THE ART OF MONEY LAUNDERING

The loosely regulated art market is rife with opportunities for washing illicit cash

Tom Mashberg

Matthew Green was raised in the heady world of fine arts, surrounded from boyhood by the works of Old Masters and Impressionists. His father, Richard, the owner of two of London's most illustrious galleries, dealt in legendary names like Picasso, Constable, Chagall, and Brueghel. Matthew Green, 51, was preparing to take over the family business so his father could pursue new passions.

But in late 2017, US prosecutors say, Green fell in with the owners of a Mauritius-based investment company, Beaufort Securities, that engaged in fraud, stock manipulation, and money laundering. For Beaufort's owners, duping investors into buying worthless securities was the easy part. The hard part was making the ill-gotten profit appear legitimate to regulators. Beaufort had done so in the past by depositing money under false names in offshore banks, then slipping it into the global banking system little by little. The company had also used the time-tested trick of buying real estate and quickly selling it off, often at a loss, to convert illegal proceeds into assets that could be accounted for as the fruit of a property deal.

Now, money launderers like Beaufort were searching for less obvious ways to scrub their cash, and Matthew Green knew how to trade in multimillion-dollar works of art. Approached in late 2017 by the Beaufort conspirators—one of whom was in fact an undercover US federal agent who had infiltrated Beaufort—Green allegedly said he would accept £6.7 million (about $9 million at the time) in what he knew to be the yield of securities fraud in exchange for a 1965 Picasso, *Personnages*. Green would draw

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Workers move Red Skull*, a 1982 painting by Jean-Michel Basquiat.*

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up phony ownership papers saying the work had been sold, all the while keeping the Picasso stored away. Down the road he would pretend to buy it back from his coconspirators at a lower price, keeping 5 to 10 percent of the laundered cash for himself.

"Art is a very attractive vehicle to launder money," says Peter D. Hardy, a former US prosecutor who now advises corporations and industries on compliance with anti-money-laundering require-ments. "It can be hidden or smuggled, transactions often are private, and prices can be subjective and manipulated—and extremely high."

After a slew of recent cases in the United States and Europe, the momentum toward a crackdown on illicit art and antiquities deals is growing. The legitimate art market is itself enormous—estimated at $67.4 billion worldwide at the end of 2018. According to the United Nations Office on Drugs and Crime, the underground art market, which includes thefts, fakes, illegal imports, and organized looting, may bring in as much as $6 billion annually. The portion attributed to money laundering and other financial crimes is in the $3 billion range.

For Green, dabbling in the dark art of money laundering has ended poorly. He has been indicted in the United States on six counts of attempted money laundering, and his gallery in the Mayfair district of London has been declared insolvent by British regulators. Although Green has not been identified as a fugitive, court records indicate that US prosecutors have disclosed his indictment and arrest warrant to law enforcement agencies in the United Kingdom, Hungary, Saint Vincent and the Grenadines, and Mauritius. He has also been ordered to surrender the Picasso. The tactics used by Green and the others charged in the Picasso scheme remain easy to replicate, at least for now. Green was taking advantage of a regulatory loophole that US and European legislators are working hard to close. Unlike banks, life insurance companies, casinos, currency exchangers, and even precious-metals dealers, auction houses, and art sellers have no obligation to report large cash transactions to a governing authority. In fact, dealers can keep the names of buyers and sellers anonymous. And unlike US businesses that deal in large sums of money, they do not have to file so-called suspicious activity reports with the US Treasury Department if they have doubts about the origins of the money they are being paid.

Bill in Congress

Under the Illicit Art and Antiquities Trafficking Prevention Act under consideration in Congress, the US government would require "dealers in art and antiquities" to establish anti-money-laundering programs, keep records of cash purchases, and report suspicious activity and transactions exceeding $10,000 to federal regulators. In addition, the art industry would be required to look into a client's background and examine purchases and sales for evidence that the money might be tainted.

In the European Union, under its Fifth Anti-Money Laundering Directive, art businesses would be obliged to augment efforts to vet customers and to discern "as far as reasonably possible" the purpose of all large, unusually complex, or secretive transactions.

In the view of many art dealers, the legal changes in both the United States and the European Union would strip the vendors of a major selling point—the ability to offer anonymity to clients and preserve the opacity of the art market. In years past, when the fine arts market was seen as a more genteel pursuit, there was no real inclination by the authorities to police it as strenuously as the banking or brokerage trades. All that has changed in the past decade or so because of the enormous amounts of money pouring into art collecting and the growing focus on stymieing the clandestine trafficking in looted and smuggled artifacts from war-torn nations.

Law enforcement officials and even some art merchants now say that excessive secrecy has become a drawback because more and more money launderers have discovered that the art market can be used as an easy conduit. As noted by the FBI and Interpol, "in comparison with other trade sectors, the art market faces a higher risk of exposure to dubious financial practices" because "the volume of legally questionable transactions is noticeably higher than in other global markets."

The indictment filed against Matthew Green and his confederates even recounts a conversation, tape-recorded by an undercover agent, in which Green allegedly crows that "the art trade is the only market that is this unregulated." A client "could even buy the art under a false name with no repercussions," Green is quoted as saying.

"More cases involving artwork and money laundering undoubtedly would be uncovered by law enforcement if art and antiquities dealers were added to the list of businesses legally liable for reporting suspect payments," says Rick St. Hilaire, a former US prosecutor and an expert on art and antiquities law. "For now, it's wide open."

Supporters of expanded regulation say all they want is for the trade in fine art, cultural property, and ancient artifacts to be subjected to the same financial regulations that banks and other industries face.

"The art market is an ideal playing ground for money laundering," says Thomas Christ, a board member of the Basel Institute on Governance, a Swiss nonprofit that has proposed anti-money-laundering standards for art market operators. He added, "We have to ask for clear transparency, where you got the money from and where it is going."

The industry objects

Not surprisingly, the art industry is fighting the regulations. Some sectors are asserting that examples of actual money laundering via the art trade are rare or exaggerated by law enforcement agencies eager to generate sensational headlines. Others, like the International Confederation of Art and Antique Dealers Associations, say the reporting requirements are too burdensome for smaller players in the art market.

At a conference on money laundering last year, James McAndrew, a former Department of Homeland Security special agent who now lobbies on behalf of dealers and collectors, said that "there has not been an art dealer or collector convicted for laundering money through art. The idea that auctions are nefarious or evil is outrageous because it hasn't been proven." Peter Tompa, director of the Global Heritage Alliance, which supports coin

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dealers and the bullion industry, warned that many in the trade would exit the market because the new standards would be too costly to adopt.

And the Committee for Cultural Policy, which represents large and small art dealers and buyers in the United States, said that "it is not practical to use art to launder money, especially antiques and antiquities, because art sells slowly, and buyers are usually collectors," not criminals seeking a quick deal to "legitimize" dubious money.

But advocates say the stratospheric valuations placed on artworks by even second-tier artists leave them no choice but to impose constraints on a vulnerable industry at a time when drug kingpins, oil oligarchs, and assorted kleptocrats are desperate to turn their dirty money into a clean or fungible asset. For now, the momentum is with them, and there are enough money laundering prosecutions to justify those concerns.

A 2014 case known as *U.S. v. Ronald Belciano et al.*, for example, involved both the distribution of marijuana and a conspiracy to launder the profits using artwork. Police seized over $4 million in cash and confiscated approximately 125 pounds of marijuana and 33 paintings worth more than $619,000 from a storage warehouse in Pennsylvania. Prosecutors said the drug dealers had accepted the artworks in lieu of cash after being promised that they could sell them back for laundered money once the art dealers had buried the transactions in their books. In 2015, Belciano was sentenced to five years in prison.

In another high-profile case, a Brazilian financier was accused of embezzling millions from his bank and trying to launder the money by acquiring expensive art, including Jean-Michel Basquiat's *Hannibal* (1981). According to federal prosecutors in New York, the financier, Edemar Cid Ferreira, tried to smuggle the Basquiat and about 90 other high-value works of art into the United States using papers that declared the value of each object at $100. Even though he was convicted and sentenced to 21 years in 2006, appeals and complexities in the legal system meant the United States could not repatriate the works to Brazil until 2017.

And small-scale scams occur every day. Indian officials, for example, say antiquities looted from remote temples and tombs are used as a means of currency exchange. The items are shipped to dealers in Hong Kong SAR or Bangkok—often falsely listed in manifests as replicas worth a few rupees. Collectors and traders are standing by to pay thousands of dollars for the relics, which come with fake documents attesting to their legal purchase. The dealers keep a share of the take and filter the rest of the money back to crime rings in India through unregulated nonbank financial companies.

Deborah Lehr, chairman of the Antiquities Coalition, a Washington, DC–based organization fighting trafficking in artifacts, warns that terrorist groups are already using the art and antiquities industry to raise money by plundering ancient cultural sites and employing intermediaries to sell off the looted goods. "A key priority is shutting the US market to illicit antiquities while encouraging responsible trade practices," she says.

Given that upward of 70 to 90 percent of auction catalog listings for valuable antiquities provide scant information about the seller, art merchants would be wise to accept the inevitable and move toward greater transparency and more due diligence, says Hardy, the former prosecutor. The proposed regulations, he says, would simply enshrine into law the steps that art dealers ought to be taking in the first place to stave off criminal acts.

"Sometimes," he says, "the provenance of the funds can be more critical than the provenance of the art." FD

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