



THE ART OF SECRECY: THE GOOD, THE BAD AND THE UGLY

Painting, n.:

*The art of protecting flat surfaces from the weather,
and exposing them to the critic.*

by Ambrose Bierce

April 3rd, 2016. The Panama Papers —a leak of over 11 million documents that amounts to the largest in history—hit media outlets around the world detailing the off-shore, though not illegal, dealings of numerous individuals. The fallout was swift: 1 prime minister lost his job, \$22.9 trillion is the estimated hidden away in tax heavens, 800 Italians were ordered to be investigated, 143 politicians and associates all around the world were revealed to have used offshore tax heavens; among other hitting headlines dominated this month's newspapers and Internet.¹ But the effects of the leaks were not exclusive political or businesslike, it also provided an unprecedented look at connection between the international art trade and the offshore secrecy.

In recent years, as art prices have grown dramatically, transactions are often obscured by the use of offshore companies, front men, free trade zones, manipulated auctions and private sales. The art market operates under a veil of secrecy. According to the *Art Market Report*, about half of all art auctions around the world are carried out in secret.² The rest is traded at public auctions, but even here, buyers and sellers like to hide behind shell companies. In the art world, transactions involving shell companies are common. While secrecy may be exploited legally to avoid publicity, limit legal exposure or ease operations across borders, it can also be employed for nefarious purposes, such as evading taxes and hiding shady ownership histories. The Panama Papers revealed sellers and buyers of art using the same dark corners of the global financial system as dictators, politicians, fraudsters and others who benefit from the anonymity these secrecy zones offer. Despite the legal character of some of the transactions disclosed at the Panama Papers, the importance of provenance issues and the consequences that these might hold in the artworks pricing is examined in this article through the GOOD, the BAD and the UGLY.

¹ Aurdal, Fredrik. "The Panama Papers – What It Means For The Offshore Industry." *Offshore Asset Protection Trust Strategies*. Web. 25 Apr. 2016. <<http://www.assetprotectionpackage.com/the-panama-papers-what-it-means-for-the-offshore-industry/>>.

² Ehrmann, Thierry. "The Contemporary Art Market Report 2015." : *Art Market Report 2015 by Artprice*. 2016. Web. 25 Apr. 2016. <<http://www.artprice.com/reports/art-market-report-2015>>.

Yet Another Rybolovlev Scandal



Dmitry Rybolovlev

THE GOOD:

As auctioneers often say, most artworks up for sale at auction houses got there because of one of the “three Ds”: disputes, death or divorce.³ The last one is the case of Dmitry Rybolovlev’s latest scandal. Indeed, he was cautious and asked Mossack Fonseca to incorporate Xitrans Finance Ltd in the British Virgin Islands. The company, - which was no more than a post office box in sunny Tortola-, was in fact a mini-Louvre museum when it came to its assets: Picasso, Modigliani, Van Gogh, Monet, Degas and Rothko.

THE BAD:

In December 2008 Elena Rybolovleva filed for divorce from her husband Dmitry. The Rybolovlevs were based in Switzerland and under Swiss law each spouse was entitled to an equal part of the couple’s wealth. But tracking down Dmitry Rybolovlev’s assets was impossible since the businessman had already transferred the ownership of many of his collection to a company that was set up for him in the British Virgin Islands. This was in fact, illegal since both husband and wife were equally owners of the artworks and such required the expressed authorization in order to be exported.

THE UGLY:

Rybolovlev denies these claims, stating: “The use of Xitrans Finance as a holding entity to constitute a remarkable art collection that has been publicly disclosed in numerous publications worldwide.” Furthermore, Tetiana Bersheda, an attorney in Rybolovlev openly said: “The purpose of such companies use may by contrast go against the law in certain circumstances.”⁴

³ Lumbreras, Javier. *The Art of Collecting Art*. Barcelona, 2012. Artemundi. p. 121

⁴ Kinsella, Eileen. "Rybolovlev Denies Panama Papers Allegations - Artnet News." *Artnet News*. 06 Apr. 2016. Web. 25 Apr. 2016. <https://news.artnet.com/market/billionaire-collector-dmitry-rybolovlev-denies-panama-papers-allegations-466880>



Missing a Complete Art Collection

THE GOOD:

The Panama Papers' data provided new insight into a legal dispute involving the Goulandris family, a Greek shipping dynasty that is in the middle of a fight over what happened to 83 missing art masterpieces including 11 by Picasso, three by Braque, five Cezanne paintings, three by Marc Chagall, two by Degas, two Gauguins, two Max Ernsts, two Manets, two Miros, two Monets, three Renoirs, two Jackson Pollock oils, a Matisse, a Klee and a Kandinsky.⁵ With about \$3 billion worth of paintings, this could be the largest collection of missing paintings in the history. The art collection that once belonged to the Greek shipping tycoon Basil Goulandris is now involved in a legal case carried by his niece Aspasia Zaimis.

THE BAD:

The Panama Papers revealed that the entire collection was sold via shell companies to a Panamanian company for below fair market values for \$31.7 million USD. An evaluation of a third of the works by Armand Bartos, Jr. Fine Art Inc., put their worth at \$781.4 million. That evaluation includes a Van Gogh painting of olive pickers which Bartos said could alone be worth \$120 million, and a Cezanne self-portrait that he valued at \$60 million. Therefore, it is impossible for the Greek collector to have sold his collection for such a minimum price. According to the *Tribune de Geneve*, the beneficiary seems to be Doda Voridis, Goulandris' sister-in-law.⁶ The four offshore companies used to sell these paintings were all created during 2004 and disbanded the following year. All were managed by the same firm of lawyers in Geneva, Secretan Troyanov, and belonged to a mysterious Marie Voridis.

THE UGLY:

Swiss prosecutors opened a criminal investigation into the Elise Goulandris Foundation and the executor of her will, the art historian and curator Kyriakos Koutsomallis, on suspicion of falsifying titles of ownership, passing on false documents and duplicity in executing the will. Yet a report commissioned by Aspasia Zaimis found that the contract was printed on a type of paper that didn't exist before 1988. Zaimis also said she doubts that Basil Goulandris, who was suffering from Parkinson's disease, would have been capable of signing the contract after 1988.

⁵ Hickley, Catherine. "Greek Heiress Sues After Chalet's Picassos, Monets Vanish." *Bloomberg.com*. Bloomberg, 17 Feb. 2013. Web. 25 Apr. 2016. <<http://www.bloomberg.com/news/articles/2013-02-18/greek-heiress-sues-after-chalet-s-picassos-monets-vanish>>.

⁶ Haederli, Alexandre. "Les «Panama Papers» Mènent à Des Toiles Disparues En Suisse." *Tdg.ch*/. 8 Jan. 2016. Web. 25 Apr. 2016. <<http://www.tdg.ch/monde/panama-papers-menent-toiles-disparues-suisse/story/18024138>>.

Modigliani masterpiece seized in wake of Panama Papers



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THE GOOD:

A painting that has been missing for 52 years reappears and is sold, only to disappear again. The Panama Papers may help settle an ownership claim over Amedeo Modigliani's *Seated Man With a Cane*, which Philippe Maestracci says was seized from his grandfather by the Nazis.

THE BAD:

In 1996, the artwork was sold at Christie's auction in 1996 for \$3.2 million USD and later on in 2008 at Sotheby's for 25 million USD. In both cases, the seller was anonymous and the buyer was not publicly announced. Maestracci believes that the buyers were the Nahmads, a billionaire art collecting family. The Nahmads sit atop the art world as powerful international art dealers, owning galleries in New York and London, and hold a collection to be worth more than \$3 billion US, according to Forbes magazine.⁷ The Nahmads claim the \$25 million painting was bought by a company called the International Art Center. Meanwhile, Richard Golub, the lawyer representing both the International Art Center and the Nahmads, says Maestracci hasn't proved the painting was looted by the Nazis or that his grandfather owned it.

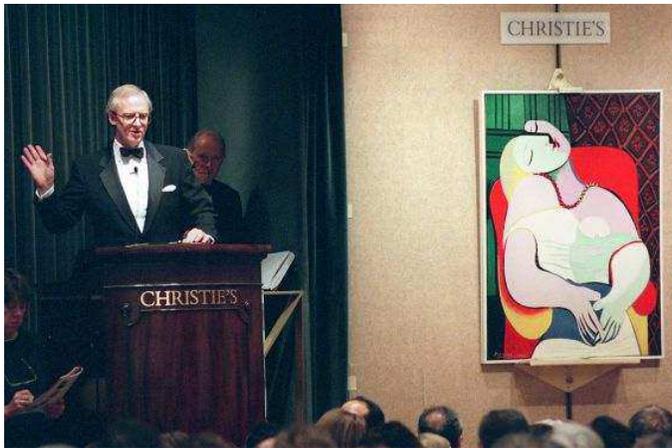
THE UGLY:

According to the documents, International Art Center, S.A. was founded by Giuseppe Nahmad, on August 31st 1995. The company was established via Mossack Fonseca, the Panamanian law firm.⁸ After the Panama Papers were released and exposed that the Nahmads pretty much control the International Art Center for over 20 years, the Swiss prosecutors issued a seizure order for the painting and ordered a search at Rodolphe Haller, Geneva's Port-Franc.

⁷ Sher, Julian. "Modigliani Masterpiece Seized in Wake of Panama Papers." *CBCnews*. 12 Apr. 2016. Web. 25 Apr. 2016. <<http://www.cbc.ca/news/world/modigliani-masterpiece-seized-panama-papers-1.3529856>>.

⁸ Langhans, Katrin, Frederik Obermaier, Bastian Obermayer, and Kia Vahland. "Panama Painting." *Süddeutsche.de*. Web. 25 Apr. 2016. <<http://panamapapers.sueddeutsche.de/articles/5716195ea1bb8d3c3495bc30/>>.

Victor and Sally Ganz's Collection auctioned at Christie's



Left: Pablo Picasso's painting, *Le Reve*, 10 November in New York at Christie's auction in 1997.



Right: Picasso's painting, *Le Reve* at Victor and Sally Ganz's living room at their apartment located at 10 Gracie Square.

THE GOOD:

One event the papers illuminate is the famous 1997 Christie's auction featuring paintings from the 50-year-old collection of Victor and Sally Ganz. This auction gathered the world's most important –and richest– collectors and seems to have rocketed modern art's prices.

THE BAD:

Apparently over \$200 million in artworks were sold at auction; nevertheless, the Panama Papers exposed that the Ganz' family had already sold the paintings months earlier to a Christie's subsidiary based on a small island in the South Pacific for \$168 million.⁹ This is just another example of what Sara Thornton said: "Auctions are theatrical spectacles with a lot of scaffolding and engineering behind them."¹⁰ The Panama Papers showed that both Lewis and Christie's stood to share the profits if the auction brought in more than \$168 million, which it did. The deal wasn't illegal, but it was secretive. Pierre Valentine, head of art at the law firm Constantine Cannon, has upraised the distinction between secrecy and privacy. "There are good reasons a person might want to keep their art holdings

⁹ Blair, Elizabeth. "Panama Papers Provide Rare Glimpse Inside Famously Opaque Art Market." *NPR*. NPR, 12 Apr. 2016. Web. 25 Apr. 2016. <<http://www.npr.org/2016/04/12/473856459/panama-papers-provide-rare-glimpse-inside-famously-opaque-art-market>>.

¹⁰ Thornton, Sarah. *Seven Days in the Art World*. New York: W.W. Norton, 2008. Print.



private”, he said, “such as to avoid alerting the world to their wealth and rendering themselves as a criminal target”¹¹. Auction houses and art galleries are under legal obligation to protect the privacy of both sellers and buyers. In the Ganz’s case, the use of offshore companies based in a South Pacific island with low or zero tax rates may be legal. In fact, that is an example of taking advantage of the art market’s lack of regulation and presents how mastery self-regulation can produce such a large profit. This is also a precedent of the third party guarantees.¹²

THE UGLY:

Notwithstanding, the misdemeanor was the fact that the offshore company involved at this transaction turn out to be owned by the largest shareholder in Christie’s at the time: Joe Lewis. This story’s final twist resulted in the artificial inflation of the artwork’s prices from the Ganz’s collection. Wendy Goldsmith, Christie’s director of the 19th century European art in London at the time, said to the New York Times that she was unaware of the auction house’s arrangement. Bidders were buying the Ganz provenance blindly until last year. Artworks such as a Picasso’s *Le Reve* (1932) portraying Marie-Therese Walter, soared to \$48.4 million.¹³ With this ugly precedent in the ownership provenance, would you consider that the artwork *Women of Algiers (Version ‘O’)*, would have sold for \$179.4 million USD last year? If the Panama Papers had been exposed before last year Christie’s auction, would this Picasso’s painting still hold the current record for the most expensive artwork of all the times?

Other juicy details outlined in the Panama Paper’s includes Chen Dongsheng, who is among the company’s wealthiest and is married to the granddaughter of Mao Zedong, founded China Guardian, the world’s fourth largest auction house. In 2011, Mossack Fonseca set up a company called Keen Best International Limited on behalf of Dongsheng, which was incorporated in the British Virgin Islands. Little is known about the company’s activities even after the leak.

¹¹ Pickford, James, and Josh Spero. "Art Market Ripe for Abuse, Say Campaigners - FT.com." *Financial Times*. 17 Jan. 2016. Web. 25 Apr. 2016. <<http://www.ft.com/cms/s/0/d5098c7e-018c-11e6-ac98-3c15a1aa2e62.html>>.

¹² For further information about auction guarantees, please refer to Edid, Giovana and León De La Vega, Federico. "Auction Guarantees: All Animals Are Equal, But Some Are More Equal Than Others." *Artemundi*. 5 Nov. 2015. Web. 25 Apr. 2016. <<http://artemundiglobalfund.com/wp-content/uploads/2012/08/Auction-Guarantees-REV-GE-5NOV2015.pdf>>.

¹³ Garside, Juliette, Jake Bernstein, and Holly Watt. "How Offshore Firm Helped Billionaire Change the Art World for Ever." *The Guardian. Guardian News and Media*, 07 Apr. 2016. Web. 25 Apr. 2016. <<http://www.theguardian.com/news/2016/apr/07/panama-papers-joe-lewis-offshore-art-world-picasso-christies>>.



In yet another revelation, the documents exposed that Azerbaijani art collector and patron Leyla Aliyev, asked Mossack Fonseca to set up a British Virgin Islands holding company to manage her formidable British real estate portfolio. The daughter of President Ilham Aliyev, created it to manage the family's multimillion dollar British property portfolio.¹⁴

This is only the beginning. The Panama Papers are the largest information dump of their kind, and the information that has been released so far appears to be just the tip of the iceberg. They are also the latest in a string of public leaks that seem to be happening more and more frequently. At first glance, the sheer volume of detail contained in the Panama Papers can be significant and shocking. In spite of that, all the cases presented in this article, portray why the unregulated art market can be, in fact, an advantage for player who have skin-on-the-game, such as Artemundi. Experience has taught how some legal procedures can represent great arbitrage opportunities for those who have a wide experience in the market. Offshore banks, tax havens, and hidden financing aren't atypical in the art world. Nevertheless, these litigation instances show the fatal consequences that these manipulations can bring to the inexperienced collector. Far more interesting will be the changes - if any- inspired by the leaks.

By Giovana Edid and Javier Lumbreras

¹⁴ Neuendorf, Henri. "Azerbaijan's Art Patron Named in Panama Papers - Artnet News." *Artnet News*. 08 Apr. 2016. Web. 25 Apr. 2016. <https://news.artnet.com/art-world/leyla-aliyev-panama-papers-469670>



SOURCES CONSULTED:

- Aurdal, Fredrik. "The Panama Papers – What It Means For The Offshore Industry." *Offshore Asset Protection Trust Strategies*. Web. 25 Apr. 2016. <<http://www.assetprotectionpackage.com/the-panama-papers-what-it-means-for-the-offshore-industry/>>.
- Blair, Elizabeth. "Panama Papers Provide Rare Glimpse Inside Famously Opaque Art Market." *NPR*. NPR, 12 Apr. 2016. Web. 25 Apr. 2016. <<http://www.npr.org/2016/04/12/473856459/panama-papers-provide-rare-glimpse-inside-famously-opaque-art-market>>.
- Ehrmann, Thierry. "The Contemporary Art Market Report 2015." : *Art Market Report 2015 by Artprice*. 2016. Web. 25 Apr. 2016. <<http://www.artprice.com/reports/art-market-report-2015>>.
- Garside, Juliette, Jake Bernstein, and Holly Watt. "How Offshore Firm Helped Billionaire Change the Art World for Ever." *The Guardian*. *Guardian News and Media*, 07 Apr. 2016. Web. 25 Apr. 2016. <<http://www.theguardian.com/news/2016/apr/07/panama-papers-joe-lewis-offshore-art-world-picasso-christies>>.
- Haederli, Alexandre. "Les «Panama Papers» Mènent à Des Toiles Disparues En Suisse." *Tdg.ch*/. 8 Jan. 2016. Web. 25 Apr. 2016. <<http://www.tdg.ch/monde/panama-papers-menent-toiles-disparues-suisse/story/18024138>>.
- Hickley, Catherine. "Greek Heiress Sues After Chalet's Picassos, Monets Vanish." *Bloomberg.com*. Bloomberg, 17 Feb. 2013. Web. 25 Apr. 2016. <<http://www.bloomberg.com/news/articles/2013-02-18/greek-heiress-sues-after-chalet-s-picassos-monets-vanish>>.
- Kinsella, Eileen. "Rybolovlev Denies Panama Papers Allegations - Artnet News." *Artnet News*. 06 Apr. 2016. Web. 25 Apr. 2016. <https://news.artnet.com/market/billionaire-collector-dmitry-rybolovlev-denies-panama-papers-allegations-466880>
- Langhans, Katrin, Frederik Obermaier, Bastian Obermayer, and Kia Vahland. "Panama Painting." *Süddeutsche.de*. Web. 25 Apr. 2016. <<http://panamapapers.sueddeutsche.de/articles/5716195ea1bb8d3c3495bc30/>>.
- Lumbreras, Javier. *The Art of Collecting Art*. Barcelona, 2012. Artemundi. p. 121
- Neuendorf, Henri. "Azerbaijan's Art Patron Named in Panama Papers - Artnet News." *Artnet News*. 08 Apr. 2016. Web. 25 Apr. 2016. <https://news.artnet.com/art-world/leyla-aliyev-panama-papers-469670>
- Pickford, James, and Josh Spero. "Art Market Ripe for Abuse, Say Campaigners - FT.com." *Financial Times*. 17 Jan. 2016. Web. 25 Apr. Sher, Julian. "Modigliani Masterpiece Seized in Wake of Panama Papers." *CBCnews*. 12 Apr. 2016. Web. 25 Apr. 2016. <<http://www.cbc.ca/news/world/modigliani-masterpiece-seized-panama-papers-1.3529856>>.
- Thornton, Sarah. *Seven Days in the Art World*. New York: W.W. Norton, 2008. Print.