May 29, 2018

The Honorable Jeb Hensarling Chairman, House Financial Services Committee
U.S. House of Representatives Washington, D.C.

The Honorable Stevan Pearce Chairman, Subcommittee on Terrorism and Illicit Finance
House Financial Services Committee
U.S. House of Representatives Washington, DC

Dear Chairman Hensarling and Chairman Pearce;

I write to you as President of the U.S. Committee of the Blue Shield (USCBS), an organization founded in 2006 as a nonprofit committed to the protection of cultural property worldwide during armed conflict. The Blue Shield is the internationally recognized symbol specified in the 1954 Hague Convention to mark protected cultural property.

The proposed legislation H.R. 5886, the "Illicit Art and Antiquities Trafficking Prevention Act," that would add "dealers in art and antiques" to the definition of "financial institution" under the Bank Secrecy Act (31 U.S.C. § 5312), is of great interest to our organization since it would contribute to U.S. efforts to control and stem the trade in antiquities illegally removed from their country of origin. The looting of archaeological sites in Iraq and Syria by ISIL and Al-Qaida has helped to fund terrorist activities in the Middle East, as Resolution 2347 adopted by the UN Security Council a year ago has confirmed. In this Resolution, the Security Council noted the connections between looting, theft and smuggling of antiquities and other art works and the funding of terrorism, stating its concern about "the links between the activities of terrorists and organized criminal groups that, in some cases, facilitate criminal activities, including trafficking in cultural property, illegal revenues and financial flows as well as money-laundering, bribery and corruption."1 To address this problem the Security Council recommended that "States shall ensure that no funds, other financial assets or other economic resources are made available, directly or indirectly, by their nationals or persons within their territory for the benefit of ISIL and individuals, groups, entities or undertakings associated with ISIL or Al-Qaida ...".2 Increasing scrutiny of art market transactions, especially of antiquities, would help to fulfill this mandate.

The changing nature of the art market has seen art merchants acting more and more like financial institutions since they increasingly lend money, securitize loans, and monetize works of art. Although these transactions, if sufficiently disclosed to potential purchasers, may not be illegal, they

2 1 Id. Para. 8.
demonstrate the ability of the art market to serve as a means of transferring considerable sums of money throughout the world economy.

From a financial perspective, the art market is still relatively unregulated, particularly in comparison to banks or other financial institutions. While there may be regulations concerning reporting of transactions under anti-money laundering legislation or know-your-customer regulations, much of the art market still operates in relative secrecy. There is no reason to exclude art merchants from being regulated in the same way as dealers in precious metals and jewelry.

Recently the European Union voted to subject art market transactions worth more than EU 10,000 to anti-money laundering regulations. This makes a similar move by the United States even more important since it would prevent the United States from becoming a haven for those who would avoid regulation in other countries. Furthermore, as Professor Patty Gerstenblith has suggested, the term “art merchants” or “merchants in art and antiquities” is perhaps a better reference to those who deal in art and antiquities than the term “dealers” since either of the former terms can be defined to include both dealers and auction houses who would be subject to the regulations proposed in HR. 5886.

In light of the serious situation that prevails in the trade of illicit antiquities and the damage that this trade causes to the preservation of the world’s cultural heritage, the U.S. Committee of the Blue Shield supports the inclusion of auction houses and dealers in art and antiquities in the Bank Secrecy Act.

Sincerely,

Nancy C. Wilkie
President, U.S. Committee of the Blue Shield

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