

Jason Carrik

Buyer Beware: How Auction Houses Encouraged The Illicit Art Trade and Modern Changes in Practice

Abstract

In the history of the illicit art and antiquities trade, private auction houses have played major roles in encouraging the theft and smuggling of art. Two major auction houses, Sotheby's and Christie's, have been found on multiple occasions to have violated international law between the 1980s and present day. Tactics such as organized smuggling, anonymous consignment, liability warranties, and insufficient provenance research were used by the houses to facilitate the sale of stolen or forged artworks. In bypassing international law, auction houses acquired authentic art and antiquities that could generate high sale prices, which in turn increased profits for the houses by taking cuts of the sale. In recent decades, Sotheby's and Christie's have attempted to improve their practices by creating their own provenance research departments and by forming partnerships with museums to investigate their collections and organize restitution of stolen material. However, illicit objects still have appeared in recent auctions, and errors are still being made in provenance research that result in issues such as incorrect ownership

attribution. Despite attempts at moving past their legacies and improving their standards, both houses have failed to make major changes.

Introduction

The theft and plunder of cultural objects has occurred for centuries. For Western cultures, it is associated with Athens during the Greco-Persian Wars.¹ After the Persian defeat on the sea at the Battle of Salamis, the victorious Athenians collected the bronze ship-rams and weapons of the enemy as trophies and decorated temples with them, then melted down the rest to cast a statue of Apollo.² The tradition of war-looting continued with the Romans, who were well-known for their military triumphal celebrations. These huge victory parades featured loot taken from their enemies, which were symbols of Rome's ability to conquer and take whatever they pleased.³ One well-known illustration of such an event is a stone relief on the Arch of Titus, which depicts Roman soldiers carrying off trophies, including the menorah and showbread table, taken from the rebels of Judea.⁴ Cultural items also were considered fair game when it came to prizes during times of war; famous examples include the Horses of Saint Mark, taken from Constantinople during the Fourth Crusade's sack, and the Parthenon Marbles, removed from Greece by Lord Elgin, who allegedly had permission from Ottoman officials, not the Greeks.⁵

1. William Custis West III, "Greek Public Monuments of the Persian Wars", The Center for Hellenic Studies, Accessed March 9, 2025, <https://chs.harvard.edu/chapter/william-custis-west-iii-greek-public-monuments-of-the-persian-wars-introduction/>.

2. John Hale, *Lords of the Sea: The Epic Story of the Athenian Navy and the Birth of Democracy* (London: Penguin Books, 2009), 72.

3. Mark Cartwright, "Roman Triumph", World History Encyclopedia, May 5, 2016. https://www.worldhistory.org/Roman_Triumph/.

4. Jeffrey A. Becker, "The Arch of Titus," in *Smarthistory*, August 8, 2015, accessed January 29, 2025, <https://smarthistory.org/the-arch-of-titus/>.

5. Alex Greenberger, "Looting, Plundering, and More: 20 Cultural Treasures That Have Faced Claims of Theft", February 20, 2024, <https://www.artnews.com/list/art-news/artists/most-important-looted-plundered-works-1234584727/horses-of-st-marks-constantinople-venice/>.

After hundreds of years, cultural theft eventually gave way to influencing the civilian sphere as new flows of cultural material began making their way into modern nations such as Britain and France, known as ‘Egyptomania.’⁶ This phenomenon had a significant hand in the spread of cultural material, as Napoleon Bonaparte and his savants conducted research and explored the sites and monuments of Ancient Egypt.⁷ Tides shifted again, and the British were victorious against the French; Egyptian artifacts, like the Rosetta Stone, made their way to England.⁸ It became common practice to disregard the home nations who produced these antiquities in favor of white Europeans. They collected cultural items and displayed them in their cabinets of curiosity, which were collections of rare items that represented their believed “New World” knowledge and would eventually be incorporated into museums.⁹ Out of this 18th century milieu, two major companies that had hands in the trade of art and antiquities were born: Sotheby’s and Christie’s auction houses. Sotheby’s was founded in 1744 by British entrepreneur Samuel Baker,

who used it initially to auction books.¹⁰ Their sales expanded into art and luxury items, and the company endured both World Wars.¹¹ They carried on into the latter half of the 20th century, selling contemporary works of art and items owned by world-famous persons.¹² The auction house continued to grow, eventually ballooning to 80 offices worldwide, along with an annual sales turnover of 7 billion USD.¹³ Christie’s, another British auction house, was founded in 1766. It followed a similar pathway to Sotheby’s, growing and selling more famous works of art and antiques. They have grown to have offices in 46 countries and offer highly-prized private auctions and appraisals.¹⁴ The two companies are considered rivals in the art world, and both had strong presences in museum communities until recent years as some shifted toward preferring collection donations. Their current practice is called ‘consignment’, where clients consign a piece of art or antique to an auction house. The house will conduct the marketing and sale of the piece in exchange for a commission of the sale price. The remainder of the money is paid directly to the

6. Manon Schultz, “What is Egyptomania?”, National Trust, Accessed March 9, 2025, <https://www.nationaltrust.org.uk/discover/history/what-is-egyptomania#>.

7. “Napoleon on the Nile: Soldiers, Artists, and the Rediscovery of Egypt”, Past Exhibitions, Frye Art Museum, Accessed March 9, 2025, <https://fryemuseum.org/exhibitions/napoleon-nile-soldiers-artists-and-rediscovery-egypt>.

8. “Everything you ever wanted to know about the Rosetta Stone,” The British Museum, Accessed January 29, 2025, <https://www.britishmuseum.org/blog/everything-you-ever-wanted-know-about-rosetta-stone>.

9. Anne Wallentine, “How Cabinets of Curiosities Laid the Foundation for Modern Museums”, Smithsonian Magazine, November 16, 2023, Magazine, November 16, 2023, <https://www.smithsonianmag.com/history/how-cabinets-of-curiosities-laid-the-foundation-for-modern-museums-180983265/>.

10. “The History of Sotheby’s Auction House - Founding,” About Us, Sotheby’s, Accessed January 29, 2025, <https://www.sothebys.com/en/about/our-history?locale=en>.

11. “The History of Sotheby’s Auction House - Early - Mid 1900s,” About Us, Sotheby’s, Accessed March 9, 2025.

12. “The History of Sotheby’s Auction House - 1960s - 1980s,” About Us, Sotheby’s, Accessed March 9, 2025.

13. “The History of Sotheby’s Auction House,” About Us, Sotheby’s, Accessed March 9, 2025.

14. “About Christie’s,” Christie’s, Accessed January 29, 2025, <https://www.christies.com/en/about/overview>.

client.¹⁵ Even without selling to museums, both auction houses continue to flourish with their antique sales in modern times.

The antiquities trade has always been lucrative, in part since exotic items mark social status because of their scarcity and usual high price tag.¹⁶ Indeed, they can be and have been used for money laundering or other illegal activities.¹⁷ To those who participate in this market, the real money comes from the authenticity of the antiquities for sale, with authentic pieces fetching the highest prices possible.¹⁸ These two auction houses have been caught on multiple occasions conducting activities that violate the 1970 UNESCO Convention, which forbids the illegal trafficking of art and artifacts from their country of origin.¹⁹ Countless numbers of objects have appeared in Sotheby's and Christie's' catalogs which were later determined to be fakes or stolen. After intense media scrutiny, both houses claimed to have changed their procedures to avoid these unethical and condemnable practices. However, their success in doing so remains questionable to the present day. If there is a single institution to be blamed for the

modern epidemic of trading looted art across international borders, it would be the auction houses that accepted these materials for sale in the late 20th century. There was, and remains, a demand that is facilitated by both the auction houses and looters who raid archaeological sites or peddle fakes.

Smuggling and Complicity

In 1998, investigative journalist Peter Watson organized an undercover operation to expose the illegal activities of Sotheby's regarding their smuggling of paintings. This effort came at a time when the punishments for smuggling were lighter than dealing in narcotics, and the market for art, legal or not, was thriving.²⁰ The illicit art market was found to be worth somewhere in the ballpark of 3 to 6 million USD, circa 1993.²¹ Watson's investigation revealed just how involved Sotheby's was in this market. Sotheby's employees completely admitted to the presence of smuggling and were caught trafficking a Nogari painting out of Italy (Fig. 1). They also confessed that more often than not, Sotheby's themselves organized the effort.²² These employees also admitted that the reasons

15. "Understanding the Auction Consignment Process: A Comprehensive Guide", Britannic Auctions, Accessed March 9, 2025, <https://www.britannicauctions.com/blog/auction-consignment-guide/>.

16. Donna Yates, "Value and doubt: The persuasive power of 'authenticity' in the antiquities market," *Parse Journal*, no. 2 (2015): 72.

17. Charlie Pogacar, "How Money Laundering Works in the Art World", August 4, 2023, <https://www.artandobject.com/news/how-money-laundering-works-art-world>.

18. Timothy Kaiser, "The Antiquities Market," *Journal of Field Archaeology*, vol. 17, no. 2 (1990): 209.

19. "Fight Illicit Trafficking (1970 Convention)," UNESCO, Accessed January 29, 2025, <https://www.unesco.org/en/fight-illicit-trafficking>.

20. Lisa Borodkin, "The Economics of Antiquities Looting and a Proposed Legal Alternative," *Columbia Law Review*, vol. 95, no. 2 (1995): 378.

21. Borodkin, "The Economics of Antiquities Looting," 377-378.

22. Peter Watson, *Sotheby's: The Inside Story* (New York: Random House, 1997), 27-28.



Fig. 1: This painting, 'Old Woman with a Cup', was done by 18th century painter Giuseppe Nogari. It was purchased by Watson's team as a test for Sotheby's: would they smuggle it out of Italy to be sold in London? It went to auction without a second glance. Image: art-prints-on-demand, accessed January 30, 2025.

for the smuggling were to avoid the previously mentioned UNESCO heritage law and to create a larger sale price in a city like New York or London. The higher purchase price would generate a higher profit for Sotheby's, who took a percentage of the payout in the form of a consignment fee.²³ Many of these items came from Italy, which is home to a rich cultural heritage. When the Italian government realized how extreme their bleeding of cultural goods was, they put strict regulations in place against trafficking.²⁴ For decades, these were just corners to cut for Sotheby's.

In the end, Watson's investigation helped reveal the shady underbelly of auction houses. It resulted in a 1997 internal review, which will be discussed later, but by then the damage had been done. Millions of dollars' worth of objects had left their home countries, causing irreparable harm to cultures and history: the most obvious and heinous of the auction house crimes. Sotheby's had created an environment that allowed illicit market activities to survive by letting it become a commonplace and the standard to strive for, all driven by an increased profit.²⁵ Christies' role in smuggling is more vague, as there was no investigative report on their activities; no solid proof could come to light. Many smuggled items have appeared in Christie's catalogs, but there is no way to prove if the smuggling was intentional or simply overlooked.

Anonymity and Warranties

One of the prime draws of auction houses is their allowance of anonymous consignments and bidding.²⁶ For some, it's a way to stay low-profile and avoid the ire of fellow bidders. For more unscrupulous characters, it became a way to pass on stolen artifacts and forged art without getting caught. This anonymity was weaponized by the auction houses for a myriad of reasons. When an illicit object was identified post-sale or was reclaimed by its home country, and the purchaser sought recompensation for the loss of money and object, they often would find themselves completely out of luck, since the original consignor was

23. Watson, *Sotheby's*, 26, 31.

24. Watson, *Sotheby's*, 26.

25. Neil Brodie, "Auction Houses and the Antiquities Trade," in *3rd International Conference of Experts on the Return of Cultural Property*, ed. S. Choulia-Kapeloni (Athens: Archaeological Receipts Fund, 2014): 63.

26. Borodkin, "The Economics of Antiquities Looting", 386.

anonymous.²⁷ The auction houses would be of no help because of their warranties. Anonymity helped shield the auction houses when the press attempted to research the extent of the illegal activities. Because of this defense, it became impossible to identify how many times the sale of illicit material had happened, as the buyers could stay anonymous and never go to the press.²⁸

The psychology of anonymity was particularly useful to the auction houses, as the embarrassment of having been duped would lead to a private, out-of-court settlement for the wronged buyer.²⁹ In the age before Watson's investigation, these private settlements kept the houses out of the limelight, and therefore free to continue putting up illicit objects for bid. Even during the Hodges trial, a case paramount to Watson's investigation, Sotheby's lawyers used their clients' anonymity as a way to protect them and make it difficult for the press to keep up with the many moving parts involved in smuggling, preventing them from making any identifications of key players.³⁰

This consistent usage of anonymity allowed sellers and buyers to maintain several degrees of separation from themselves and the illegality of their and the auction houses' activities. When not involved directly, it was easy for buyers to ignore

any ethical concerns about their purchase's origins, allowing them to believe that it was the concern of the thief or consignor.³¹ One notable character who stayed anonymous for some time was Giacomo Medici, operating through his front company Edition Services (Fig. 2).



Fig. 2: Giacomo Medici, notorious art smuggler, poses here with the famed Euphronios Krater. It was purchased by the Metropolitan Museum of Art in 1972 for the highest price at that time for an antique: \$1 million. It was believed to have been unearthed illegally from Italy and smuggled with Medici's help. It was returned in 2008. Image: Alchetron, October 4, 2024.

Under this guise, he was able to consign upwards of thousands of illicit artifacts to Sotheby's for sale.³² Allowing anonymity was an advantage to

27. Kai Singer, "Sotheby's Sold Me a Fake - Holding Auction Houses Accountable for Authenticating and Attributing Works of Fine Art," *Columbia-VLA Journal of Law & the Arts*, vol. 23, no. 3 + 4 (1999-2000): 441.

28. Singer, "Sotheby's Sold Me a Fake," 439-440.

29. Singer, "Sotheby's Sold Me a Fake," 443.

30. Watson, *Sotheby's*, 162.

31. Borodkin, "The Economics of Antiquities Looting", 383, 386.2.

32. Christos Tsirogiannias, "Illicit Antiquities in American Museums: Diversity in Ethical Standards," in *The Palgrave Handbook on Art Crime*, eds. S. Hufnagel and D. Chappell (London: Palgrave Macmillan, 2019): 833.

everyone involved in the chain of illicit art trade. Anonymity kept looters and dealers safe from the authorities and it allowed fooled purchasers to settle their woes out of court and avoid public embarrassment. Both of those factors combined kept the auction house's questionable activities out of public attention. Warranties, as both companies define them, are part of the larger sale conditions accepted by buyers when they make a purchase. The conditions state that the auction house guarantees the authenticity of the purchased item, as well as offering a potential way to rescind the sale and refund the buyer should it be found to be counterfeit. The power of the warranties issued by Sotheby's and Christie's during this period cannot be underestimated. Sotheby's current warranty refers to it as an 'Authenticity Guarantee,' and that any claims against it have to be proven at the buyer's expense, and that the house remains able to reject the claim.³³ Christie's features the same claims, with the added caveat that the seller must make their claim within five years of purchase.³⁴ Both houses used limited warranties to guarantee authenticity yet can deny any responsibility for the misattribution of said authenticity. The contradiction is immediately striking.

This tactic was employed by Sotheby's, specifically using their own 1974 limited warranty, which guaranteed authenticity for anything dated after 1869.³⁵ Likewise, a similar warranty was utilized by

Christie's in 1995. A legal suit against Christie's was filed in New York by Jane Koven, one of the many clients who consign art they own to auction. She had consigned a Braques pastel to the house, which had gone on to sell for \$600,000.³⁶ After the sale, Christie's began doubting the authenticity of the work and rescinded the sale, refunding the buyer but demanded the sale price back from Koven, who understandably refused. This case is unique in that Christie's did not use their warranty to protect themselves directly and cover up the fact that they failed their duty to authenticate it. Instead, they used it to blame and punish someone else, since the warranty offered a refund for the buyer, which was the sales paid to Koven. In this case, the warranties relied too heavily on the concept of 'good faith': that the consignor was delivering an object that they knew or believed to be completely authentic, which allowed for too much room for error. By using good faith and simple trust, both auction houses were able to guarantee authenticity with their warranties. If questioned, they claimed what their consignors did was a private matter and none of their concern, as if smuggling or counterfeiting was nothing to worry about.³⁷ They had the ability to refute the claims and immediately throw blame to those hapless enough to consign an object they believed was authentic. The client would have to foot the bill of a crime they did not commit, as seen in the Koven case. It is a complicated system of legal workings, which could end up confusing

33. "15. Authenticity Guarantee," Conditions of Business for Buyers for New York, Sotheby's, Last modified December 23, 2024, <https://www.sothebys.com/en/docs/pdf/new-york-cob-for-buyers-as-of-12-23-24.pdf?locale=en>.

34. "7b. Limited Warranty," Conditions of Sale and Terms of Use, Christie's, Accessed January 29, 2025, <https://onlineonly.christies.com/terms-and-conditions/39>.

35. Singer, "Sotheby's Sold Me a Fake", 442.

36. *Greenwood v. Koven*, 880 F. Supp. 186 (S.D.N.Y. 1995). <https://www.unesco.org/en/fight-illicit-trafficking>.

37. Watson, *Sotheby's*, 14.

clients and work against them. The intentional diminishing of responsibility raises a larger question regarding Sotheby's and Christie's: why were they themselves not authenticating works? This question is answered with the much more convoluted history of due diligence in the auction houses.

Due Diligence

The concept of due diligence in the art world is accepted as the proper investigation of something being bought or sold to prove its authenticity and provenance. Due diligence is defined as the actions necessary to ensure the origins and ages of antiquities, as well as the legality of how they were acquired.³⁸ The actions include research and thorough investigation of the objects in question. Primarily, due diligence keeps objects of questionable provenance out of museum collections. It also helps museums examine their own collections, especially those that had been acquired long before proper standards or guidelines were adopted. It is imperative that institutions perform these duties with the proper ethics in mind. All of the necessary efforts have to be made, without any risks of potential conflicts of interest. Any reason for doubt has to be investigated so that institutions like museums can continue to hold the trust of the public and maintain their reputations. Many museums have accreditation from

the American Alliance of Museums, and proper collections research is a necessity to retain their membership.³⁹ However, the lines of trust can blur in the less-publicly visible auction world, when millions of dollars could be on the line if an art piece or artifact is proven to be authentic, fake, or stolen. There may be room for error, intentionally or not. So then, how did the Braques pastel end up on the auction floor if there were concerns of authenticity? As was revealed during the court proceedings, the Braques was investigated only by a team of Christie's in-house experts, who declared it to be an unquestionably authentic piece. The house then went on to market the pastel excessively, repeatedly purporting it as genuine. It wasn't until Claude Laurens, a French official responsible for validating Braques' works specifically, examined the work that the concern of authenticity was raised.⁴⁰ The action of due diligence was not executed at all by Christie's, as they had only consulted their own team of experts, creating an immediate conflict of interest that is unethical in the art world. If a third-party group of investigators had been tasked with authenticating the work, there is a high likelihood that they would have discovered the discrepancies. Cases of poor due diligence were rife between the auction houses. In 1977, Iranian businessman Eskandar Aryeh purchased a jeweled Fabergé egg for \$400,000 (Fig. 3).⁴¹

38. "Art Transaction Due Diligence Toolkit," Guidelines on Combating Money Laundering and Terrorist Financing, Responsible Art Market, Accessed January 29, 2025, <https://www.responsibleartmarket.org/guidelines/art-transaction-due-diligence-toolkit/>.

39. "Core Standards for Museums", Ethics, Standards, and Professional Practices, American Alliance of Museums, Accessed January 29, 2025, <https://www.aam-us.org/programs/ethics-standards-and-professional-practices/core-standards-for-museums/>.

40. *Greenwood v. Koven*, 880 F. Supp. 186 (S.D.N.Y. 1995).

41. Stuart Bennett, "Fine Art Auctions and the Law: A Reassessment in the Aftermath of Cristallina," *Columbia-VLA Journal of Law & the Arts*, vol. 16, no. 3 (1992): 272.



Fig. 3: This Fabergé egg, purchased by Aryeh, was proven to be fake post-sale. Imperial Fabergés are highly prized, and any fakes cause quite a stir. Image: Faberge Museum: Baden-Baden, accessed January 30, 2025.

Christie's had pronounced the egg as an 'Imperial' genuine, authenticated by Kenneth Snowman, a famed expert on the works of Carl Faberge.⁴² Only after the purchase, when doubts were raised, was it found that Snowman had authenticated the egg without ever having seen it.⁴³ A similar case occurred a decade later. In 1987, art collector Douglas Esposit bid \$9,900 on a painting by George Inness, the 19th-century landscape artist. The painting had been authenticated by Michael Quick, an expert on Inness' paintings.⁴⁴ Quick had also published the catalogue raisonné for Inness, which is a researched publication which lists all known works by an artist.⁴⁵ As the foremost expert

Sotheby's had mailed him a black-and-white photograph of the work to authenticate the work before the painting went up for auction. Quick had simply written 'yes' on the back, but when examining the painting eight years later, he immediately determined that it was, in fact, a fake.⁴⁶ These are just two examples of poor due diligence being performed by the auction houses, whose responsibility was to provide the authenticators with the proper materials to make their judgment. Both authenticators did not conduct proper examinations or research of the objects to verify their authenticity, because the respective auction houses did not make the necessary efforts to get a definitive confirmation or give them access to the objects themselves. To modern art and museum experts, these cases are baffling and raise many questions on how this process was historically considered proper practice.

It is a well-known fact in the art world that the authenticity of art and artifacts guarantees a higher value.⁴⁷ However, Sotheby's and Christie's appeared to frequently cut corners by ignoring due diligence to get more illicit material up for auction. Due diligence is highly valued in the professional art world, and in-house investigators or simple mailed photographs do not constitute it in the least. It is, of course, impossible to prove whether the poor due diligence practiced by the auction houses was intentional to create a higher

42. Terence Mullaly, "Kenneth Snowman", *The Guardian*, July 31, 2002.

43. Bennett, "Fine Art Auctions and the Law", 272.

44. "Inness Expert Michael Quick to Lecture at the Clark", *iBerkshires*, August 7, 2008, <https://www.iberkshires.com/story/27985/Inness-Expert-Michael-Quick-To-Lecture-At-The-Clark.html>.

45. "What is a Catalogue Raisonné?" New York Public Library, Accessed March 7, 2025, <https://www.nypl.org/about/divisions/wallach-division/art-architecture-collection/catalogue-raisonne>.

46. Singer, "Sotheby's Sold Me a Fake", 439.

47. Yates, "Value and doubt", 72.

market value. Ultimately, the results have been the same either way: illicit works flow into the houses via poor authentication and anonymous dealers, and then get pushed through the auction floor via claims of authenticity made by the houses. These claims are made confidently as a result of the poor due diligence, and the reputation of the auction houses would likely lead purchasers to trust them inherently. Should the item be caught or questioned by an outside scholar, the houses can avoid all liability through their warranties. If the item is not caught, the cycle is free to continue on, just as with the inclusion of anonymous dealers. Whether an active or passive scheme, the cycle is self-perpetuating, and the money and material flows into the auction houses by getting a cut of the sale price.

Changes in Practice

As mentioned previously, Peter Watson's investigative journalism resulted in an internal review for Sotheby's in 1997. In the wake of the exposé, a review committee was established alongside a department of compliance to monitor the imports, exports, and ensure Sotheby's followed the national rules and regulations.⁴⁸ In addition, several executives were suspended and the London antiquities branch of the auction house was shuttered permanently.⁴⁹ Despite these sweeping changes, Sotheby's officials still insisted that what had happened were isolated incidents.⁵⁰ However,

the question of whether these reforms would turn the company's behavior around were swiftly dispelled. In 2002, only five years after the previously-mentioned internal reforms were implemented, a Southern Arabian stele was consigned to Sotheby's by Phoenix Ancient Art, a well-known art dealership that sells stolen antiquities. While awaiting its auction, it was discovered that the stele had been looted from a museum during the 1994 Yemen civil war. Sotheby's offered to research the museum's claim to the piece so it could be returned if it was proven to have been stolen. Instead, Phoenix opted to return the stele in 2004. Despite their offer to research, at no point during the stele's stay at Sotheby's did they attempt to alert INTERPOL or any other agency about their discovery.⁵¹ Sotheby's fumbled once again in 2019, when a work painted by Giovanni Tiepolo, an 18th-century master painter, was sold with a provenance identifying the previous owner as Wolfgang Böhler. However, a suit was filed by the descendants of Otto Frölich, a Jewish gallery owner who had to abandon the painting in Austria while fleeing the Nazis.⁵² The true provenance was that it had been owned by Julius Böhler, who had been identified after the war as a known Nazi collaborator and art dealer. Sotheby's chalked the mistake up to human error, claiming they did not know the full story at the time of sale. Despite this claim, Sotheby's referenced the catalog raisonné of Tiepolo in their listing of the painting, which listed Julius Böhler, not Wolfgang Böhler, as the

48. Carol Vogel, "Sotheby's to Tighten Procedures Regarding History and Sale of Art," *New York Times*, December 17, 1997.

49. Youssef Ibrahim, "Art Smuggling at Sotheby's: Executives Suspended," *New York Times*, February 7, 1997.

50. Ibrahim, "Art Smuggling at Sotheby's".

51. Brodie, "Auction Houses," 66.

52. *Avni v. Sotheby's*, 2024 N.Y. Slip Op. 30004 (N.Y. Sup. Ct. 2024).

previous owner.⁵³ The problem of insufficient due diligence had reappeared, as the entirely accurate provenance could have been discovered had Sotheby's done the proper investigation.

Christie's has not fared much better than their rival. To this day, it is unknown what happened internally at Christie's after the Watson exposé. It can be assumed that some reforms also occurred behind closed doors to avoid the scathing media critique and negative publicity that Sotheby's received, and, in doing so, stay ahead of their traditional rival. Just as with Sotheby's, however, it was not enough. In March 2022, an ancient Greek vase and helmet were pulled from auction after being identified by Christos Tsirogiannis, a forensic archaeologist with expertise in trafficked material, as being looted artifacts.⁵⁴ He discovered that they had once been in the collections of Gianfranco Becchina and Robert Hecht, both notorious and well-known dealers of illicit antiquities. In response, Christie's claimed they had done adequate research and found no cause for alarm.⁵⁵ In January 2024, a painfully similar situation played out. A Roman bronze Hellenistic-style cuirass was pulled from auction after being identified, again by Tsirogiannis, as having involvement with Becchina once again.⁵⁶ In another case, Tsirogiannis connected a Greek lekythos for sale at Christie's with Phoenix Ancient

Art after a simple internet search, a connection omitted from Christie's provenance research.⁵⁷ In each incident, Christie's failed at their due diligence with antiquities tied to well-known individuals within the art and museum world, where the mention of their names alone should shut down an auction sale immediately. While it is admirable that these artifacts were promptly removed from sale by the auction houses, it is still a distinct problem that they arrived on the floor in the first place, and reveals that both auction houses have struggled to make meaningful progress in cutting out all illicit materials in their sales.

Conclusions and Looking Forward

During the latter half of the 20th century, Sotheby's and Christie's engaged in many activities, active and passive, that encouraged illicit art trade to propagate. The high sale prices of objects, when declared authentic, generated a demand for more fake or stolen material to enter the catalogs. More and more stolen or looted items came to auction with insufficient due diligence conducted by the auction houses. When an item was questioned and found to be illicitly transferred, the houses were able to avoid trouble because of the combination of anonymity for clients and limited warranties: the anonymity guaranteed that the looters and dealers could be safe while also giving

53. Colin Moynihan, "Sotheby's Provenance Disputed in Claim by Heirs for Art Lost in Nazi Era," *New York Times*, May 19, 2023.

54. "Christos Tsirogiannis", People, Trafficking Culture, Accessed March 7, 2025, <https://traffickingculture.org/people/christos-tsirogiannis/>.

55. Eileen Kinsella, "Christie's Hurriedly Withdraws Two Lots from an Upcoming Antiquities Sale That May Have Been Looted," *ArtNet News*, March 25, 2002.

56. Karen Ho, "Christie's Withdraws British Collector's Bronze Breastplate from Auction", *ArtNet News*, January 31, 2024.

57. Christos Tsirogiannis, "'Due Diligence'?: Christie's Antiquities Auction, London, October 2015," *Journal of Art Crime*, no. 14 (2015), Lot 93.

duped buyers an easy way out, and the warranties kept liability from falling upon the houses themselves. If objects were not questioned or closely examined, there was no trouble at all. Combined with the direct organization of smuggling from Sotheby's, the houses created an environment specifically suited for the movement of illicit materials.

There have been positive changes in auction houses in the art world, but the work is far from complete. A provenance department was established within Sotheby's that includes working with clients to find resolutions if the origins of the object are questionable.⁵⁸ There is no evidence that either auction house is directly involved in smuggling or trafficking, such as the scandal that Peter Watson uncovered. Even so, many looted objects have still appeared in sales catalogs, even as of 2024. It sometimes takes third-party sources, like scholars or archaeologists, to identify pieces that are stolen. If the auction houses want to keep purporting guaranteed authenticity and legality, it is their responsibility to conduct the proper research. One reason this continues to happen is because the houses use the Art Loss Register for their provenance research. The Art Loss Register is a private online database that records lost, stolen, and looted works of art that are submitted by victims.⁵⁹ It is used as a resource for clients in the art world who wish to avoid legal claim issues and for museums conducting due diligence research. The Register is an excellent source for researchers and

scholars because it uses photographic evidence and archival documents of items that have been stolen. When it comes to artifacts that have been looted from unknown archaeological sites, there are no photos of them, since they have yet to be discovered and excavated by professionals.⁶⁰ Consulting the database as due diligence for questionable archaeological artifacts is fruitless, because they may never have been documented or photographed in the first place, meaning there is no provenance paper trail. However, the same cannot be said for artworks, which have many resources available to help keep track of their history.

In a 2022 announcement, Sotheby's will be working with the Louvre to do provenance research on items stolen by the Nazis, with the goal of restitution.⁶¹ The results have yet to be seen, but Sotheby's track record is cause for concern. Both auction houses need to improve their due diligence, which is a problem that has troubled them since the very beginning. The changes are being seen now, but they are not entirely sufficient. Without any long-lasting change, more illicit material will enter, and they will be forced to repeatedly remove them from sale. For the auction houses and the wider antiquities market, change is possible if greater care is taken to identify illicit material before it is put up for sale. Keeping stolen pieces out of circulation is a moral obligation for all and important for their countries of origin, as art is an integral

58. "Restitution", Sotheby's, Accessed March 7, 2025, <https://www.sothebys.com/en/about/services/art-restitution>.

59. "About Us", The Art Loss Register, Accessed March 7, 2025, <https://www.artloss.com/about-us/>.

60. David Gill, "Context Matters: The Auction Market and Due Diligence: The Need for Action," *Journal of Art Crime*, no. 15 (2016): 73.

61. Garreth Harris, "Louvre Teams Up with Sotheby's to Investigate Provenance of Works Bought During the Second World War," *The Art Newspaper*, February 1, 2022.

part of all cultures. Finding stolen works also opens up the possibility of returning them to rightful owners and heirs, for whom restitution is owed and recompense deserved.

References

“About Christie’s.” Overview, Christie’s, Accessed January 29, 2025, <https://www.christies.com/en/about/overview>.

“About Us.” The Art Loss Register, Accessed March 8, 2025, <https://www.artloss.com/about-us/>.

“Art Transaction Due Diligence Toolkit.” Guidelines on Combating Money Laundering and Terrorist Financing, Responsible Art Market, Accessed January 29, 2025, <https://www.responsibleartmarket.org/guidelines/guidelines-on-combatting-money-laundering-and-terrorist-financing/>.

“Authenticity Guarantee.” Conditions of Business for Buyers for New York, Sotheby’s, Last modified December 23, 2024, <https://www.sothebys.com/en/docs/pdf/newyork-cob-for-buyers-as-of-12-23-24.pdf?locale=en>.

Avni v. Sotheby's, 2024 N.Y. Slip Op. 30004 (N.Y. Sup. Ct. 2024) https://www.nycourts.gov/Reporter/pdfs/2024/2024__30004.pdf.

Becker, Jeffrey A. “The Arch of Titus.” *Smarthistory*, August 8, 2015, accessed January 29, 2025, <https://smarthistory.org/the-arch-of-titus/>.

Bennett, Stuart. “Fine Art Auctions and the Law: A Reassessment in the Aftermath of ‘Cristallina.’” *Columbia-VLA Journal of Law & the Arts*, vol. 16, no. 3 (1992): 257-284. <https://doi.org/10.4337/9781035302680.00015>

Borodkin, Lisa J. “The Economics of Antiquities Looting and a Proposed Legal Alternative.” *Columbia Law Review* 95, no. 2 (1995): 377-417. <https://doi.org/10.2307/1123233>.

Brodie, Neil. “Auction Houses and the Antiquities Trade.” In *3rd International Conference of Experts on the Return of Cultural Property*, edited by S. Choulia-Kapeloni, 71-82. Athens: Archaeological Receipts Fund, 2014. <https://traffickingculture.org/app/uploads/2015/06/Brodie-2014-Auction-Houses.pdf>

Cartwright, Mark. “Roman Triumph.” World History Encyclopedia, May 5, 2016. Accessed March 9, 2025, https://www.worldhistory.org/Roman_Triumph/

“Christos Tsirogiannias.” Trafficking Culture, Accessed March 8, 2025, <https://traffickingculture.org/people/christos-tsirogiannis/>.

“Core Standards for Museums.” Ethics, Standards, and Professional Practices, American Alliance of Museums, Accessed January 29, 2025, <https://www.aam-us.org/programs/ethics-standards-and-professional-practices/core-standards-for-museums/>.

“Everything you ever wanted to know about the Rosetta Stone.” The British Museum, Accessed January 29, 2025, <https://www.britishmuseum.org/blog/everything-you-ever-wanted-know-about-rosetta-stone>.

“Fight Illicit Trafficking (1970 Convention).” UNESCO, Accessed January 29, 2025, <https://www.unesco.org/en/fight-illicit-trafficking>.

Gill, David. “Context Matters: The Auction Market and Due Diligence: The Need for Action.” *Journal of Art Crime*, no. 15 (2016), 73-78. <https://oars.uos.ac.uk/151/>

Greenberger, Alex. "Looting, Plundering, and More: 20 Cultural Treasures that Have Faced Claims of Theft." *ARTnews*, February 20, 2024. Accessed March 9, 2025,

<https://www.artnews.com/art-news/opinion/hauser-and-wirth-new-york-museum-mega-gallery-shows-1234740036/>

Greenwood v. Koven, 880 F. Supp. 186 (S.D.N.Y. 1995).

Hale, John. *Lords of the Sea: The Epic Story of the Athenian Navy and the Birth of Democracy*. London: Penguin Books, 2009.

Harris, Garreth. "Louvre Teams Up with Sotheby's to Investigate Provenance of Works Bought During the Second World War." *The Art Newspaper*, February 1, 2022. Accessed January 29, 2025, <https://www.theartnewspaper.com/2022/01/24/louvre-partners-with-sothebys-to-investigate-provenance-of-works-of-art-bought-by-museum-during-second-world-war-era>

Ho, Karen. "Christie's Withdraws British Collector's Bronze Breastplate from Auction." *ArtNet News*, January 31, 2024. Accessed January 29, 2025, <https://www.artnews.com/art-news/news/christies-withdraws-bronze-breastplate-provenance-concerns-1234686802/>

"How Cabinets of Curiosities Laid the Foundation for Modern Museums." *Smithsonian Magazine*, November 16, 2023. Accessed March 9, 2025, <https://www.smithsonianmag.com/history/how-cabinets-of-curiosities-laid-the-foundation-for-modern-museums-180983265/>

Ibrahim, Youssef. "Art Smuggling at Sotheby's: Executives Suspended." *New York Times*, February 7, 1997. Accessed January 29, 2025, <https://www.nytimes.com/1997/02/07/world/art-smuggling-at-sotheby-s-executives-suspended.html>

"Inness Expert Michael Quick To Lecture At The Clark." *iBerkshires*, August 7, 2008. Accessed March 8, 2025, <https://www.iberkshires.com/story/27985/Inness-Expert-Michael-Quick-To-Lecture-At-The-Clark.html>

Kaiser, Timothy. "The Antiquities Market." *Journal of Field Archaeology* 18, no. 1 (1991): 87–103. <https://doi.org/10.2307/530152>.

Kinsella, Eileen. "Christie's Hurriedly Withdraws Two Lots from an Upcoming Antiquities Sale That May Have Been Looted." *ArtNet News*, March 25, 2002. Accessed January 29, 2025, <https://news.artnet.com/market/chirsties-antiquities-2090201>

"Limited Warranty." Conditions of Sale and Terms of Use, Christie's, Accessed January 29, 2025, <https://www.christiemarketplace.com/pages/warranty-policy>

Moynihan, Colin. "Sotheby's Provenance Disputed in Claim by Heirs for Art Lost in Nazi Era," *New York Times*, May 19, 2023. Accessed January 29, 2025, <https://www.nytimes.com/2023/05/19/arts/design/sothebys-provenance-nazi-art.html>

Mullaly, Terence. "Kenneth Snowman." *The Guardian*, July 31, 2002. Accessed March 7, 2025, <https://www.theguardian.com/news/2002/aug/01/guardianobituaries.arts>.

"Napoleon on the Nile: Soldiers, Artists and the Rediscovery of Egypt." Frye Museum. Accessed March 9, 2025, <https://fryemuseum.org/exhibitions/napoleon-nile-soilders-artists-and-rediscovery-egypt>

"Restitution." Sotheby's, Accessed March 8, 2025, <https://www.sothebys.com/en/about/services/art-restitution>

Pogacar, Charlie. "How Money Laundering Works in the Art World." *Art and Object*, August 4, 2023.

Accessed March 8, 2025.

<https://www.artandobject.com/news/how-money-laundering-works-art-world>