



## The ATADA Voluntary Returns Program

ATADA<sup>1</sup> is the largest US professional organization of art dealers specializing in Native American and international tribal and ethnographic art. Over the years, ATADA has grown to include private collectors and museum members.

### **What is the ATADA Returns Program?**

The ATADA Voluntary Returns Program is a community-based initiative designed to bring sacred and highly valued ceremonial objects to Native American tribes. Returns take place through a consultative process in which ATADA representatives work directly with tribal community and spiritual leaders. The program evolved through the recognition by art dealers and private collectors that certain objects, although legal to own, had great importance to tribal communities, and that their return could invigorate and enhance tribal community life.

Since it began in late 2016, the ATADA Voluntary Returns Program has brought over 200 sacred and ceremonial objects from private collections and dealer inventory to Southwestern tribes at zero cost to the tribes. There are another 30 objects presently being considered by tribes for their return. Additionally, several dozen objects have not been claimed by any tribe – these are being held temporarily in the hope that other tribes will respond to ATADA’s inquiries.

ATADA sees the Voluntary Returns program as the right thing to do – and as a necessary step for art dealers to take in order to build positive relationships between the art trade and tribal communities. As a national organization, ATADA is ready to facilitate returns outside of the Southwest to tribal communities through a wide range of contacts across Indian America.

### **What Other Steps Has ATADA Taken?**

In complementary actions as a professional organization, ATADA has adopted bylaws forbidding its members to trade in items in current ceremonial use.<sup>2</sup> ATADA has also established due diligence guidelines to protect buyers and sellers from trading in unlawfully acquired items that were sold or removed from tribal communities without the communities’ permission or knowledge.<sup>3</sup> In addition, ATADA sponsors education programs to inform collectors the public about current laws and developing policy on tribal art.<sup>4</sup> The Members of ATADA have undertaken not to acquire, display, or sell items known to be of important current sacred, communal use to Native American tribal communities.

### **What Kinds of Items Are Returned?**

ATADA cannot make determinations regarding the sacred or communal status of specific items of the various tribes. ATADA also recognizes that similar objects may hold different status in different tribal organizations. When returns are facilitated through ATADA, the tribes are contacted directly for their input and advice.

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<sup>1</sup> ATADA, formerly known as the Antique Tribal Art Dealers Association, is a professional organization established in 1988 in order to set ethical and professional standards for the art trade and to provide education for the public. ATADA membership has grown to include hundreds of antique and contemporary Native American and ethnographic art dealers and collectors, art appraisers, and a strong representation of museums and public charities across the U.S., dedicated to the promotion, study and exhibition of Native American history and culture. [www.atada.org](http://www.atada.org). email [director@atada.org](mailto:director@atada.org), PO Box 45628, Rio Rancho, NM 87174.

<sup>2</sup> ATADA Bylaws, Article X, Trade Practices, Ethics, And Guarantees. <https://www.atada.org/bylaws-policies/>

<sup>3</sup> ATADA Bylaws, Article XI, Due Diligence Guidelines. <https://www.atada.org/bylaws-policies/>

<sup>4</sup> ATADA Symposium, Understanding Cultural Property: A Path to Healing Through Communication. May 22, 2017, Santa Fe, NM.

ATADA has facilitated the return of a Zuni war god, Acoma and Laguna flat and cylinder dolls, Hopi 'friends', Navajo Yei masks, numerous prayer sticks, bandoliers, rattles, arrowheads and other jish that are part of a medicine bundle. Items generally regarded as sacred include altars and altar elements, and items from shrines belonging to the community.

ATADA does not regard items made for commercial or individual use by Native American artisans as sacred or communal, regardless of age. The age of an item does not determine its religious significance. Based upon discussions with tribal members, ATADA believes that the items necessary for the continued observance of contemporary religious ceremonies are of most importance for returns. The ATADA Bylaws include a short list of items in current ceremonial use that ATADA is aware of through past claims by tribal groups. As ATADA learns more, the bylaws may be further amended.

### **Is the ATADA Voluntary Returns Program Related to NAGPRA?**

No. The ATADA Voluntary Returns Program is not a private-sphere substitute for the repatriation of human remains and communally-owned objects under NAGPRA, a federal law. Under NAGPRA, museums and institutions that receive federal funding are required to create lists of human remains and certain broad categories of Native American objects in their inventories, and to provide these lists to the associated tribes, which can request their return.

NAGPRA covers a wide variety of materials from items of common use and items in trade, to items deemed sacred or inalienable cultural patrimony. However, NAGPRA participant institutions have interpreted NAGPRA criteria very differently. No fixed standard for identification has been established for 'sacred' or 'inalienable' objects through NAGPRA.

The ATADA Returns Program is an art dealer and collector sponsored initiative, designed to bring objects that have circulated legally in trade, usually for decades, back to tribes on a purely voluntary basis as gifts or donations to the tribal communities. The returned items are usually objects that are needed for present-day ritual activities by the tribes. Unlike in museum and institutional collections, human remains are almost never found in private collections, and the Voluntary Returns Program does not handle them. Individuals in possession of human remains should contact federal authorities directly to return them.

### **How Can Someone Return an Object to a Tribe?**

ATADA created the Voluntary Returns Program specifically to return objects to the proper tribe, in a private and culturally-sensitive process. The first step for a prospective donor is to contact ATADA Board member Bob Gallegos, the chairperson of the Voluntary Returns Program. He can be contacted at 505-262-0620, email Gallegos@nmia.com, or by mail at 215 Sierra Drive, SE, Albuquerque, NM 87108.

(If a donor wants to make a gift of an object to a tribe, the donor can contact the tribal cultural heritage officer of a tribe directly. Tribal Historical Preservation Officers for each tribe may be located on the Internet at <http://nathpo.org/wp/thpos/find-a-thpo/>, or visiting the websites for specific tribes.)

### **What is the Process?**

On receipt of an object or photograph of an object proposed for return, the chairperson of the Voluntary Returns Program will contact tribal elders from the various tribes to which the item may belong, emailing them a photograph or drawing of the item. In ATADA's experience, the tribal elders and cultural officers have been very helpful, either claiming objects as belonging to their tribe, or suggesting that the chairperson contact another tribe. This process is followed until the correct tribal organization is located.

If a tribal cultural entity fails to respond within six weeks, it is assumed that the tribe does not wish to have the object returned. In the event that no claim is made, the item will be returned to the prospective donor collector, dealer or museum. In the event a claim is made, a receipt will be prepared that will be

signed by the proper tribal authority. This receipt will have a photograph of the item and the tribal group will sign acknowledging receipt of the item. This receipt is for documentation purposes; it is not a receipt for a charitable gift for IRS purposes. (See below,

#### **How Does the Return Take Place?**

ATADA follows the lead of the tribe, both in determining where the object is returned and how it is transported. In some cases, tribal representatives will come to pick up the object in Albuquerque. The chairperson has made numerous trips to Hopi, Navajo, Zuni, and other tribal communities (sometimes a 5 hour drive each way) in order to return items in person, ensuring that each item is treated respectfully.

#### **How Does ATADA Know if an Object is Sacred or Ceremonial?**

ATADA does not make that decision; ultimately, it is made by tribal members who are initiates or cultural specialists. Certain types of items may be inferred to be currently of religious importance to tribes based upon historic photographs and publications.

#### **Can ATADA Assist in Determining if an Item is Appropriate for Sale or Consignment?**

If an ATADA member is not sure of the ceremonial status of an object offered to them for sale or on consignment, the chairperson of the ATADA Voluntary Return program can be contacted for assistance. If this is the case, the religious elders of a tribal group (that we can best determine) is contacted. A photo will be emailed. They will either make a claim or say it is not theirs. Sometimes, the tribal group will be able to make suggestions as to the proper group.

#### **Can Donors Obtain a Tax Deduction for Donations to Tribes?**

Although gifts to recognized tribal entities are treated similarly to gifts to government or to a public charity for tax purposes, only a few tribes are willing to sign an IRS 8283 form. At least one Pueblo, Acoma, is willing to provide an 8283 Donation Form on receipt of a gifted object, so that the donor can take a charitable deduction for item's fair market value. The Navajo nation is working on providing similar documentation. However, tribes will not provide valuations for ceremonial objects and have concerns about signing the necessary 8283 forms, even though these forms only acknowledge receipt by the tribal entity.

ATADA has been working with the tribes in order to encourage tribal entities to provide receipts suitable for a tax deduction. ATADA believes that a format acceptable to both the U.S. Internal Revenue Service and the tribal entities could be developed, and would encourage many additional gifts to tribes.

#### **What Else is Required?**

If the ATADA Voluntary Return Program is asked to research or return an item, the owner must sign a form relieving ATADA of all liability and giving it permission to proceed with discussions with the tribes.

**Questions? Contact ATADA's Executive Director David Ezziddine [director@atada.org](mailto:director@atada.org).**