



Is this really the way to safeguard clients' financial details?

SIR – On recently leaving a commission bid I was asked to provide my credit or debit card details, which surprised me, bearing in mind that I had not, as yet, anything to pay for.

However, what really concerned me was that when I asked how these details were to be held, I was told to my horror that they just wrote them down, complete with security numbers, names and addresses. When I pointed out that this seemed quite reckless and possibly illegal, I was told sharply, no card details, no bids.

Quite what sort of security blanket providing them with these details gave them in the event of me being a fraudster or a madman leaving commissions I never intended to pay for was unclear to me.

Such policies make a mockery of the card companies' security measures and leave those who wish to participate in the auction open to erroneous and fraudulent card charges.

Where will this end? It's not an unreasonable question, as I fear that as customers we will continue to have unreasonable and ludicrous demands made on us and at the same time be offered the rough end of the stick in this trading relationship.

I would be interested to hear other dealers' and auctioneers' views on these matters.

David Smith-Hall

David Hall Antiques & Interiors

On the look-out for Croatian hero



SIR – Would anyone recollect seeing somewhere, tucked in a corner and unidentified, a full-length portrait of an 18th century gentleman, in a cinnamon-coloured coat, with books on shelves in the background, a table with a sphere beside him, with facial features resembling the portrait shown left?

The one I am searching for is the long-lost portrait of the Croatian polymath Roger Joseph Bosovich FRS, painted in London in 1760 by Robert Edge Pine. Recently an exhibition celebrating the 300th anniversary of his birth was held at the Royal Society, alas, without the Pine portrait!

We would be so grateful for any information that may lead us to its discovery.

Jadranka Beresford-Peirce
Founder and Trustee
The International Trust for Croatian Monuments
www.croatianmonuments.org

Expert required to polish up my coco de mer



SIR – As a long-term subscriber to *ATG*, I write to enquire how one might find a suitably qualified restorer or professional who is capable of polishing (to Victorian standards) a "raw" coco de mer fruit and mount this accordingly.

I have held on to a sample for many years now in the hope that sometime, someone would advertise their skills within your publication. Alas to no avail! Even the large auction houses have been unable to guide me as to a suitable taxidermist or professional who is confident and used to dealing with this extraordinary fruit.

My wife is now nagging me to finally do something with our sample and I would be grateful for any advice any of your trade members or subscribers may have.

I attach an image of our "raw sample", left, together with a considered "after" image, right, in the hope you feel this may merit a mention

Michael Vaughan
Hoylake



Above: an eyewitness view of Napoleon's funeral on St Helena?

Scrapbook clues to Napoleon's demise

SIR – I thought your readers would be interested to see what I believe is a possible eyewitness view of Napoleon's funeral on St Helena in May 1821.

It comes from a disbound and rather chaotic scrapbook that was presented to and later partly compiled from 1833 by John Lodwick of *HMS Castor*, who had risen to the rank of Commander when he retired from the navy in 1845.

I have been researching the items in the scrapbook and, as well as containing pictures of ships, caricatures and scenes of St Helena, I have also discovered a drawing depicting Rear Admiral

Maitland with the officers of *HMS Castor*.

I believe that Maitland himself might have presented the St Helena views to those compiling the scrapbook shortly after visiting the latest ship of the line *HMS Castor* before his imminent retirement in 1839.

I would be interested to hear from any readers who may be able to provide more information.

David Taylor

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Bewildered by the practice of bidding up to the reserve

SIR – As a relative newcomer to the antiques trade and the auction house scene, I have become a little bewildered and uncomfortable with auctioneers bidding you up against a reserve price.

Perhaps I have missed the point of an auction, but I always thought that the idea was to bid against another buyer, not a greedy seller.

I find the process both unfair to the potential buyer and dishonest, and it slows the auction down.

For too long the trade has stood by and

let auctioneers and sellers put punchy reserves and estimates on lots. The auctioneer then starts way below reserve price, wasting time trying to bid a buyer up to the reserve price on a piece which is over-estimated. Ultimately the piece does not sell or the buyer pays too much.

If a lot has a reserve, then let's make the auctioneer declare it straight off and not lead us on a merry chase.

Toby Jones

via email

A LAWYER WRITES

How different the collusion case could have been

■ MILTON SILVERMAN considers cross-border treaties and how they can have a significant impact on the art and antiques industry

ANYONE who reads knows about the case of Christopher Tappin, hauled away from a comfortable middle-class existence into a Kafkaesque nightmare.

He was accused by the US Immigration and Customs Enforcement service of providing false documents for 50 batteries for surface-to-air missiles that they allege he was planning to ship to Iran. He was apparently approached by US agents asking him to ship batteries from the USA to the Netherlands and sent paperwork advising that permits were not required. They then sought to have him arrested and extradited.

The extradition request was successful, and Mr Tappin was denied bail after prosecutors claimed upon evidence that he was a veteran international arms dealer. Tales from jail in New Mexico are now reported in the English press.

His nightmare came under the much-debated jurisdiction of the Extradition Treaty 2003 made between the governments of the UK and USA, and the consequent Extradition Act 2003.

There has been vigorous discussion on whether the terms of the Treaty and the Act are unfairly tilted in favour of the USA, particularly with regard to the level of proof and evidence necessary before extradition is permitted either way.

The complaint, among others, is that the UK has to show "probable cause" before being allowed to extradite from the US, whereas the US only has to show "reasonable suspicion" before being able to haul away citizens of the UK.

In an independent review of these arrangements, Sir Scott Baker concluded in September 2011:

The United States and the United Kingdom have similar but different legal systems. In the US the Fourth Amendment to the Constitution ensures that arrest may only lawfully take place if the probable cause test is satisfied; in the UK the test is reasonable suspicion.

In each case it is necessary to demonstrate to a judge an objective basis for the arrest. There is no practical difference between the two tests and the 2003 Treaty does not operate in an unbalanced manner. Nor is there any basis to conclude that extradition from the UK to the US operates unfairly or oppressively.

Many disagree.

So what has all this got to do with the art world?

Mr Tappin's traumas brought to mind probably the most infamous legal scenario arising in the art world over recent years concerning UK-US extradition provisions, this being the anti-trust case in the USA involving two well-known personalities, namely Alfred Taubman of Sotheby's and Sir Anthony Tennant of Christie's.

The comparison with Mr Tappin's plight is interesting. Mr Taubman ended up convicted and imprisoned, with a personal fine of \$7.5m. Sir Anthony remained free and, as the press reported at the time, as long as he did not set foot in the USA, he would stay that way.

This was because the offence for which Mr Taubman had

been convicted – and Sir Anthony stood accused – was not subject to extradition from the UK.

How could this be?

The offence in the USA for which Mr Taubman, based in the USA, had been convicted was not an extraditable criminal offence in the UK. The relevant legal provisions in the USA were more punitive than those in the UK. Over there it was an imprisonable criminal offence; over here it was not.

At the time, a different extradition treaty was in force from the 2003 Treaty, which was only ratified in April 2007.

Now, the up-to-date fundamental provision provides:

An offence shall be an extraditable offence if the conduct on which the offence is based is punishable under the laws in both states by deprivation of liberty for a period of one year or more or by a more severe penalty.

It is obvious from this provision that criminal conduct in one jurisdiction, even though perhaps also criminal conduct in the other, may nevertheless not pass the test as an extraditable offence.

Coordination and cooperation between different jurisdictions, which can often involve different legal concepts and cultures, is a difficult and fascinating area that is very relevant to the global art trade.

For example, the Getty Museum in Los Angeles resisted an Italian court order requiring the return to Italy of an important antiquity. There were a number of grounds which made the Italian order highly questionable in the US, though entirely valid, of course, in Italy. One issue was whether Italy had jurisdiction over the seas in which the antiquity was discovered: Italy said yes, the US said perhaps not.

I had a case on behalf of an art dealer where all along we anticipated having to enforce any English judgment obtained in Dubai. If the matter had reached that point, information from Dubai was that we would have had another mini-trial in Dubai on the merits of the English judgment. Fortunately we settled the matter before getting that far.

It's not much fun trying to enforce an English judgment in China either. Outside of the UK, the best place to enforce judgments is the European Union, due to reciprocal regulations and treaties.

An entertaining talk on this topic which I attended some years ago was given by the UNESCO director, Division of Cultural Heritage, Dr Lyndel Prott. Dr Prott graphically illustrated the problems that can arise. She explained that on a visit by Queen Victoria to Western Samoa, the Samoans gave the Queen gifts of important cultural artefacts. The Samoans were somewhat put out to discover that the Queen and her entourage took the gifts away for good. In Samoan and Polynesian culture generally, gifts are subsequently to be returned. This is the code over there: gifts do not become the personal property of the receiver.

It does not take much to imagine the difficulties of seeking to enforce international codes on looted art, or anything else for that matter, when basic cultural concepts can be so different.

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A VIEW FROM HONG KONG



In the first of a series of monthly columns, Fine Art Asia fair director and dealer Andy Hei takes a look at the international market from a Far Eastern perspective.

FROM my gallery in Hollywood Road in one of the territory's most historic districts, I have seen quite a few ups and downs in the Asian antiques market.

However, during the last five years Hong Kong has entered a whole new era in the buying and selling of Asian art and antiques – new galleries, new fairs, new collectors, along with the increased activity of the auction sales, all contributing to anchoring Hong Kong at the centre for the art world in Asia.

Running a fine art and antiques business in Hong Kong has clear advantages over those of setting up in China. As a free port, it is easy to import and export artworks without restriction and there is no sales tax on art in Hong Kong, whose geographically central location makes it easily accessible to the many well-established and well-heeled collectors and dealers from Japan, Taiwan and South-East Asia.

The most significant development has been the rise of the new, affluent collector from Asia, which has generated much international coverage and is the talk of the town here as well.

The growing number of cashed-up Chinese buyers has many a dealer putting their faith in these newcomers, who are actively visiting fairs and auctions looking for not only Chinese works of art, but both Asian and Western pieces as well.

During my recent visit to the fairs in Maastricht and New York, it was good to see many familiar faces. At Maastricht, not only the well-known and established American collectors were present but also some of my own mainland Chinese colleagues.

This is a positive trend as in the past many Chinese collectors have only been interested in Chinese furniture, but they are broadening their horizons and looking more closely at Western fine art and antiques.

The Asian sales in New York went well, with solid buying and some good figures achieved from Asian dealers and few items going unsold. As a dealer, I was pleased to acquire two pieces, which makes a change after quite a few years of returning with empty suitcases from New York, so hopefully it is a good start to my trading year back in Hollywood Road.

Fine Art Asia (www.fineartasia.com) runs from October 4-7 and is the only mixed fine art and antiques fair in Hong Kong's calendar.