum, and their scholarly study and publication in 2015. Given the massive publicity at the time about the so-called Islamic State of Iraq and Syria, the people involved cannot have been unaware of the links between antiquities trading and terrorism, and yet from their actions seem to have been strangely unconcerned. One of the intentions of targeted anti-money-laundering regulations is to cut through this insouciant attitude to possible illicit trade (and law breaking), but given the enacted financial thresholds, even if these regulations had been in force at that time they would have been unlikely to have made a difference.

We have argued elsewhere that policy formulation and legislation is hampered by poor information sharing, limited expertise and a shortage of good quality research.⁷⁹ Policy measures can hardly be said to be evidence-based, and so it is no sur-

76 Petrus Van Duyne / Lena Louwe / Melvin Soudijn: Money, Art, and Laundering: Coming to Grips with the Risks, in: Joris Kila / Marc Balcels (eds.): *Cultural Property Crime*, Leiden 2015, 79-95, here: 91.

77 British Art Market Federation: *Guidance on Anti Money Laundering for UK Art Market Participants*, London 2020, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879925/BAMF-AML-Guidelines-approved-by-HMT-24-Jan-20.pdf, <30.03.2022>; Responsible Art Market: *Guidelines on Combatting Money Laundering and Terrorist Financing*, <http://responsibleartmarket.org/guidelines/guidelines-on-combatting-money-laundering-and-terrorist-financing/>, <30.03.2022>.

78 Lyndel Prott: *Commentary on the Unidroit Convention*, Leicester 1997, 46-51.

79 Brodie et al. 2019 (see FN 52), 20-21; Neil Brodie et al.: *Why There is Still an Illicit Trade in Cultural Objects (and What We Can Do About It)*, in: *Journal of Field Archaeology* 47 (2022), 117-130.

prise if, as in this case, they seem poorly suited to the task at hand. We are primarily concerned with the effectiveness of implemented regulation, but in closing we would like to touch upon the related problem of proportionality. Can the costs of regulation imposed on legitimate business be justified by the seriousness of the problem or the outcomes?⁸⁰ Again, from what we know, it is a hard question to answer, but it might be considered iniquitous to be imposing an unnecessary regulatory burden on the high-value legitimate art trade because of concerns about money laundering, while terrorist financing and perhaps trade-based money laundering through low-value antiquities trading continues to function without oversight or interruption. The whole subject of antiquities and money laundering (and terrorist financing) is in urgent need of further research and clarification.

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80 Van Duyne / Louwe / Soudijn 2015 (see FN 76), 91-94.