



**Dr Jerome Eisenberg R.I.P.**

Dr Jerome M. Eisenberg, known to us all as Jerry, passed away on July 6, 2022, his 92<sup>nd</sup> birthday. As owner and director of Royal-Athena Galleries, he was for many decades a prominent fixture in the worldwide antiquities trade. At the height of his career, he maintained galleries in New York, Beverly Hills, and London while exhibiting in a few art fairs every year. He was the founder and editor-in-chief for 20 years of MINERVA magazine. His many catalogs and publications on antiquities and classical numismatics spanned over six decades.

Born in Philadelphia in 1930, Jerry started dealing in ancient coins at the age of 12 out of a family-owned shop in



1942. He founded Royal-Athena Galleries in New York in 1954 and published his first “Art of the Ancient World,” catalog in 1965. In addition to specializing in ancient art, over the years he dabbled in Pre-Columbian, Tribal, and Modern art, as well as natural history objects. In 1981, he published “A Collector’s Guide to the Seashells of the World” and in 1993, he was a founding member of IADAA. His numerous accolades include a visiting professorship at New York University and at the Institute of Classical Archaeology of the University of Leipzig. He was frequently interviewed as an expert on the antiquities trade by many major news publications over the years and appeared on television numerous times, including a stint on the *Antiques Road Show*. In 2012 Jerry was awarded the Star of Italy by the President of the Republic of Italy for having provided a meaningful contribution to the prestige of Italy through his publications and work. (He is pictured here at BAAF that year, photo V.Geerling.) The issue of authenticity of ancient art was of paramount importance to Jerry. He appraised many pieces for America’s leading museums and collectors and wrote several articles exposing objects as forgeries including the so-called Phaistos Disc. The legal issues relating to objects of cultural property were also of great concern to him. When the Iraq Museum

was looted, he was the first to publish through Minerva magazine a detailed list of specific important pieces that were thought to have been stolen. He then delivered a paper to the American Bar Association, entitled, "The Mesopotamian Antiquities Trade and the Looting of the Iraq Museum."

His career spanned from the unregulated days of the 1960s through the hyper-regulated current era. He was always forward thinking in his approach to the antiquities trade and helped bring the profession in line with modern attitudes.

Jerry was a dedicated professional who kept long hours at his gallery. He exhibited at the world's top art fairs for a span of over two decades and often could be seen working well into the evening alongside his staff installing and breaking down his fair stands. He also could often be found dining well into the evening with colleagues, usually ordering the most exotic fare on the menu, and hoping the restaurant would have a good selection of sorbet for dessert. He was a serious man but one who derived great pleasure from the lifestyle his career afforded. Jerry was both of another time and ahead of his time. His legacy will endure in the hundreds of important pieces he placed in museums worldwide, and the countless antiquities that he sold to private collectors.

**Randall Hixenbaugh**

### **ICOM is Preparing an Emergency ICOM Red List of Cultural Heritage at Risk for Ukraine**

Icom.museum: June 28: ICOM is working with its National Committee in Ukraine to prepare an *Emergency Red List of Cultural Objects at Risk* for Ukraine to combat illicit traffic following the invasion.

### **Tefaf Maastricht fair evacuated after attempted armed robbery**

Art Newspaper: June 28: A mid-morning raid by four robbers on a jewellery stand at Tefaf Maastricht led to the fair being evacuated on June 28.

The armed robbers targeted vitrines on the stand of London jewellers Symbolic and Chase, with one smashing his way in with a sledgehammer as at least one other held off other exhibitors and visitors with a gun.

The raid was captured on video, as was the gang's escape.

Limburg police are said to have released two men without charge after arresting them.

How the gang managed to get past security at the entrance to the fair remains a mystery, although IADAA has heard one unconfirmed report that they entered via the restaurant, and so may have come through a staff entrance.

The investigation is ongoing.

### **Two antiquities smuggling networks arrested in possession of antiquities in Babylon, FIIA reports**

Iraqi News Agency: July 7: The Intelligence investigation Agency (FIIA) has announced the arrest of two antiquities smuggling networks with valuable antiquities in Babil province.

Releasing this image of two of those arrested, the report details how the gangs were tracked down and ambushed, resulting in the arrest of seven people and eight antiquities.

"The detachments carried out another tactical operation, which resulted in the arrest of



accused members of a second antiquities smuggling network with 25 antiquities in their possession after using technical methods and tracking them until their arrest in flagrante delicto," it added.

### **Jailing of British visitor to Iraq could jeopardise tourism and soft diplomacy**

Art Newspaper: July 8: Further to the news that British national Jim Fitton has been jailed for 15 years in relation to an antiquities theft in Iraq, this comment shows how important cultural property can be when it comes to geopolitics.

The article notes the harshness of the sentences: "Normally, the punishment for acquiring a few shards of pottery from an ancient site is a fine. But Fitton was found guilty under a 2002 law that carries a sentence of seven to 15 years in prison for stealing artefacts or antiquities."

Why the authorities inflicted this sentence is not clear.

"There is much speculation about what might have prompted such harsh action against Fitton. Some insiders see it as a political act, a nationalist play to the crowd disguised as a warning to tourists but really aimed at the domestic audience."

Whatever the reason, its impact could have a negative effect on tourism, the industry on which Iraq is focusing to help rebuild its economy. Perhaps that is why on July 26 it was announced that the Iraqi authorities would release Fitton after the courts overturned the guilty verdict. The UK authorities and his family are being cautious about what they say pending his release and return home, but so far, no clear picture has emerged as to the reasons for the turnaround.

### **Libyan antiquities at risk from political instability, conflict**

Al-Monitor: July 10: Serious attempts are being made to co-ordinate the recovery and protection of Libya's cultural heritage despite the lack of a unified political authority in the country, but the sector remains at risk, according to this report.

Government officials are now consulting with the museums sector on how best to restore and maintain vandalised archaeological sites, damaged in the wake of the uprising against the Gaddafi regime.

Hafed Walda, head of the Smuggled Antiquities Committee affiliated with the Tripoli-based government, has been detailing major losses in recent years, including the 2011 theft of 7,700 ancient coins from the vast of the Commercial Bank in Benghazi.

Ahmed Hussein Younes, head of the Department of Antiquities in the East, is critical of the authorities: "The fate of antiquities in Libya is in fact unknown. Successive governments have neglected this sector while also failing to develop other vital sectors such as health or education."

Along with other experts, Walda and Younes warn that things will only get worse without a concerted effort to improve matters from central government.

### **Kosovo's Cultural Heritage Sites Hit by Theft, Vandalism: OSCE Report**

Balkan Transitional Justice: July 18: Thieves and vandals have targeted Kosovo's cultural and religious heritage sites, according to a new report from the Organisation for Security and Co-operation in Europe (OSCE).

The problem has led to more policing of 24 sites.

"The report says that the adoption of the National Strategy for Cultural Heritage 2017-2027 constitutes an important step towards enhancing public awareness about cultural heritage," explains the article.

The OSCE is also urging the Kosovan authorities to do more to protect the sites, as states parties are obliged to do under the 1970 UNESCO Convention.

### ***America Must Ensure That Russia Does Not Evade Sanctions. Here's How the Art Market Can Help***

Artnet News: July 19: Another broadside at the art market from the head of the Antiquities Coalition as the organisation pushes for more and more regulation.

While everyone should do their utmost to prevent sanctions from being broken, Deborah Lehr is simply not correct in claiming that the US art market is “highly opaque and loosely regulated”. Anti-money laundering laws are on their way, with Congress pushing ahead via the Enablers Act despite the US Treasury report that it should prioritise shell companies and the real estate sector first. Numerous other laws already apply.

While the Contemporary art market has proved attractive to two Russian oligarchs as a means of getting round sanctions, it should be noted that the US Treasury report and others, such as the 2020 RAND report, found that the antiquities sector was not a major risk area for sanctions-busting crimes.

While Lehr acknowledges the US Treasury report's conclusion that attention to the art market was a low priority, she argues that the war in Ukraine means this should be reconsidered. Why the art market should be singled out, as opposed to other markets, as well as the use of shell companies, which the US Treasury report highlights, is not made clear.

She also wants US art market participants to work more proactively and collaboratively with the US government. The market would be delighted to do so, but as with so many other jurisdictions, it is largely shut out of consultation and decision-making. Look at the composition of the US government's Cultural Property Advisory Committee (CPAC) as an example: of its 11 members, not one comes from the market.

A good way to start involving the market more would be to grant US government funding to its representatives in the same way as it does to the Antiquities Coalition so that it can become more active.

Meanwhile the huge steps that the market has taken and continues to take to confound criminals and improve compliance are ignored as the authorities propose regulation upon regulation which will only serve to damage the interests of legitimate actors.

### ***Costly Regulation (translated from German)***

Handelsblatt: July 17: Subtitled *'The evaluation of the Cultural Property Protection Act reveals a mismatch between effort and benefit. The burden is mainly borne by trade'*, this article provides a refreshing look at how policy in Germany has gone awry thanks to the Cultural Property Act that came into force in 2016.

IADAA covered this issue in depth in the August 2021 newsletter. There we revealed an important but largely overlooked event: an official answer to a parliamentary question in the Bundestag on March 2, 2021. It stated that from the introduction of the Cultural Property Act on August 6, 2016 until the end of June 2020, Germany had made a total 61 cultural property seizures on suspicion of import or export violations – 15 a year on average across the whole of Germany's 16 states.

It should also be remembered that the chief stated aim for introducing the law was to tackle the perceived problem of terrorism financing, yet six years on the authorities have failed to cite a single case of terrorism financing happening through cultural property trafficking.

Now officially reviewed, the resulting report has remained under the radar for fear of what it might reveal. One conclusion is that the trade is now subject to additional annual costs of up to €3.8 million in complying with the complex rules – a long way from the estimated €50,000. With the EU's import licensing regulations due to come into force in 2025, the burden will only get worse.

So, what have been the benefits of the new law, designed to prevent crimes such as trafficking of cultural objects? According to the report, more than 5,000 imports have been subjected to checks under the Act, each series of checks taking around six hours to complete. On average, there have been 16 seizures a year, although most items have been released after further investigation.

Despite – or perhaps because of – the lack of evidence of any wrongdoing, the authorities now want to reverse the burden of proof, forcing importers to demonstrate the legitimacy of the items they bring into Germany rather than law enforcement having to show that they are illicit. As IADAA has argued many times, quite apart from the assault on rights that such a policy would inflict, there are many valid reasons why such compliance rules would be impossible to meet.

Even as the authorities call for the rules to be tightened further, the trade argues that the existing levels of regulation are disproportionate – an argument seemingly borne out by the data published in the report and the lack of any evidence at all to show terrorism financing is a problem.

As the author of this article, Dr Christiane Fricke, notes, the review of the law by the Federal Ministry of Culture was complex and extensive, but it still brought in responses from 63 art and antiques dealers, a quarter of those contacted – an impressive level of feedback. Others who responded included 335 institutions (36% of those contacted) and 91 collectors (29%). With this level of response across the board, the results are likely to provide a fairly accurate picture of what is going on. Those results show unwarranted damage to the art market. If the authorities are true to their word, they should now revoke the law.

### **Reporting on the Steinhardt case...**

ARTnews published one of many articles on this subject printed in July; it stands out as a beacon of fairness among others whose reporting simply does not pass that test.

The article concerns the return to Italy of items seized from collector Michael Steinhardt, who handed them over to the New York District Attorney's office and became subject to a lifetime ban from collecting antiquities in lieu of prosecution.

What ARTnews acknowledges, while others fail to, is that Steinhardt denies any wrongdoing. Nor has he been convicted of any offence.

As reported in the IADAA December 2021 newsletter, New York State law has such an inbuilt bias towards circumstantial rather than hard evidence that whatever other reasons Steinhardt might have had for submitting to the ban, the absence of natural justice available to him would have been enough to persuade him to do so.

As a reminder, page 7 of the Statement of Facts submitted by the New York District Attorney's Office in the case, it states: "To prove a suspected crime, all investigations and prosecutions – whether for antiquities trafficking or murder – may also rely on circumstantial evidence. Indeed, New York State criminal law draws no distinction between the weight or importance of direct versus circumstantial evidence in proving a crime."

It is this enhanced status granted to circumstantial evidence that appears to have played such an important part in a case where direct evidence of wrongdoing has been so lacking.

How big a part did this imbalance in the rules of evidence play in the DA's office claim that 171 of the 180 pieces had been trafficked?

The lack of transparency surrounding this case on the part of the DA's office remains troubling. Again, as a reminder, the DA's Statement of Facts explains that grand jury secrecy precludes the disclosure of the full scope of the investigation, partially to protect the identity of witnesses and informants. However, it qualifies this by immediately stating that summary results were being released in the interests of justice and transparency on the orders of the New York County Supreme Court and because of the significant public interest in the case. The problem is that the result is anything but transparent. As *ATG* reported at the time: "While some objects matched items that appear broken and encrusted with dirt in photos taken shortly after they were found, much of the evidence surrounding the 180 items is circumstantial."

In this context, other media reports appear more questionable.

In its headline, the New York Observer described the antiquities as 'Looted', when that has not been established, while DA Alvin Bragg is quoted as saying: "These artifacts deserve a place in their homeland, where the people of Italy can appreciate the marvels of their country's past." Maybe, but the evidence published for this remains circumstantial.

CNN also uses a 'Looted' headline, while Artnet News labels the artefacts as stolen, as does the Washington Post. Meg Reiss, Chief Assistant District Attorney for Manhattan, went further, calling Steinhardt a trafficker in her speech at the official repatriation event, as posted in a video by Bloomberg Quicktake.

In his defence, Steinhardt proclaimed his innocent and reserved the right to seek redress from those who sold the items to him. If Reiss has evidence of him being a trafficker, why has she not prosecuted on this basis?

Steinhardt might have been complicit, guilty or monumentally foolish, but we simply don't know. We also don't know for sure how many of the items had been stolen and trafficked. As reported above, any hard evidence is not forthcoming. None of this has prevented the wider media from firming up the accusations against him. The fact that he was allowed to negotiate the lifetime ban in lieu of prosecution raises serious questions as to how strong the evidence against him was.

Where are the media's probing questions to the DA's office about the strength of the evidence it has relied on? If justice must be seen to be done, then at least some of the conclusive rather than circumstantial evidence against Steinhardt should be released. Constantly using the 'Classified' defence to avoid doing so undermines the credibility of the DA's office, especially when it acknowledges the public interest in such matters by releasing summary findings.

Reporting on the arrests and questioning of curators and others over acquisitions made by The Louvre Abu Dhabi is equally unsettling. Much of it has the tone of 'case closed', as though anyone caught up in this must be guilty, despite the investigations being far from complete. Again, they may be guilty, but it seems only fair to await the outcome of any court case before we judge. Failure to do so not only unfairly taints the innocent, it can also feed into a false narrative about what is really going on.