

ATADA NEWS

Honoring The Artistic Legacy Of Indigenous People



2018 ATADA Online Show

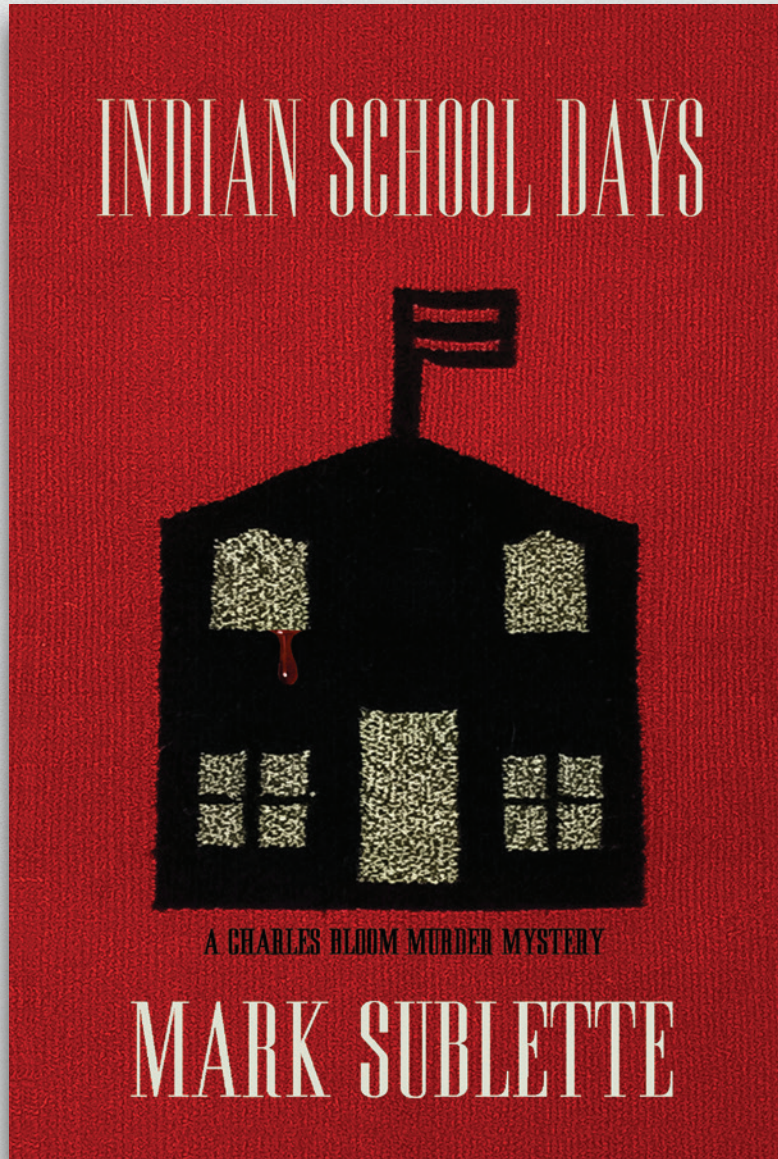
Native Art Week

Bourgogne Tribal Show

Summer 2018

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ATADA NEWS

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Policy Statement:

ATADA was established in 1988 to represent professional dealers of antique tribal art, to set ethical and professional standards for the trade, and to provide education of the public in the valuable role of tribal art in the wealth of human experience. ATADA members are pledged to act as honest brokers, to guarantee the authenticity of their material, and to provide the buying public with the available information on the age, source, integrity, and collection history of the objects that they sell.

Additionally, ATADA sponsors a series of publications and seminars, offers educational grants (through our Foundation), and provides legal advice and insurance to members. ATADA also monitors and publicizes legislative efforts and government regulations concerning trade in tribal art. To attain its objectives, ATADA will actively seek suggestions from other organizations and individuals with similar interests.

The ATADA Foundation is a separate, non-profit 501(c)(3) entity. The ATADA Foundation is dedicated to expanding education on tribal art, both antique and contemporary, from around the world.

ON THE COVER
Hopi Salako Mana
c.1900-1915
Height: 14 ¾ in. (37.5 cm)
Courtesy Galerie Flak, Paris – © Photo : D. Voirin



Sacred Sites and Ceremonies

Photographs by William Frej

August 3 – September 4, 2018



Cemetery at San Juan Chamula, Chiapas, Mexico, 2016,
Archival pigment inks on archival French platine paper, 30 x 45 inches, Edition 1/6

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President's Letter

Dear Fellow Members of ATADA –

Here we are again: it is Native Arts Week in Santa Fe. With a strong economy, we are all looking forward to a brisk market. There is one important new addition: our long-awaited Online Show which will run from August 9 – 19th. The show is open to all full members of ATADA and there is no charge to participate.

Each participant is entitled to exhibit one object. We ask for a professional quality photograph but we will make the process easy for members wishing to exhibit a piece in the online show. There will be a photographer on hand August 8th during set-up for the Objects of Arts Show to photograph one object that an ATADA member would like to place in the online show - we are asking everyone to take a look at the show and, if possible, participate. Our goal is to make ATADA a marketing tool for the membership. Dealers interested in participating should email director@atada.org by August 4th for instructions on how to register.

ATADA continues to have serious concerns regarding passage of the Safeguard Tribal Objects of Patrimony Act, or STOP Act. In May, we held a Board of Directors meeting in Washington, D.C., and Bob Gallegos, Kim Martindale and I spent a day on Capitol Hill voicing our concerns. We met with staff members from eight key congressional offices; one Congressman, Steve Pearce (R-N.M.), took the time to meet with our group in person.

Almost everyone we spoke with in Washington was open to our input and promised to take our views into consideration. Some asked for ATADA to suggest alternative language for the bill. We expect that STOP will be revised and be brought to a floor vote in the fall. (We have no way of knowing at this point whether a revised bill will incorporate our positive suggestions or whether it will include language we believe is unconstitutional as well as damaging to museum, collector, and trade interests.)

We must continue to be vigilant, and to make certain that any bill which goes forward does not damage businesses and cost jobs in the Southwestern region. Nationally, STOP will result in consumer confusion and harm Native artisans and legitimate businesses because of the assumption that all Indian artifacts are tainted by illegality.

Unfortunately, there are forces at play which are inherently anti-market – and will promote anti-collecting agendas even at the cost of harming Native artisans. ATADA will continue to work directly with tribes and to consult with all other stakeholders, including collectors, dealers, academics, and museums to protect their interests as well. Our goal

is that any legislation should serve the positive goals of ensuring a responsible, lawful market, should protect rights to private property and legal due process for all Americans, and will bring real benefits to tribes by securing important ceremonial objects for the future, while preserving an economically sound antique and contemporary Indian arts marketplace.

To continue our vigilance, we need to be able to fund our cause. Please consider contributing to the Roger Fry Memorial Legal Fund, even if you have previously contributed. The struggle continues and we continue to need your help.

Contributions can be made online through our secure contribution form at: atada.org/legal-fund. Contributions by check should be payable to ATADA with “Legal Fund” listed in the memo. Mail to: David Ezziddine, Executive Director, at P.O. Box 157, Marylhurst, OR 97036

Over the last year, ATADA has built solid relationships with the Native community through our Voluntary Returns Program. We have returned over 100 important objects to tribal religious authorities. Please consult our website for further information about this successful program, which is doing a far better job than any legislation would to return key objects to tribes. This signature program has outstanding potential to bring the arts community together with tribal partners.

We also continue our work on other legal and policy fronts of special interest to our international tribal art colleagues. These include submitting testimony countering comprehensive import restrictions on antique and ethnographic objects including Tuareg tribal materials, and colonial South and Central American art, and opposing foreign government nationalization of religious and cultural materials from exiled Middle Eastern Jewish communities and Tibetan and Uyghur minorities.

Since the 1950s, it has been the explicit policy of the United States to support policies that “facilitate the free flow of educational, scientific and cultural materials by the removal of barriers that impede the international movement of such materials,” as stated in the UNESCO Florence Conference of 1952, and to encourage the circulation of art “with a view to contributing to the cause of peace through the freer exchange of ideas and knowledge across national boundaries,” (from the Educational, Scientific, and Cultural Materials Importation Act of 1966).

Please help us to achieve these worthy goals! Wishing all of our members a successful season in the tribal art fairs upcoming in Santa Fe and Paris.

Yours truly,
John Molloy

Carol LeMasney Hayes (1933-2018)



Carol died suddenly and peacefully after a day spent in a booth at the Marin Indian Art Show, doing what she loved best, connecting with people who will always remember her. She grew up in the East Bay, attended Oakland High School and graduated from Stanford University, where she met her husband, Allan Hayes. They married in 1958, moved to Sausalito, and in

1963, bought and remodeled the hillside home where they raised their two sons, Mark and Keith, and where they still live.

Carol was a painting and drawing major at Stanford, and quickly learned sophisticated antique restoration skills, a talent she used for several important Bay Area antique dealers. Meanwhile, the family antique collection outgrew the house and garage, and in 1980, Carol started Summerhouse Antiques, at first in a collective in San Anselmo. The business concentrated on general antiques until 1989, when Carol and Allan made their first trip to Santa Fe. They quickly fell in love with Southwestern Indian pottery, and the business gradually evolved into today's Summerhouse Indian Art. In the years since, Carol mainly applied her restoration skills to pieces of that pottery that needed help.

They found the art so fascinating that they felt they had to tell people about it, and in 1991, their oldest friends, John and Brenda Blom, joined them on a Santa Fe trip. Together, the Bloms and the Hayeses built a joint collection and wrote a book, *Southwestern Pottery, Anasazi to Zuni*, which came out in 1996. A small book, *Collections of Southwestern Pottery*, followed in 1998.

Carol became increasingly interested in the pottery of southern Arizona and set out to write a book about that specialized subject. However, they learned so much history that the book became a broad history of the Desert told with artifacts. She and Allan co-authored *The Desert Southwest, Four Thousand Years of Life and Art*, a 2006

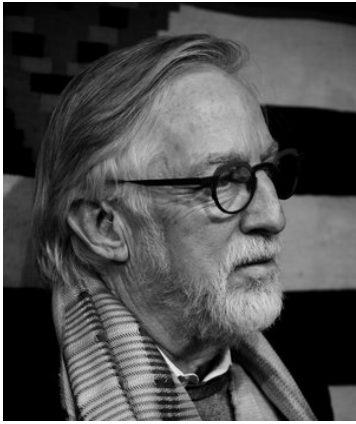
Southwest Book of the Year. In 2008, she and Allan created an in-depth website, summerhouseindianart.com. In 2012, Shire Publications of Oxford, England asked for a small-format book, and Carol and Allan co-wrote and photographed *Pottery of the Southwest*. Meanwhile, the first book *Southwestern Pottery*, proved to be a niche best-seller and stayed in print for 20 years, to the point where it was hopelessly outdated. Carol, Allan and John Blom rewrote and rephotographed it completely, and an expanded Second Edition came out in 2015.

During those years, Carol served on the Sausalito Trees and Views Committee and on the Board of Directors of the Sausalito Historical Society. She and Allan also served on the Board of Directors of The Museum of the American Indian in Novato, where they curated exhibits and where Carol provided restoration skills as needed.

The family would appreciate contributions to one of Carol's favorite organizations, Habitat for Humanity and the Marin Humane Society.

In Memoriam

Bruce Vanlandingham



A long-time member of ATADA and a fixture on the antique American Indian art scene for over thirty years, Bruce Vanlandingham passed away in a kayak accident in Bozeman, Montana on July 8, 2018.

Bruce and I got to know each other when we both lived in Santa Fe in the 90's and early part of this century and did dozens of transactions during those years. I always enjoyed speaking to Bruce about the material. He brought an artist's eye to the work and I frequently learned something from our discussions. He had a fresh approach to the art and it was clear that he had a deep connection to it.

Jim Flury first met Bruce in the latter part of the 1960's when Bruce had a frame shop that also sold art in Wichita, Kansas. Jim remembers Bruce from those years as having a connection to cowboy art as well. Bruce studied art at Wichita State University and was still making art when he lived in Santa Fe. Jim remembers going to obscure rodeos with Bruce and assorted adventures in search of the sublime.

Bruce opened Sundog Gallery in Bozeman, Montana in 2014 with Daniel Vernay. Daniel recalls that he first met Bruce circa 2006 and remembers Bruce's passion for Native art, culture & history. "He was a fine guy to be around," says Daniel. "Always positive and he could find a way to laugh even in hard times." We will miss his smiling presence at the shows this summer, his clear eye for the art and his readiness to do a deal. Bruce is survived by his wife, Jonnie, and two sons.

-John Molloy

Limited Time Show & Sale



Fine Native American and Tribal Art
from Trusted ATADA Dealers



Find the perfect addition to your collection
Purchase direct from the dealer
ATADA.ORG/ONLINE-SHOW

ATADA is proud to present this
inaugural online show featuring the
finest Native American and Tribal art
from trusted ATADA Dealers

SHOW INFORMATION:

Starts: August 9, 2018 • 11:00am MST
Ends: August 19, 2018 • 11:59pm MST

Where: This online show will be available
wherever you may be via your computer,
tablet or smartphone!

You can view the show at your leisure
and purchase with confidence directly
from the dealer, knowing that each
item is covered by the ATADA Seller's
Guarantee.

More info and FAQ about
the show can be found at:
atada.org/online-show



Official Partner



Calendar - Selected Events and Exhibitions



AUG
4-5

Great Southwestern Antique & Vintage Show
Lujan Center - Expo New Mexico State Fair Grounds - Albuquerque, NM
Aug 4-5, 2018
gswevents.com



AUG
4-5

Navajo Heritage Festival
Museum of Northern Arizona - Flagstaff, AZ
August 4-5, 2018
musnaz.org/heritage



AUG
6

Enormous Forms: Pueblo Dough Bowls and Storage Jars
Adobe Gallery - Santa Fe, NM
Aug 6 - Sept 29, 2018
adobegallery.com/shows/current



AUG
6

Noteworthy Works by Seven Pueblo Painters
Adobe Gallery - Santa Fe, NM
Aug 6 - Sept 29, 2018
adobegallery.com/shows/current



AUG
9-11

Gallup Native Art Market
Downtown Gallup, NM
Aug 9-11, 2018
gallupnativeartsmarket.org



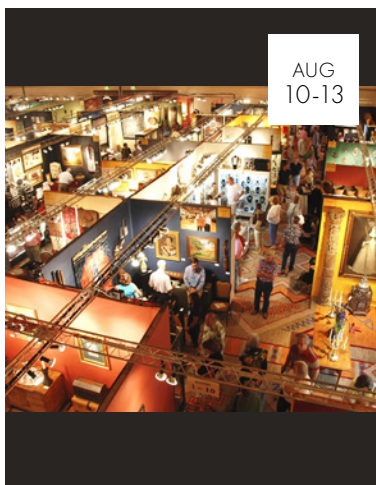
AUG
9-12

Objects of Art Santa Fe
El Museo Cultural de Santa Fe - Santa Fe Railyard
2018 Opening Gala:
Aug 9, 2018 • 6-9pm
Show Dates: Aug 10-12, 2018 (11am-5pm)
objectsofartsantafe.com



ATADA Online Show 2018
 Aug 9 - 19, 2018
 Fine Native American and Tribal
 Art from Trusted ATADA Dealers
atada.org/online-show

Official Partner



**Whitehawk Antique Indian &
 Ethnographic Art Show**
 Santa Fe Convention Center -
 Santa Fe, NM
 Opening Gala: Aug 10, 2018 •
 6-9pm
 Show Dates: Aug 11-13, 2018
 (10am-5pm)
whitehawkshows.com



**Rose Simpson: Table of
 Contents**
 Chiaroscuro - Santa Fe, NM
 Aug 10 - Sept 8, 2018
 Reception: Aug 10, 2018 •
 5-7pm
[chiroscurosantafe.com/
 exhibitions](http://chiroscurosantafe.com/exhibitions)



**Refined Design - Aesthetics
 and Details in Plains Art**
 Morning Star Gallery - Santa Fe,
 NM
 Opening Reception:
 Aug 11, 2018 • 6-8pm
 Show continues through Aug 31
morningstargallery.com



**The Antique American Indian
 Art Show - Santa Fe**
 El Museo Cultural de Santa Fe -
 Santa Fe Railyard
 2018 Opening Gala:
 Aug 14, 2018 • 6-9pm
 Show Dates: Aug 15-17, 2018
 (11am-5pm)
antiqueindianartshow.com



IMPRINT
 Ralph T. Coe Center -
 Santa Fe, NM
 Opens August 16, 2018
 Through March 29, 2019
coeartscenter.org

Calendar



Paintings and Bronzes
King Galleries - Santa Fe
Aug 16, 2018 • 3 - 5pm
kinggalleries.com/events-2



Sonwai & Ken Williams, Jr.
Shiprock Santa Fe - Santa Fe
Aug 16, 2018 • 2 - 4pm
shiprocksanatafe.com



Annual Celebration of Native
American Art
Blue Rain Gallery -
Santa Fe, NM
Various events:
Aug 16-19, 2018
blueraingallery.com/events



R.B. Burnham and Co. Native
Treasures Show
El Dorado Hotel Pavilion -
Santa Fe, NM
Aug 16 - 19, 2018
rburnhamtrading.com/auctions-and-shows



Indian Market - Native
American Artist Group Show
Sorrel Sky Gallery - Santa Fe
Opening reception:
Aug 16, 2018 • 5-7:30pm
Through Aug 31, 2018
sorrelsky.com



SWAIA - 97th Annual Santa
Fe Indian Market
Santa Fe Plaza & surrounding
streets - Santa Fe, NM
Aug 18 • 7am - 5pm
Aug 19 • 8am - 5pm
Full schedule of events can be
found at:
swaia.org/Indian_Market

Calendar



AUG
18

SWAIA Live Auction, Gala & Fashion Show
La Fonda on the Plaza -
Santa Fe, NM
Aug 18 • 6pm • Ticketed Event
swaia.org/Indian_Market



SEPT
11-16

Parcours Des Mondes
Paris, Saint-Germain-Des-Prés,
France
Sept 11-16, 2018
parcours-des-mondes.com



SEPT
29

Oceania
Royal Academy of Arts -
London, UK
Opens Sept 29, 2018
Through Dec 10, 2018
royalacademy.org.uk/exhibition/oceania



OCT
6

**Art for a New Understanding:
Native Voices, 1950s to Now**
Crystal Bridges Museum of
American Art - Bentonville, AR
Opens Oct 6, 2018
Through Jan 7, 2019
[crystalbridges.org/exhibitions/
native-voices/](http://crystalbridges.org/exhibitions/native-voices/)



NOV
23

INCA Dress Code
Musée du Cinquantenaire -
Brussels, Belgium
Opens Nov 23, 2018
Through March 24, 2019
[kmg-mrah.be/expositions/inca-
dress-code](http://kmg-mrah.be/expositions/inca-dress-code)

ATADA  **ORG**

Further listings of upcoming and ongoing shows can be found on our online calendar at: atada.org/calendar

To submit your listing, please use our online submission form on the [calendar page](#) of our website.

**Please note that all listings are posted solely at the discretion of ATADA. We regret any errors or omissions in this calendar; we cannot be held responsible for incorrect or changed information.*

A conversation with Ira Wilson, Executive Director of Santa Fe Indian Market

by Audrey Rubenstein

The first annual Santa Fe “Native Art Week” is a week-long celebration of the nation’s finest Native Art offerings in the Americas’ leading destination for Native Arts and culture. The City-wide event features curated Native art exhibitions, historic and contemporary objects markets and shows, film screenings and gallery openings in the week preceding (and throughout) the revered Santa Fe Indian Market. Native Art Week is the preeminent location to learn about, experience and collect indigenous art from the U.S. and Canada.

“Native Art Week is an opportunity for the art community to combine efforts and let the world know that August in Santa Fe, NM is the best place to experience Native American art,” said Santa Fe Indian Market Executive Director, Ira Wilson.

Native Art Week began with conversations between the leadership of the Southwestern Association for Indian Arts (SWAIA), producers of the Santa Fe Indian Market and Antique American Indian Art Show Santa Fe producer Kim Martindale. These conversations led to an initiative to bring together the efforts of Santa Fe’s many like-minded events and institutions to create more visible and exciting opportunities for Native American Art enthusiasts and the broader public in the week preceding (and throughout) Indian Market: August 13-19.

I had the pleasure of sitting down with SWAIA’s new executive director Ira Wilson and asking a few questions about Native Art Week:

Audrey Rubenstein: The world of collecting and living Native American art do not often come together. How can these two market’s find common ground?

Ira Wilson: I feel that it can once it is fully accepted as what is really is... a piece of Native American history. Many times, a piece is worn simply for adornment or maybe for status. There is a story behind everything we create as Native artisans. When our story is respected it becomes a sacred thing, a bond between both artist, collector and our cultures.

AR: You testified in the hearing against Native American art fakes this year in Albuquerque. Can you tell us about that experience?

IW: I have been in this industry a very long time. I have seen the influx of fake Native American art hit the market and directly affect Native artists. Many of whom I consider



Ira Wilson, Executive Director, Santa Fe Indian Market

close friends and family. In all honesty, it felt good to be part of this history. It has been far too long that any person or persons have been held to the fire for cultural appropriation. When I testified, it felt like a great weight was lifted from my shoulders. I’m pro artist, I always will be.

AR: Why is authenticity important?

IW: When a person misrepresents a piece of art it effects not only Native vendors but all of us in the SW. Visitors to our state will maybe tell 10 friends they had a great experience buying Native art here in NM. If they have a bad experience and were misled believing something was authentic? They will tell everyone who will listen. This adversely affects the industry having both economic and cultural impact in our region. It is so very important to properly represent authentic Native art. Our artists work hard to hold a standard and it’s a shame not all who sell Native art feel the same.

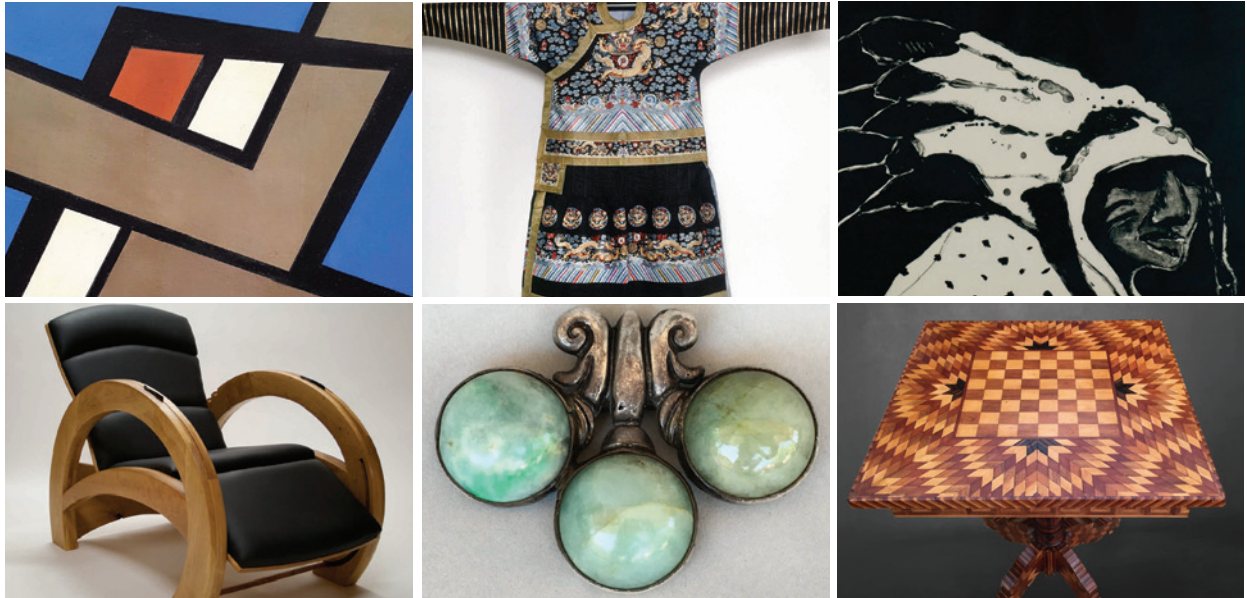
AR: Anything else you want to mention?

IW: When you purchase a piece of authentic Native art, take time to visit with the artist. Feel what they feel about the piece they’ve created. You’ll enjoy it more. I promise.



Objects of Art

santa fe



August 9 - 12, 2018

IN THE RAILYARD: El Museo Cultural de Santa Fe, NM

Featuring 70+ exhibitors, with material ranging from contemporary to historic, the show will include paintings, sculpture, fine art of all kinds, furniture, books, fashion, jewelry, textiles, and tribal, folk, American Indian, African, and Asian art – OBJECTS OF ART from around the world.

2018 SHOW INFO:

Opening Benefits | Thursday, August 9

Pre-Opening Party (5pm - 6pm) 100% of ticket profits benefit Assistance Dogs of the West

Opening Night Party (6pm - 9pm) 100% of ticket profits benefit New Mexico PBS

General Show Dates | Friday-Sunday, August 10-12 (11am-5pm)

ObjectsOfArtShows.com

OFFICIAL PARTNER
NATIVE ART WEEK

BENEFITING
 

The **ANTIQUUE AMERICAN INDIAN** **ART SHOW** *Santa Fe*



August 14 - 17, 2018

IN THE RAILYARD: El Museo Cultural de Santa Fe, NM

View and purchase basketry, jewelry, textiles, kachinas, sculptures, pottery and more, from over 65 renowned exhibitors. When the world comes to Santa Fe for the finest in American Indian art, the best in historical art will be found at this flagship show.

2018 SHOW INFO:



Opening Night Party | Tuesday, August 14 (6pm - 9pm)

100% of the Opening Night ticket profits benefit New Mexico PBS

General Show Dates | Wednesday - Friday, August 15 - 17 (11am-5pm)

ObjectsOfArtShows.com

OFFICIAL PARTNER
NATIVE ART WEEK

BENEFITING
newmexico  PBS | 

Europe in Springtime

by Patrick Mestdagh

For a few years now, since a group of young and truly enthusiastic French “tribalmaniacs” decided to launch a tribal art show in the middle of nowhere, spring seems to be the perfect moment to visit Europe for those interested in tribal arts.

For its third edition, the Bourgogne Tribal Show opened the last weekend of May in Besanceuil. Don’t scratch your heads, and don’t open your atlases as I bet you have never heard of the place and you are certainly not to blame... moreover, you will not find it! Besanceuil is a tiny little village hidden in Southern Burgundy, you are starting to like the place, 15 miles away from Cluny.

What on earth made those frenetic organizers establish their new show there? We may never know, but some serious elements are visible. The idea came from a group of 5 well-known French dealers, and their friend Bruno Mory, gallerist and owner of the welcoming property hosting the show. The place is breathtaking, and the area is full of points of interest if you are keen on landscapes, architecture, ancient churches, unexpected museums, and good wine... and the best is to come! The center of the BTS is the garden, generously warmed by sunshine, offering local food and drinks to enjoy on colourful tables, most of the time accompanied by a jazz trio playing live!

The 25 exhibitors are challenged by the organizers in multiple ways. To start with, they will form pairs sharing a common dedicated space, mixing their objects, voluntarily limited to 30, another big challenge for most, in order to focus on quality first, and keep the entire presentation digestible for all. And finally, they will dedicate one piece for a curated exhibition in Cluny. Last year, the dealers were asked to write an essay on a subject they fancy, and the addition of those formed the extremely original 2017 catalogue, another great idea from the organizers.

Good news is it works! The pairs were effective for the mostpart. Some were very interesting, like Oceanics from Anthony Meyer responding to African’s masks from Bruce Floch, or Chiwaras from Claes Gallery facing a stunning selection of Indonesian masterpieces from Pascassio - Manfredi. In the main building, archeology was presented next to Papua New Guinea treasures, and on the upper floor,

Adrian Schlag and Joaquin Pecci from Brussels were playing equal with an impressive selection of Asian sculptures from Michael Worner’s gallery.

Visitors were impressed - Quai Branly Museum was in the countryside for a week. Certainly, the casual attitude, the stress-of-the-city far away, and the selections made by the exhibitors pushed this event in the right direction. President of Honor, Jean Roudillon congratulated everyone, insisting on the importance and the engagement of the dealers, in a moment where auctions houses are sometimes proposing exaggerated parallelisms, where they should focus on quality.

Visitors were in numbers and it seems most of the exhibitors were satisfied with the unusual and unexpected experience.

Only two weeks later was the opening of the 28th edition of BRUNEAF, the Brussels based non-European art fair, recently joined by Asian Art in Brussels, and Brussels Antiques Art Fair under the generic and smart name of CULTURES. In total, it represents nearly 100 galleries taking part.

For those travelling from far away, remember Europe is easy to travel around, full of museums like Quai Branly, the British Museum and soon to be reopened Musée de Tervueren of Belgium. Plenty of time to travel to cities like Cologne, Barcelona, Vienna, Roma or Berlin, and for the tennis addicted, Grand Slam Roland-Garros is on that fortnight...

Back to Brussels, the first of all art festival of its kind where visitors go from one gallery to another, hunting for treasures and rarities. A perfect way to admire the Sablon district, one of the nicest in the city, less than a mile away from the famous Grand-Place.

2018 was the occasion for Bruneaf to welcome a new board, and if there was no exhibition this year, other surprises were awaiting visitors. An interesting program of lectures by speakers from CULTURES, a selection of new international exhibitors and a convenient shuttle service to reach dealers installed a step too far from the Sablon...

Visitors from all over the world seemed enthusiastic about what they saw, and reactions from dealers were going in the same direction. Most of them made great efforts to show their best sides, some dedicating the moment to thematic shows, like Jo de Buck presenting “the Legacy of Rick Elias”, Pierre Loos presenting an impressive group of paintings by Congolese artist Bela or Galerie Deletaille showing an interesting mix in the exhibition “Objects of Intention”.

Clearly, efforts were made by most of the exhibitors in order to be as attractive as possible, and it paid off. It brought together the energetic Joaquin Pecci, a group of 5 international dealers with Bruce Frank from New York, made an amazing effort in La Nonciature to present tribal

arts the best way, while Renaud Riley was opening its new space with a dialog between objects and the artist Gonçalo Mabunda.

So, for those who could not make it last spring, keep Europe in mind for next year if you want to encounter some amazing experiences and great art from non-European civilizations.

Patrick Mestdagh is the owner of Patrick & Ondine Mestdagh Fine Antiques in Brussels, Belgium and an ATADA Board Member.

Coming Soon to a Computer Near You! Don't Miss Out - Mark Your Calendar!



FIRST FRIDAYS AT THE COE

...a behind the scenes experience!

Every first Friday
of the month, 1-4 pm
Free!



This edition of the column brings us up to date on summarizing the notices, which appear irregularly in the *Federal Register*, announcing institutions' intent to repatriate pieces classified under the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) as sacred objects and/or objects of cultural patrimony.

These notices, however dry and formulaic, are important for the tribal art world and its dealers, collectors, and curators. For brevity's sake, details in the notices as published are often excluded from them as summarized here. I encourage you to check out a notice in detail in the *Federal Register* if a certain type of item, or the circumstances associated with its repatriation, set your antennae twitching for any reason. This is because one may occasionally discern important clues about directions this law's implementation is taking. For example, it should be clear to readers of these notices that certain types of objects – Haudenosaunee wampum belts and False Face masks, for example – automatically find places in NAGPRA repatriation categories. It is also seems that standards of proof used for determining a piece's use and status, often exemplary, sometimes appear to be wedded to a degree of elasticity that makes more than a few folks downright uneasy. I have in mind the third notice summarized here, one that focuses on a headdress for which no evidence at all supporting its classification as an object of cultural patrimony under NAGPRA is provided.

These notices represent determinations made by tribal claimants and what NAGPRA loosely defines as museums concerning the physical disposition of items, pending the filing of a competing claim. All quotes come from those notices.

Anishinaabe (Ojibwe/Chippewa) Drum and Drumstick Sacred Objects and Objects of Cultural Patrimony

Berkshire Museum, Pittsfield, MA (July 12, 2018): In

1903 the museum acquired a "Big Drum," or "Manidoo Dewe'igan" ("Spirit Drum"), which came from north-central Minnesota's White Earth Reservation, home of the Anishinaabe. Drums such as this "are central to the White Earth people as a whole and could never have been alienated, appropriated, or conveyed by any individual regardless of whether or not the individual was a member of the tribe."¹ The museum agreed the drum and its accompanying drumstick are sacred objects and objects of cultural patrimony belonging to the White Earth Band of the Minnesota Chippewa Tribe.

Wiyot Headdresses and Headdress Roll Sacred Objects/Objects of Cultural Patrimony Wiyot Flower (Coming of Age) Ceremony Dress Sacred Object

Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA (May 21, 2018): Donations to the museum in 1908 included "an elk antler ornament headdress,² a red woodpecker headdress,³ and a roll for the red woodpecker headdress"⁴ which originated with the Wiyot people of northern California's Humboldt Bay. It was agreed these are sacred objects and objects of cultural patrimony needed for performing "dances and prayers for the World Renewal Ceremonies, including the White Deerskin Dance and the Jump Dance."

The notice identifies a fourth Wiyot piece, which it received in 1910, as a sacred object: a tanned leather dance skirt⁵ associated with the Flower, or Coming of Age, Ceremony.⁶

The museum agreed to transfer the four items to the Bear River Band of Rohnerville Rancheria, Blue Lake Rancheria, and Wiyot Tribe, all in California.

Comanche Eagle Feather Headdress Object of Cultural Patrimony

U.S. Fish and Wildlife Service, Office of Law

Enforcement, Albuquerque, NM (April 4, 2018): In 2016, “a bison headdress with glass beading and eagle tail feathers” was “removed from a residence” in northwestern New Mexico, part of a collection of objects surrendered to federal agents. The headdress was identified as Comanche “based on the type of beading, which compares with historic photos of beaded headdresses provided by the Comanche Nation.” The notice does not explain how the government determined this is an object of cultural patrimony.

Wiyot “Doctor’s Feathers” Sacred Objects

Field Museum of Natural History, Chicago, IL (Feb. 22, 2018): In 1900, the museum obtained “a set of ‘doctor’s feathers’” in northern California’s Humboldt Bay country “from a Wiyot man named Dick, whose father had been a doctor.” The set includes “seven bundles of condor feathers, which have had their edges trimmed,” some including “smaller feathers, such as those from a northern flicker, and abalone shells.” These feathers “would have been used by a doctor in either a healing ceremony or as part of a religious ceremony, including the World Renewal Ceremony.” The museum decided the feathers belong with California’s Wiyot tribe.

Odawa (Ottawa) Water Drum Sacred Object

New York State Museum, Albany, NY (Feb. 22, 2018): In 1956, the museum purchased a drum obtained from an Odawa man living in the upper part of Michigan’s lower peninsula. Tribal religious leaders identified it as a “Grandfather Drum used by the Midewiwin medicine society” necessary for properly conducting religious observances. The drum was scheduled for repatriation to the Little Traverse Bay Bands of Odawa Indians in Michigan.

San Felipe Water Drum and Earthenware Sacred Objects/Objects of Cultural Patrimony

Mount Holyoke College Art Museum, South Hadley, MA (Feb. 22, 2018): Three earthenware vessels and a wood-and-hide drum with poor provenance came to the museum between the late-19th and early-20th

centuries. Representatives from the Pueblo of San Felipe in New Mexico identified these as sacred objects and objects of cultural patrimony. “Based on National NAGPRA definitions of sacred objects and objects of sacred patrimony and a general knowledge of these objects incorporating sacred imagery and being used in various types of ceremonies and/or funerary contexts,” the museum declared, “the claim for repatriation...has merit.”

Osage “Medicine Man’s Bundle” Objects of Cultural Patrimony

Grand Rapids Public Museum, Grand Rapids, MI (Jan. 30, 2018): At some time, from somewhere in southern Missouri or Arkansas, the contents of a “Medicine Man’s Bundle” –including human and animal teeth, river stones, shell fragments, an antler, partial projectile point, and lead bullet – made their way to the museum through a bequest. The institution’s records indicate the bundle’s constituent pieces were “bought from a dealer with the understanding they were from an archeological excavation conducted prior to 1965.” (The National Historic Preservation Act, which embraces archeological sites, took effect the following year.)

Ultimately, the “determination of Osage cultural affiliation is based on museum records, consultation, geographic location, and archeological information.” Because “the content of Osage bundles were and are of ongoing cultural importance to the Osage Nation,” they “cannot be alienated by any single individual, and require protection and extremely limited exposure.” Accordingly, the museum agreed to give the material to The Osage Nation in Oklahoma.

Haudenosaunee (Iroquois) Wampum Belt Object of Cultural Patrimony

Andover Newton Theological School, Newton Centre, MA (Dec. 6, 2018): This notice concerns a wampum belt with literally zero provenance which tribal representatives identified as Haudenosaunee. The museum agreed to transfer it to the designated Wampum Keeper of the Haudenosaunee: the Onondaga Nation in New York.

Haudenosaunee (Iroquois) False Face, Cornhusk, and Other Masks Sacred Objects

New York State Museum, Albany, NY (Nov. 8, 2017): This summary conflates four notices published on the same day concerning the repatriation of fifty-eight Haudenosaunee masks which entered the museum's collections between 1850 and 2008. Some were donated, others purchased –one from pioneering ethnologist Lewis Henry Morgan in 1850 – and many arrived through the labors of its own legendary Arthur C. Parker, including one “obtained from an individual on the Tonawanda Seneca Reservation who ceremonially passed the object and its inhabiting spirit on to Parker’s care.”

The museum accepted tribal representatives' characterization of these pieces as sacred objects, and agreed to transfer them to, variously, the Onondaga Nation, Seneca Nation of Indians, and the Tonawanda Band of Seneca Indians, all in New York.

Navajo Jish and Related Materials Sacred Objects⁷

Museum of Texas Tech University, Lubbock, TX (Nov. 8, 2017): In 2004 the museum was given “4 pahoos, 1 bandolier bag, and 3 jish [medicine bundles] and their contents,” which a donor obtained between 1985-1987 from two Santa Fe galleries. Tribal representatives pointed out jish “are still in ceremonial use by the Navajo today” and “can be possessed only by someone with proper ceremonial knowledge.” The museum agreed to effect a repatriation of these objects to the Navajo Nation of Arizona, New Mexico, and Utah.

Anishinaabe (Ojibwe/Chippewa) Drum and Drumstick Sacred Objects and Objects of Cultural Patrimony

Science Museum of Minnesota, St. Paul, MN (Aug. 30, 2017): In 1958 the museum obtained a drum and drumstick acquired from members of the Bois Forte Band of the Minnesota Chippewa tribe. Museum representatives met with “[e]lders, spiritual advisors, and five drum-keepers from the Bois Forte Band... and each in turn explained the spiritual and sacred importance of drums both to the Ojibwe in general,

Please note: This column does not offer legal or financial advice. Anyone who needs such advice should consult a professional. The author welcomes readers' comments and suggestions, which may be sent to him at legalbriefs@atada.org

and to the Bois Forte Band in particular.” Specifically, “drums are treated as living beings, and are cared for by a drum-keeper as long as that drum-keeper is able. If the drum-keeper can no longer care for a drum, it is passed on to another drum-keeper.”⁸

The museum agreed “the drum and drumstick should never have been sold, and should be returned” to the Bois Forte Band (Nett Lake) of the Chippewa Tribe in Minnesota.

Wiyot Dance Skirt Sacred Object and Object of Cultural Patrimony

Brooklyn Museum, Brooklyn, NY (Aug. 28, 2017): In 1905 the museum bought a Wiyot dance skirt “made of deer hide and adorned with abalone shell, clam shell, copper, bear grass, maidenhair fern, iris fibers, and glass beads” from a non-Indian northern California merchant. The skirt, originally labeled “Hupa” and now identified as Wiyot,⁹ is a “ceremonial garment worn by Wiyot women during the Brush Dance, which is held during the annual World Renewal Ceremony in winter or early spring.” Wiyot representatives classified it as a “sacred, and an inalienable ceremonial object, which was obtained without the consent of an appropriate Wiyot authority...[The seller] was not the rightful owner of the garment because Wiyot law prohibits the sale of ceremonial objects.”¹⁰ The museum agreed the dance skirt belonged with the Wiyot Tribe of California.

1 For drums among the Anishinaabe see Thomas Vennum, Jr., “The Ojibwe Dance Drum: Its History and Construction,” *Smithsonian Folklife Studies Number 2* (Washington, D.C.: Smithsonian Institution Press, 1982).

2 “The antler ornament headdress is constructed of leather, suede, and seven carved antler ornaments; red and black paints were applied to sections of the leather and to the antler ornaments.”

3 “The red woodpecker headdress is constructed from tanned deerhide and approximately 40 scalps of pileated woodpecker.”

4 The red woodpecker headdress’ storage roll is “constructed of a worked and polished cylindrical piece of wood, likely redwood....[It] was required for the safe storage of the headdress and should be considered a part of the medicine associated with the headdress.”

5 The dress “is fringed at the bottom hem. A solitary shell object of modified abalone is fastened to a leather strand within the fringe. Another leather strand within the fringe is adorned with three blue glass beads and one long black glass bead. The waist of the skirt is decorated with maidenhair fern and beargrass wraps, as well as iris twine. Dangling from the edge of the twine-wrapped waist are thin twine-wrapped strands adorned with two small bivalve shells and finished with metal thimbles; some strands also contain blue glass beads.”

6 According to the notice: “Families spent years gathering the materials for a girl’s ‘First Dress,’ which was worn initially at her Coming of Age Ceremony. Based on the size of this skirt, and the effort invested in its ornamentation, as well as the location of decoration at the waist, it was likely made as a ceremonial dance skirt for a girl’s puberty rites. As abalone is associated with women’s blood, the single cut and polished abalone shell bead fastened within the fringe at the skirt’s bottom hem further supports the attribution of this skirt to the Coming of Age Ceremony.”

7 Tribal representatives declared all of the pieces sacred objects *and* objects of cultural patrimony, but the notice addresses only the former claim.

8 According to the notice, “Supernatural beings bestow the honor and duty of caring for a drum through dream and visions. Ceremonial songs and dances associated with drums are similarly revealed....[T]he investiture and traditional religious practices of drum-keepers, and the drums used in such practices as central to Ojibwe religion and the Bois Forte Band. Drums made by this community

belong to the community, and are not the property of drum-keepers or any other custodian.”

9 “The skirt is identified as Wiyot based upon its physical appearance and construction. It is made of deer hide and adorned with abalone shell, clam shell, copper, bear grass, maidenhair fern, iris fibers, and glass beads. While most abalone shell is a dull grey or white on the outside, the cut shell pieces on the Brooklyn Museum skirt are red, which means that they are from red abalone, an identification that relates to the Wiyot story of Abalone Woman, whose drops of blood created the red-shelled abalone. The story explains why red abalone is only found along the shores of Wiyot territory, and therefore is used in the making of Wiyot regalia.”

10 “The circumstances in which sacred and ceremonial objects were separated from the Wiyot people can be explained by their history. In 1860, Wiyot life in their traditional homeland was violently interrupted by the nighttime massacre of as many as 250 women, children and elders, probably by gold prospectors. The massacre resulted in survivors fleeing Wiyot territory and ultimately seeking protection among their Hupa and Yurok neighbors. During a lengthy period when the Wiyot were refugees, ceremonial life was curtailed. In 1981, the Wiyot Tribe received federal recognition and, in 1991, they were moved to the Table Bluff Reservation. Slowly they have been buying back lands that were originally part of their traditional territory. Today the Wiyot Tribe has approximately 650 enrolled members. It has a language revitalization program, and an active repatriation program to bring cultural heritage objects back home. In 2014, after the industrial contamination of their sacred site on Indian Island was cleaned up, the Wiyot held their first World Renewal Ceremonial in over 150 years.”

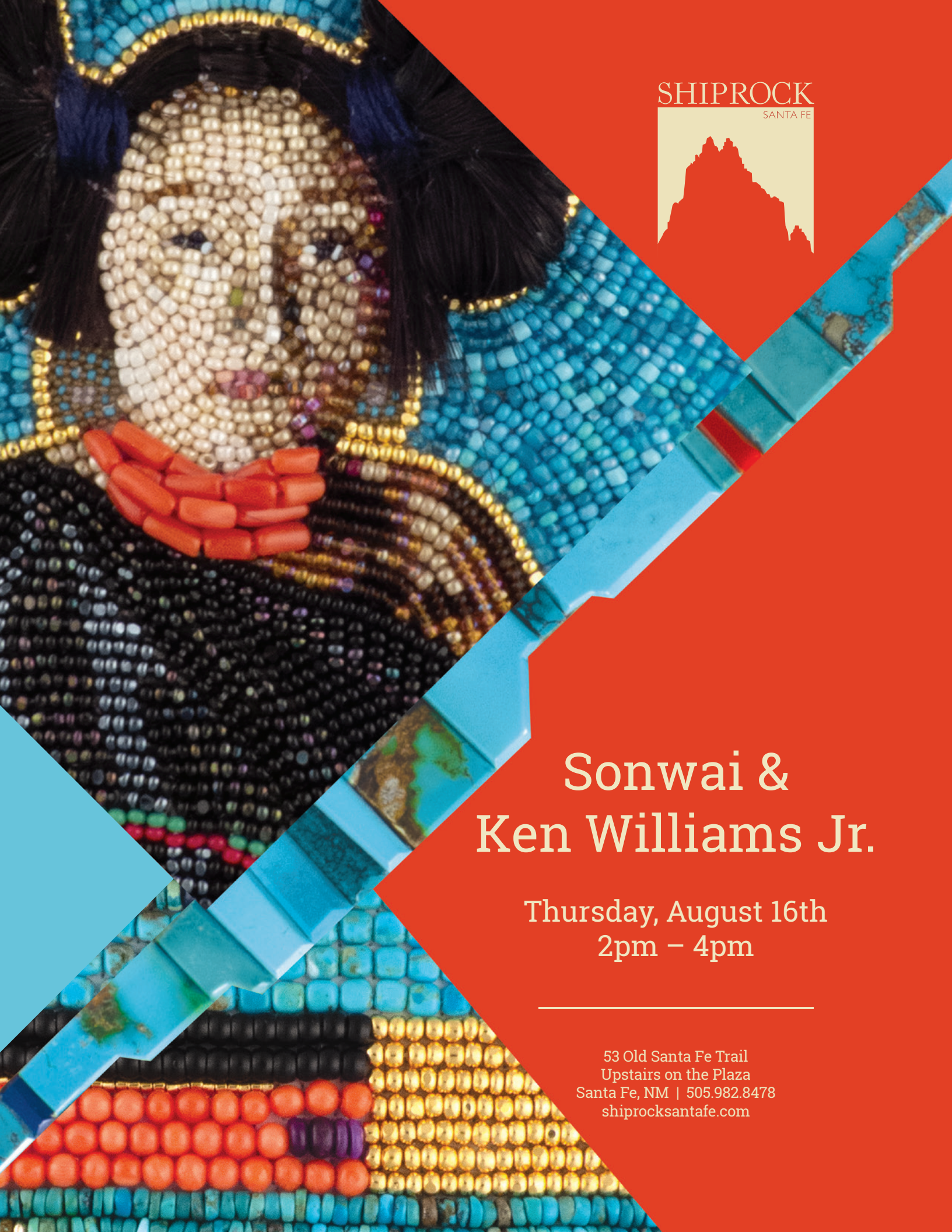
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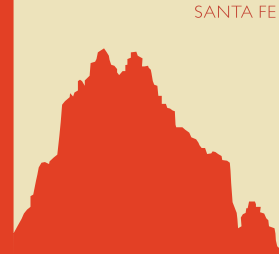
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ATADA Legal Committee Report

The busy show season is a time for ATADA members to be especially alert to legal issues. Please help others to be aware the legal rules and ethical guidelines that make for a responsible art market.

The pertinent ATADA Bylaws state as follows:

- The Members of ATADA undertake not to purchase or sell objects until they have established to the best of their ability that such objects were not stolen from excavations, architectural monuments, public institutions, tribal communities, or private property.
- ATADA shall work respectfully with tribal communities regarding the voluntary return of legally collected items to the tribes. ATADA supports the voluntary return of items known to be of important current, sacred, communal use to the Native American tribal communities from which they came, through the ATADA Voluntary Returns Program and other voluntary projects.
- The Members of ATADA undertake not to acquire, display, or sell items known to be of important current sacred, communal use to Native American tribal communities. The ATADA Board shall establish guidelines with respect to specific items deemed of important current sacred, communal status and make those guidelines available to all ATADA members.
- ATADA does not regard items made for commercial or individual use by Native American artisans as sacred or ceremonial, regardless of age.

See the ATADA Guidelines Regarding the Trade in Sacred Communal Items of Cultural Patrimony. atada.org/bylaws-policies/

Why did ATADA establish internal guidelines? First, it's the right thing to do. Second, responsible business behavior makes for a safer, more secure marketplace, and gives consumers the confidence they need to invest. Checking the provenance of objects and asking for their ownership history – in writing - is good business practice and the key to due diligence. No one, collector or dealer, wants to potentially spend years of their lives and hundreds of thousands of dollars defending themselves against a charge of trading in a dodgy

object – simply because they did not take the time to investigate it.

The ATADA legal team is proud of its accomplishments. If ATADA was not working hard to protect your interests in Washington, then US Customs could today be asking every foreign tourist coming home from vacation to prove that their Indian art purchases weren't sacred items. US museums would be worrying that there was a new, completely open-ended 'standard' for tribal claims outside of NAGPRA.

We wish we could be spending our energies urging the House and Senate to take positive steps for tribes by funding cultural education, building awareness (and building tribal Chapter Houses for the safety and preservation of ceremonial artifacts). These are positive solutions – and we make that case with legislators each time we meet. Unfortunately, those sensible goals require funding from an unwilling Congress. Instead, we've had to fight back against ill-considered legislation that will negatively impact the art trade, damage a vital industry that is key to the Southwestern tourist economy, and harm cultural life as a whole in the United States. Here are some of the pending bills and agreements that affect art collecting and the trade:

STOP

In May, the ATADA board met in Washington DC in order to meet with legislators to discuss the impact of the 2017-2018 Safeguard Tribal Objects of Patrimony Act (STOP), S. 1400 and H.R.3211. ATADA has outlined the bill's flaws many times, through testimony and direct contacts with legislators –how it discourages all trade in Indian art, harming artisans and local economies, will destroy value in legally-owned private property, and has a built-in lack of due process that makes it illegal to export objects without identifying what those objects are, and places the burden of proof on individuals to show objects are lawfully traded.

Board members Bob Gallegos, Kim Martindale and John Molloy met with eight legislative offices in person in order to bring home their objections to the STOP Act. They also raised museums' concerns that STOP would

undermine museum protections under NAGPRA. New Mexico Congressman Steve Pearce personally discussed innovative alternatives to STOP with the ATADA board members.

ATADA remains convinced that the best way forward is to work with legislators, tribal communities, collectors, art dealers and auction houses to find alternatives to STOP that will permit continued commerce in legal items not subject to ARPA or NAGPRA.

Almost all of the legislative staff were responsive. All expressed appreciation for ATADA's landmark Voluntary Returns Program, which has turned out to be more effective than any federal enforcement actions. ATADA remains focused on bringing realistic, practical solutions to the table, rather than having a politically expedient but unworkable solution forced on collectors and the trade. However, the future of STOP may have more to do with how November elections shift power in Washington than on finding a positive way forward for all constituencies.

ATADA will continue its campaign to raise awareness in Washington of the dangers of STOP, and to inform and educate the public. In June, ATADA Board Member Kim Martindale coordinated bringing letters to legislators from six owners of major Indian shows opposing STOP. Keeping your Senators and Representatives informed is essential!

MONEY LAUNDERING

An anti-money laundering bill now in the U.S. Senate is specifically directed at the art trade. Congressman Luke Messer of Indiana says that HR 5886 is intended to “reduce international money laundering and crack down on terrorist organizations like ISIS.” Never mind that there is no evidence that a single artwork sold in the US has had any connection with terrorist activity.

HR 5886 would apply the Bank Secrecy Act to dealers in art and antiquities. Regulation could require U.S. art and antique dealers with as little as \$50,000 in annual purchases/sales to report transactions to the Department of the Treasury Financial Crimes Enforcement Network (FinCEN), to collect personal information from clients, and comply with a variety of burdensome regulations.

Art businesses subject to FinCen anti-money laundering (AML) requirements would be required to establish an

AML Program and:

- File IRS/FinCEN Form 8300, Form TD F 90-22.13, and Form 105 to establish an AML program.
- Appoint a Compliance Officer for their business responsible for meeting FinCen AML regulations and rules
- Provide ongoing AML training for employees
- Pay for independent testing to monitor AML program and compliance
- File suspicious activity reports (SARS)

If a business is non-compliant, the consequences could include closure of the business' bank accounts and even imprisonment.

The regulations for the art industry are not specified in the bill, but a release from Congressman Messer's office suggests that they will be similar to those applied to the category of dealers in precious metals, stones, and jewels.

ATADA has joined other arts organizations, including CINOA, the largest global art and antiques trade association, in opposing HR 5886. ATADA has submitted written comment to the House Financial Services Committee contesting the addition of art dealers to FinCEN requirements.

For more, see: Letter from ATADA to Chairman Hensarling, Financial Services Committee, U.S. House of Representatives (Attachment 1)

Download letter at: atada.org/legal-issues

Also see: *Update: Art Trade Reacts to Threatened Bank Secrecy Act*

<https://culturalpropertynews.org/congressman-wants-bank-secrecy-act-to-regulate-art-trade/>

TARIFFS

One of the more bizarre episodes in the recent pursuit of tariffs is a plan to impose duties on Chinese antique art and artifacts. The Office of the U.S. Trade Representative is reviewing proposed tariffs on “Collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological etc. interest” under HTS Heading 1905,

and under HTS Heading 9706, “Antiques of an age exceeding one hundred years.”

One thing that makes this proposal strange is that tariffs on antiques will not punish China. They will actually enable the Chinese government to strengthen China’s near monopoly on Chinese antique and ancient art. The proposed tariff on Chinese art only punishes U.S. collectors, art businesses, and art museums – not the Chinese government. Ten years ago, the Chinese government asked the U.S. to impose import restrictions on art and antiques up to 1912. This request was granted, but only for art up through the Tang period. China has since used these U.S. restrictions to build its art business into the largest in the world, and to expand its domestic market in the same antiquities that currently cannot be imported from China into the U.S.

Placing tariffs on art, antiques, and other cultural materials would also be a major trade policy change for the United States. Almost 90 years ago, Congress exempted antiquities and art objects made before 1830 from duty in order to encourage the free flow of artistic and cultural materials into the U.S. under the U.S. Tariff Act of 1930. A 1966 law confirmed the antiques exemption and added as exempt ethnographic items that were 50 years old or older. Ever since then, books, art, collectibles, and antiquities have entered the U.S. duty free. The proposed China tariff would change that U.S. cultural policy for the first time.

For more, see: *Proposed Tariffs on Chinese Art Will Expand China’s Monopoly*

<https://culturalpropertynews.org/proposed-tariffs-on-chinese-art-will-expand-chinas-art-monopoly/>

STATE DEPARTMENT PURSUES FOUR RENEWALS OF BLANKET FOREIGN IMPORT RESTRICTIONS AND NEW AGREEMENTS WITH ECUADOR AND ALGERIA

In May 2018, the State Department’s Cultural Property Advisory Committee heard testimony on the renewal of the U.S.-China Memorandum of Understanding mentioned above. It also considered a new agreement on cultural property with Ecuador.

On July 31, 2018, the Cultural Property Advisory Committee (CPAC) at the Department of State will review two more proposed renewals of agreements to bar entry to the U.S. of “cultural property” from Bulgaria and Honduras. CPAC will also review a new request from the People’s Democratic Republic of Algeria. The objects proposed to be barred from import from these three countries are comprehensive. The import restrictions cover a period extending over 9000 years, and include everything from coins to manuscripts, beads and even common tools such as “axes, hoes, picks, and harpoons.”

Right now, there are 20 foreign countries whose art and artifacts are subject to comprehensive blockades. Belize , Bolivia , Bulgaria , Cambodia , China , Colombia , Cyprus , Egypt, El Salvador , Greece, Guatemala , Honduras , Italy , Libya, Mali , Nicaragua , and Peru have bilateral agreements that once implemented, have been renewed again and again every 5 years, so that some, such as El Salvador, have been in place for over 30 years. Iraq (2008) and Syria (2016) are currently subject to legislative “emergency actions.” (Mexico is covered in another longstanding treaty.)

Proceedings at CPAC are extremely secret. Months after a CPAC review, the American public and US art dealers, auction houses, and museums will learn what the import restrictions will be, through publication in the Federal Register. The restrictions will be effective from that day of first publication for 5 years. Based on the past record of the CPAC and its State Department administrators, the restrictions on artifacts from every country are likely to be extremely broad and renewed every five years through the foreseeable future.

ATADA condemns looting of any kind, from any country, but it does not support overbroad restrictions on the legitimate trade. Blanket restrictions on art from entire regions harm the U.S. public interest while doing nothing to preserve sites. ATADA has stood up for U.S. citizens’ access to art from around the world, and against agreements with source countries that don’t protect their own artifacts.

ATADA is particularly concerned about U.S. support for foreign governments’ absolute control of the cultural heritage of minority peoples and indigenous populations. ATADA is working to alert Congress to abusive U.S. agreements that have given control over the

historical records and tangible heritage of exiled Jewish and Christian communities to oppressive regimes in Libya, Iraq, Syria, and Egypt; it has objected to Middle Eastern governments' claims to all of nomadic Saharan Tuareg and Berber artifacts. ATADA has also demanded that the U.S. cancel cultural property agreements with China, based on its destruction of Tibetan and Uyghur religious sites and monuments.

See: ATADA's testimony on Algeria.

<https://atada.org/legal-issues/>

See also:

CPAC – building a Wall Against Art

<https://culturalpropertynews.org/cpac-building-a-wall-against-art/>

And

Will U.S. Embargo on Art of China and Tibet Be Renewed?

<https://culturalpropertynews.org/testimony-on-renewal-of-us-embargo-on-art-of-china-tibet/>

INTERNATIONAL TRIBAL ART AND ANTIQUITIES LEGISLATION

Several ATADA legal committee members have been working with European art dealer organizations and art fairs to combat misinformation that has triggered pending European Commission legislation. These pending EU regulations would restrict import and export of items over 250 years of age by requiring either (1) documentation of lawful export from a source country or second country in which the object has been for a lengthy period (the majority of countries have no such permitting regimes) or (2) a sworn affidavit

from the exporter that an item was legally exported. The requirements would depend upon the type of object being imported or exported; antique books and 'archaeological' materials are among the items for which proof of legal export would be required. A major problem is that an importer might have no way to know if an item was legally exported, since most cultural items have been in circulation for decades among multiple owners.

Market representatives have presented independently-verified evidence showing that the assumptions on which the proposed EU regulations are premised are wrong. The cost and delay caused by the regulations could seriously damage legitimate art and antique markets, which contribute about €17.5 billion to the EU economy, and provide employment for over 350,000. The six-month delay for import license approval for artworks would keep foreign dealers from attending EU art fairs.

The European Commission's premise for requiring new regulations was the claim that there was a massive, multi-million euro (or even multi-billion euro) trade in illicit antiquities from the war zones of the Middle East. However, the most recent World Customs Organization's latest *Illicit Trade Report* (2016) shows no seizures at all in Western Europe (other than Switzerland) of any looted cultural property associated with the Middle East.

The ATADA Legal Committee greatly appreciates input from members on all these legislative and policy concerns. You can reach the committee at any time by emailing David Ezzidine at director@atada.org

Attachment 1: Letter from ATADA to Chairman Hensarling, Financial Services Committee, U.S. House of Representatives

The Honorable Jeb Hensarling
Chairman
Financial Services Committee
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Re: HR 5886- Proposal to Extend Money Laundering Regulations to Art and Antiquities Dealers

Dear Chairman Hensarling:

I am writing on behalf of ATADA, a nation-wide organization of tribal art businesses, museums and collectors, to express our serious and grave concerns with legislation, HR 5886, recently introduced in the Financial Services Committee which would place a tremendous regulatory burden of ATADA's members. These concerns with FinCen regulatory over-reach are widely shared as the Financial Services Committee concluded at last year's BSA/AML hearing that these regulations: "impose substantial compliance burdens on financial institutions, especially smaller financial institutions with limited staffing and resources". This committee observation is definitely true for our members; and it is particularly troubling that they should face this regulatory straight-jacket when there is no documented evidence that money laundering is a significant issue in the art business.

In fact, HR 5886 opens a potential Pandora's Box of regulatory quicksand for ATADA's members as the legislation provides FinCen with broad, unrestricted authority to determine the regulatory burden to place on firms. Given that FinCen has required reporting of currency exchanges totaling as little as \$1,000, Suspicious Activity Reports (SARs) for amounts as low as \$2,000, and has a \$10,000 Currency Transaction Threshold (Ctr) which it maintains the authority to lower, there is valid reason to be concerned. Bottom line, HR 5886 would give FinCen authority to intrude into our membership's everyday business transactions, with all the cost in time and dollars reflected in each businesses' bottom line.

We do not need to tell you, that the myriad costs of the AML compliance outlined in publications including The Federal Financial Institutions Examination Council's 442-page compliance program manual cannot be over-stated. Given these acknowledged costs, and the real concerns The Heritage Foundation and other think tanks have raised over the effectiveness of the \$7 million per conviction cost of AML regulations; now is not the time to expand this burdensome regulatory regime on an industry with no document evidence of problems.

We urge the Committee to fully consider the impact of this legislation on the many small businesses that deal in art and not give FinCen unrestricted authority to run our businesses.

John Molloy, President

ATADA

Statement of ATADA Concerning the Request for a Memorandum of Understanding Between the Government of the United States of America and the Government of Algeria

Meeting of the Cultural Property Advisory Committee, July 31, 2018

ATADA, an organization representing art dealers, private collectors, and museums of ethnographic and tribal art, respectfully submits this statement for consideration by the Cultural Property Advisory Committee (CPAC) in connection with the proposed Memorandum of Understanding Between the Government of the United States of America and the Government of Algeria.

ATADA condemns all looting of monuments and archaeological sites. ATADA supports safe harbor for art and artifacts at risk, a lawful, secure market. ATADA recognizes that the global circulation of art and antiquities enables preservation, scholarship, and access to the history of humankind for a world audience.

ATADA supports the Congressionally mandated application of the 1983 Cultural Property Implementation Act (CPIA). ATADA objects to the fact that the actual text of the request by the Government of Algeria (Algerian Request) has not been published; a publicly available statement of the Algerian Request is necessary in order to determine whether the request actually meets the criteria set by Congress in the CPIA.

As summarized by the U.S. Department of State, the Algerian Request fails to meet the criteria set by Congress for an agreement under the CPIA.

ATADA therefore objects to the granting of any Memorandum of Understanding between the governments of the United States and of Algeria.

The Criteria Required by Law

When Congress passed the Cultural Property Implementation Act (CPIA) in 1983, it listed specific criteria which the Cultural Property Advisory Committee need to find were true in order to recommend that the U.S. place import restriction on objects from a requesting country:

1. The cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party.
2. The State Party has taken measures to protect its cultural patrimony.
3. The application of the requested import restriction

if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by nations with a significant import trade in the designated objects, would be of substantial benefit in deterring a serious situation of pillage, and other remedies are not available.

4. The application of the import restrictions is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes.¹

The Legal Criteria Are Not Met for Jewish Community Art and Artifacts

Algeria has requested to join the company of Middle Eastern nations with cultural property agreements with the U.S. that gives it control and rights of ownership of Christian and Jewish individual and community property. This property was left behind when Algeria's Christian and Jewish citizens were driven from the country in the 1950s and 1960s, in a brutal expulsion of over a million civilians. Approximately 130,000 Algerian Jews fled to France in the mid-twentieth century, along with 900,000 mostly Catholic Christian descendants of French settlers of Algeria.²

Syria, Iraq, Algeria, and Egypt already have comprehensive agreements with the U.S. restricting import of all artistic and cultural goods over thousands of years. The Algerian Summary does not specifically define the scope and duration of the period, but it references "Ottoman" objects and a virtually all-inclusive description of the types of objects that the Algerian government considers cultural patrimony. Ottoman is a very broad political term that could cover objects, including the personal possessions of Algerians, up to 1912.

The Jewish communities of the United States of Middle Eastern and North African heritage are deeply concerned about this pattern of import restrictions already established with Middle Eastern nations – Iraq, Syria, Libya, and Egypt – that include Jewish objects, from Torahs, marriage documents, and religious implements to clothing, jewelry, and household goods. They object to the State Department's promotion of agreements that legitimize the confiscation of Jewish property.

¹ 19 U.S.C. § 2602(a)(1)(A-D)

² *Pied Noir*, <https://en.wikipedia.org/wiki/Pied-Noir>

It would be extremely regrettable if the U.S. executed yet another agreement with an Arab nation that recognized its government's ownership rights and control of all cultural and religious artifacts—at the expense of the ownership rights and basic human rights of individuals in minority religious and tribal communities. The abuses of minority rights that the U.S. has effectively sanctioned in other Arab nations should not be repeated in Algeria.

Algeria, an extremist Muslim nation, has failed to protect the heritage of its former Jewish and Christian citizens. The Great Synagogue in Oran, Algeria was turned into a mosque, the Abdallah Ibn Salam Mosque. Likewise, the Great Synagogue in Algiers, partially burned in the 1960s, was also turned into the Abu Farès Mosque. Synagogues and cemeteries in other Algerian towns, have been abandoned to neglect,³ and Jewish pilgrims have been barred from visiting Algerian holy sites.⁴ Catholic religious institutions have been neglected for decades, and a Catholic church was recently destroyed in Sidi Moussa in 2017.⁵

The Legal Criteria Are Not Met for Tuareg/Berber Art and Artifacts

Algeria also seeks restrictions on the import of Tuareg/Berber materials. Such restrictions would be extremely harmful to U.S. small businesses dealing in tribal art and artifacts. These goods, which are created and used by the nomadic Tuareg are household goods and decorative garments, bags, and jewelry that is subject to ordinary wear and tear and much hard usage. Because of this hard usage, there is very little Tuareg material culture remaining anywhere in Africa that is older than the late nineteenth century. These objects are not suitable by any measure for import restrictions under the Cultural Property Implementation Act.

Traditionally, Tuareg/Berber material culture consists of humble objects, made from stone, metal, ceramic and clay, wood, bone and ivory, glass, textile, basketry and rope, leather and parchment, and may include some decorative writing. They are by definition ordinary household goods, costume, and jewelry and are neither rare nor significant. This element of the Algerian Request in no respect comports with Congress' criteria for restrictions on ethnographic materials of particular meaning to a pre-industrial community.

The Tuareg are traditionally a nomadic people of Berber descent, whose communities are found today within the borders of eight African and North African states and who travel frequently between them.

Niger: approximately 2 million⁶

Mali: approximately 0.5 million⁷

Burkina Faso: 370,738⁸

Algeria: 25,000–150,000 (1987)

Libya: 20,000 (1993)⁹

Morocco: 4,500 (1984) (nomadic)

Tunisia: 2,000 (1987) (nomadic)

Mauritania: estimated 100,000¹⁰

The Tuareg are traders by occupation, and the castes of artisans (blacksmiths, jewelers, etc.) have made and traded Tuareg goods to other Tuareg and to their Hausa, Falani (Wadabe) and other Saharan neighbors as a business for as long as there has been documentation of the Tuareg lifestyle, starting in the late 19th century. Since the 1960s, Tuareg folk art and crafts have been popular in Europe, the UK, and the US.

Interviews with art dealers active from 1970–2005 establish

3 Cemetery in Ghardaya, Algeria, <http://archive.diarna.org/site/detail/public/116/>.

4 Reem Hayat Chayef, Tlemcen, “*The Jewish Holy Land of North Africa*,” *Raseef*, (April 24, 2017) <https://raseef22.com/en/life/2017/04/24/tlemcen-algeria-jewish-holy-land-north-africa/>

5 Statement of the Association of Art Museum Directors concerning the Request by the Government of the People's Democratic Republic of Algeria to the Government of the United States of America for the Imposition of Import Restrictions to Protect its Cultural Patrimony under Article 9 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, 4, <https://www.regulations.gov/contentStreamer?documentId=DOS-2018-0022-0018&attachmentNumber=1&contentType=pdf>, citing to Kamel Abderrahmani, “Church Demolition Near Algiers to Make Room for a Mosque Highlights Islamism's Hypocrisy,” *Asia News* (June 13, 2017), <http://www.asianews.it/news-en/Church-demolition-near-Algiers-to-make-room-for-a-mosque-highlights-Islamism%E2%80%99s-hypocrisy-41008.html>.

6 *The World Factbook*. Central Intelligence Agency. Retrieved 2016-10-08., Niger: 11% of 18.6 million.

7 Pascal James Imperato; Gavin H. Imperato (2008). *Historical Dictionary of Mali*. Scarecrow. p. lxxvii. ISBN 978-0-8108-6402-3., Tuareg: 3% [of total Mali's 17.1 million population].

8 *The World Factbook*. Central Intelligence Agency. Retrieved 2016-10-08., Burkina Faso: 1.9% of 19.5 million.

9 https://en.wikipedia.org/wiki/Tuareg_people; see also: https://joshuaproject.net/people_groups/15608/LY, both last visited 07/08/2017

10 <https://www.csmonitor.com/World/2012/0802/In-Mauritanian-refugee-camp-Mali-s-Tuaregs-regroup>, and https://joshuaproject.net/people_groups/15607/MR, both last visited 07/08/2017.

that the primary sellers of Tuareg art are of Tuareg ethnicity and the primary source countries for Tuareg materials are Niger, Mali, and Mauritania.¹¹

The collections of ethnographic museums beginning in the 1930s and 1940s show that Tuareg materials have been widely collected throughout the 20th century. The proliferation of galleries and shops selling Tuareg handicrafts and its regular appearance at international folk art markets make clear that there has been an active non-African market for old, new, and antique Tuareg goods for the last 100 years.

Tuareg ethnographic materials are common, repetitive, and difficult to date. There is little or no difference between late 19th century Tuareg items and items made today. Comparing the materials collected (as old) by European museums in the 1930s and 1940s, Kristyne Loughran, writing in “The Art of Being Tuareg,” Thomas Seligman and Kristyne Loughran, Eds. stated that, “*Many of the forms they described in the past [19th century] still exist today, though some of the objects have become rare or are no longer used.*”¹²

A few changes have taken place in the creation of items for the market, but only in the last 30-40 years, which is irrelevant for purposes of the MOU. Jewelry is the most popular Tuareg good in the market. Seligman states that the “classical jewelry repertoire has remained remarkably stable over time.”¹³ The traditional metal for Tuareg jewelry was a nickel/copper/zinc alloy (called “German silver” in the market, and “*kobo*” among the Tuareg) but coin silver was also used. About 45 years ago, sterling silver began to be used for jewelry, but *kobo* continues to be popular. Only in the last 20 years have there been dramatic changes in Tuareg jewelry design; it is often more delicate and less “tribal” in appearance than the fully traditional jewelry of the 1970s and 1980s. Therefore, while very recently made jewelry can often be identified as new, there are no distinguishing features to differentiate between a 40-100-year-old item and a 150-year-old one.

Conclusion

The Algerian request does not distinguish between items of importance and items that are common, repetitive, and that are found in any antique shop in Algiers, such as Ottoman period and earlier Islamic artworks, Tuareg/Berber materials, and the artifacts of the now-exiled Jewish communities of Algeria. However, it calls for a U.S. embargo against them all.

There is not a significant market for Algerian antiquities in the U.S. and the folk crafts made by the Tuareg and Berber that are sold here are in no wise cultural heritage at risk.

The failure to establish any need, justification, or means of

enforcing a listing of Tuareg/Berber material, which was made for trade, and for which there is no evidence of looting, is clear; Tuareg/Berber materials have no legitimate place on a list of restricted materials from Algeria.

The claim of the Algerian government to the cultural heritage of the Jewish and Christian communities which it expelled in the mid-twentieth century is equally unsupportable.

Algeria has not taken the self-help measures required under the CPIA. It appears to be allowing archaeological sites, monuments, including the most famous World Heritage sites in Algeria, such as the Kasbah of Algiers, Timgad, Tipasa, and Tassili n’Ajjer to be neglected.

There has not been a traveling exhibition from Algeria to the U.S. of its covered cultural heritage, period. This is the most minimal threshold for meeting the requirement that import restrictions would still be in the interest of the international community in the interchange of cultural property among nations.

On every count, the Algerian request fails the statutory requirements under U.S. law. The failure of the Algerian government to meet these Congressionally mandated criteria for import restrictions on art and artifacts from its religious and tribal minorities is all that is needed to reject Algeria’s request for import restrictions.

ATADA urges the Cultural Property Advisory Committee to reject the Algerian request and to seek out alternative means of assisting the Algerian government where it needs help most, in training professional museum and heritage personnel. The U.S. should encourage Algeria to create long term loan exhibitions with the cooperation of U.S. museums in order to familiarize American with the beauties of Algerian culture and to encourage tourism, a top goal of the Algerian government. And the U.S. should demand that before Algeria seeks import restrictions on the cultural goods of religious and tribal minorities, it should act responsibly to protect and maintain those communities’ cultural heritage within Algeria and reach out to begin a cultural dialog that will benefit all.

Sincerely,

John Molloy
President, ATADA

¹¹ Interview by Kate Fitz Gibbon with Alan Suits and Anne Lehman, in Santa Fe, NM, 07/09/2017.

¹² “The Art of Being Tuareg,” Thomas K. Seligman and Kristyne Loughran, Eds., UCLA Fowler Museum (February 2006)

¹³ Id., p. 178.

Old and unusual pottery fills the pages of one of the most complete sites on the Internet. Now that the Second Edition of their *Southwestern Pottery, Anasazi to Zuni* is out, Carol and Allan Hayes are offering some of the choicest pieces from their collection of over 2,000 examples of Pueblo and Desert pottery. See more than 300 treasures at summerhouseindianart.com



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No Free Appraisals

Vanessa Elmore - Elmore Art Appraisals

Let me begin by expressing a sincere, public expression of gratitude to Scott Hale for sharing generously of his time and expertise for this column as well as for other meaningful contributions he has made toward ATADA projects. He is putting words into action by educating collectors about ATADA's Voluntary Returns Initiative and actively recruiting willing participants. Thank you, Scott, for the momentum you have provided to ATADA on many fronts.

In the last installment of No Free Appraisals, Scott spelled out very clearly the newest 2018 requirements for all those calling themselves appraisers. He was also kind enough to share tangible paths for those wanting to "up their game" and emphasized that appraisal-specific education is something that simply cannot be avoided any longer (no matter how long you've been buying and selling art). So, the take-away is: unless you have appraisal education under your belt and meet all the newly enumerated requirements, don't call your valuation services as "appraisals." Easy enough. Together, Scott and I probably sound like an echo chamber! We really don't mean to belabor some of these points--really, we don't. We harp because we ultimately want to increase ATADA's overall professional public profile.

Our organization is leading the way within our private industry and a nod to the recently amended ATADA by-laws acknowledges that we, as a group of professionals, are interested in providing collectors with a market environment that is ethical and transparent, based on high levels of customer service and documentary support for acquisitions. Appraisals are important documents in themselves: as self-contained documents, an appraisal reports are inherently different than other valuation services and they are capable of standing alone.

Be assured, Scott and I are no straw men: we hold ourselves out to be professional appraisers and because of that, we invest both money and time on a yearly basis toward appraisal-specific education. (As a note, most professional member-based appraisal organizations have higher qualifications for their membership than the minimum standards put forth by USPAP.)

For example, I just completed the 2018-2019 USPAP class, which is a 7-hour long class meant to update appraisers on rules changes or new interpretations of present appraisal practice directives. Every two years, USPAP provides nuanced revisions to definitions or rules, and these changes

Disclaimer: This column is not intended to provide any type of formal education or legal advice: please consult with an established professional appraiser, appraiser's association, or the appropriate lawyer, for professional advice and guidance regarding your particular situation.

are generally meant to clarify or streamline the language everyone is supposed to be using in an appraisal report. In this most current cycle, all of the recommendations coming down from The Appraisal Foundation (the U.S. Congress-appointed governing body for the appraiser industry) through USPAP boil down to an increasing need to provide transparency on the part of the appraiser to the general public.

Transparency is a buzz-word these days and the appraisal industry as a whole is well within the target scope. The Appraisal Foundation, and the guidelines provided by USPAP, aim to separate an appraisal report from all other valuation services provided by non-appraisers because they see potential conflicts of interest that might lead to inherent bias (like appraising an artwork you have sold in the past). Most importantly, they see such inherent biases can otherwise preclude objective appraisal reports and lest we forget, the primary purpose of USPAP is to provide public trust in the appraisal process: it is a means of accountability.

This is all similar to and certainly in line with ATADA's bylaws requiring member dealers to provide the most accurate information they can and to guarantee the authenticity of the objects they sell to collectors. In other words, ATADA's bylaws are in place as a matter of public trust for the Tribal and American Indian arts markets. The parallels of intent between USPAP and ATADA's bylaws are obvious and certainly supportive of one another.

Be assured, too, that while Scott and I circulate in our appraiser community, we regularly refer appraiser colleagues (especially the generalists and non-tribal arts specialists) to the ATADA bylaws and direct them toward our ATADA membership as reputable sources for artwork and expertise. At a recent annual conference for the International Society of Appraisers (ISA), I was given the incredible opportunity to present about the proposed STOP legislation. It felt

good to be able to say that the ATADA bylaws are a great indicator of how the ethics of collecting are changing and that requirements of the business of buying and selling on a daily basis is also adapting in turn. I spoke about how the proposed STOP legislation might affect daily routines of buying, selling, and appraising artworks.

I also took the opportunity to publicize the ATADA Voluntary Returns Initiative because I couldn't pass up the chance to plant seeds in the minds of a room full of appraisers, all of whom look at thousands of objects and meet new collectors every day from all around the world. I addressed

how qualified appraisers would play important roles in the Voluntary Returns process, especially if and when such return procedures become sanctioned through the IRS. I thought it important for these collector-consultants to know at a minimum that there is another new path available to collectors who may find themselves as unwitting owners of potentially sacred or ceremonial items. Even if one person calls up an ATADA member inquiring about an artwork or their knowledge, or even if one appraiser turns up a lead for the Voluntary Returns Initiative, then it will have been worth it. Thankfully, that already happened on both counts—who doesn't love an immediate return on an investment!

Directory Updates & New Members

New Full Members

Charles Moreau Gallery

Charles Moreau
New York, NY
charlesmoreaugallery.com

References:
John Molloy
Michael Hamson

Turquoise & Tufa

Bonnie McClung
Santa Fe, NM
turquoiseandtufa.com

References:
Robert Gallegos
Joan Caballero

Turquoise Direct

Joshua Chaney
Rio Rancho, NM
turquosedirect.com

References:
Gene Waddell
Steve Begner

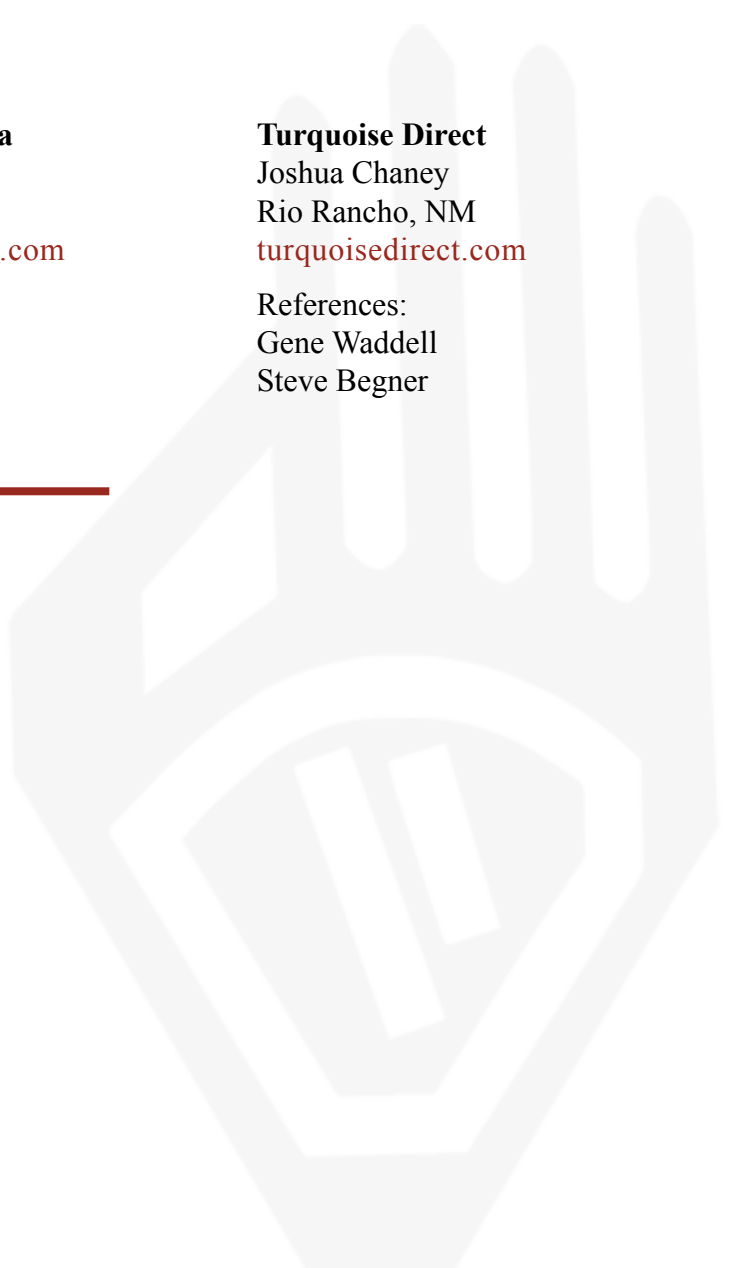
New Associate Members

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So far less than 20% of our membership has contributed. These few cannot do the work for all. ATADA's legal fund has supported a productive, professional dialog with tribes and their attorneys, legislative staff, and members of Congress. We have been able to make positive changes and helped legislators to understand and appreciate the harm that ill-considered laws will have on our dealer, collector, and museum community as well as on the Southwest's regional economy and cultural tourism.

The good results of our positive actions will extend far into the future. The negative impact of bad laws will be nationwide, and potentially disastrous for collecting and the trade.

It is essential that this work continue. If you have not already done so, please join us in saving our rights to collect and to conduct our business.

Please make your contribution today.
Any amount is appreciated and necessary.

- John Molloy
President, ATADA

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