Campaign: a call and a complaint for regulation and transparency in the auctions art market.

This is a participatory complaint to be mailed to regulators and financial authorities. Fold this paper, choose an address in the below form, and mail all in an envelope. This complaint will work as a form of protest for the campaign to regulate art auction houses. Read more on the website Art-Derivatives.com *The legislators must know the following list of urgent and innovative regulations in the secondary art market. Mail them this document to participate in this campaign! These are the demands:*

- Establish a 10% tax on auction house profits and the resale of artworks in order to generate revenue in support of non-profit art institutions and the careers of younger artists and art professionals.

- Scrutinize conflicts of interest between auction houses and bidders, third-party guarantees, and buyers. Investigations into shady agreements arranged by auction houses will reveal the actual financial values of artworks.

- Increase the transparency of international transactions to be more in line with recent EU and UK regulations requiring the verification of the identity of buyers and sellers. Currently such transparency can be avoided by arranging auctions in jurisdictions favorable to financial secrecy.

- Call on the US Congress to amend the Bank Secrecy Act to include transactions involving high-value art via both public auctions and private sales. Currently the secondary art market lacks the formal regulatory requirements that the Bank Secrecy Act imposes on financial institutions.

- Issue fines for transfer-mispricing in the art market, similar to other industries. The values of artifacts must be consistent in the chain of production throughout all international financial transactions and not altered for tax avoidance and/or value inflation.

- Ban the sale of works by artists without a history of exhibitions in art institutions. Fabricated artists such as Beeple, Doodle, or Obvious are commercial operations created by the auction houses in order to make up false value estimates for the purpose of financial speculation and to defraud collectors. Moreover, these deceptive marketing operations damage the primary market and negatively affect the careers of hard-working art professionals.

- Break the monopoly of auction houses in the secondary markets, thus allowing greater competition and platform diversity in the resale of artworks. Sotheby's, Christie's, and Phillips monopolize the market, stifling innovation and fostering unethical, inaccessible and unregulated practices.

- Ensure that estimated values of artworks are validated by independent commissions from art historians and professionals before they go to auction. Estimates fixed by auction houses are a major conflict of interest, similar to rating manipulations by financial institutions.

- Give artworks an unique ID with a system of classification that can be entered into an international inventory. This would allow the tracking of transactions and shipments across borders, helping mitigate forgery, tax evasion and obfuscated ownership.

- Ban price-flipping made possible by reselling artworks within a short time span. Establish regulations that would freeze the reselling of artworks for a minimum of a few years.

- Apply resale royalties and artist's rights contracts on an international basis, in keeping with the EU directive for artists to receive royalties when their works are resold at auction.

- Establish ethical guidelines in art journalism and art criticism for reporting art auction records and sales. Journalists and critics need to address the speculative and manipulative factors underpinning sales, rather than merely reporting the amounts of transactions and positioning them as endorsements of the quality of the art sold.

Investigation: a research into the bad business practices in the auctions art market.

A healthy and fair art economy depends upon ethical rules. Transparency and regulation of art auction houses can reestablish confidence in the art trade, boost the market and make it just for all. Financial secrecy and manipulation of prices by auction houses misleads and monopolizes the market at the expense of the whole art industry. Lack of transparency, murky financialization, and collusion in the art auctions harm most traders, artists, and galleries. As a result, they essentially commit fraud, causing losses to investors and social inequality in the art world. These actions infect our cultural values and public institutions, making the need for regulations a serious social matter.

Artist and activist, Paolo Cirio, has investigated the collusion inside the art market to assemble the following list of key practices used by auction houses that must be regulated. You may visit the website Art-Derivatives.com for further reading and source materials.

Third-party guarantees

Also called "Irrevocable Bids", third-party guarantees involve undisclosed individuals or companies who agree to purchase artworks ahead of an auction for an undisclosed amount. Auction houses third-party guarantees are the most controversial of practices, as they increase financialization and secrecy. Guarantor's identities and agreements with the house are undisclosed, giving them advantages that other bidders do not have. Third-party guarantors can also bid anonymously during auctions, thereby manipulating prices to their advantage. They profit when buyers win with bids above prearranged prices, and if third-party guarantors place winning bids themselves, they effectively receive a discount on the artworks via their cut of the sale's proceeds. In these cases, the actual price realized for such works become obscured, since the third-party guarantor pays less than the final price that is publicized. Presale negotiations are likewise undisclosed, as prices reported by the auction houses only include the sold artwork's value and not the actual amounts from financial transactions. Furthermore, these presale negotiations are only announced at the start of an auction. Because of such increased opacity, most attendees and bidders outside of this small group of insiders are left in the dark and intentionally misled.

Shadow Banking

Art auction houses can operate like a bank by lending money against the value of artworks. The terms on the loans are undisclosed and are customized for clients. These opaque deals inflate prices and muddy financial flows outside of banking regulations. Since the auction houses are not considered financial institutions, there is little to no scrutiny over them. The customized terms of these loans are designed to appeal to the auction house's clients and encourage them to make consignments they may not have made otherwise, while charging interest on the loans. Borrowers can use the same loans to buy at art auctions, hedging on prices, and concealing assets' source.

Private Sales

Art auction houses sell art in secrecy to consignors who don't want to sell at public auctions. In private sales the identities of buyers and sellers are not disclosed, and the auction houses work in confidentiality with clients, conducting the buying and selling process in a secretive setting. Art auction houses have dedicated galleries for private sales and operate as hidden shops on the secondary market.

Money Laundering

Secretive financial arrangements made by auction houses can be used to launder money through art. The Bank Secrecy Act and other federal banking regulations do not apply to art auctions; therefore, they're not supervised like banks are. Since loans and cash payments are accepted at art auctions, artworks can be used as collateral to borrow money which can later be used to repay the loan, cleaning the source of the money within art auction houses. Auction houses allow the transfer of assets across borders by shipping art to freeports, or in other disguising manners. The ownership and value of these artworks change when they are moved between countries around the world. The mispricing and portability of artworks, combined with the lack of regulations and coordination between jurisdictions, generates a high volume of untraceable money laundering transactions. On top of that, granting secrecy to the names of buyers and sellers that are often indicated as "private collection" in auction houses disguises the source and destination of money and artworks. These subterfuges are often used to launder drug money and avoid taxes and financial regulations.

Untraceable Transactions

Art auctions houses avoid documenting the terms of transactions and deals. This lack of bookkeeping makes it difficult to scrutinize secrecy and manipulation in the market, effectively impeding regulation and accountability. Art market contracts, invoices, and transactions often don't include the name of individuals, signatures, inventory numbers, or indicate legal terms. Likewise, the country of provenance is not declared, so that the buyers, sellers, and owners of artworks can include anonymous offshore firms and trusts, or remain completely obscured. During art auctions, ownership is disguised by designations such as "From a distinguished collection" and other such general nomenclatures. Additionally, art auction catalogs omit suspicious provenances or previous failures at auction, and there is no agreed standard for artwork condition reports.

Insider Trading

Within this climate of secrecy, privileged information circulates amongst a few insiders who use it to orchestrate speculations and secure high earnings in the art market. Informed bidders who are privy to the state of affairs concerning consignors, estimates, reserve prices, financing arrangements, and guarantees, can use such information to artificially inflate prices or bid against clients to manipulate a work's final value. This information can be transferred from art auction houses to bidders in secrecy to secure sales and prices of artworks. Besides this, insider knowledge about future museum exhibitions circulates between curators, dealers, collectors, and trustees. Exhibitions in major public art intuitions are often funded by the dealers and collectors themselves, shortly before they consign artworks from the same artists at auctions. This allows them to boost prices with the auction house's complicity. Curators and critics can also receive monetary benefits by channeling this kind of information amongst dealers and collectors who are marketing their artists.

Misleading Pricing

The auction houses conceal the actual value of artworks through various means. The prices recorded and publicly announced are often significantly higher than the sum actually paid by buyers. Financial deals can include payments that are financed by the auction houses themselves, third party guarantees who only pay prearranged prices, and resale agreements. Buyers and sellers can also work together to form bidding rings that bid on particular artworks or artists in order to increase their value recorded at auctions. This so-called "Bidding up" practice involves getting an accomplice to bid on behalf of someone else, or anonymously place bids over the phone. The art auction houses themselves can also inflate estimates for artworks. These price fixing practices can lead collectors to buy works worth much less than they are priced. Further, once the art auction house determines an arbitrary value as an estimate or reserve price, they alert the artist's representatives, inferring they may need to bid or buy back artworks at the auction in order to keep the value inflated. In the same fashion, the auction houses select only a few artists and artworks for the auctions that they can orchestrate or anticipate bidders willing to register new values or buy it from themselves. This practice called "Buying In" is not recorded and is also used to maintain stable market values. Furthermore, the initial estimate and reserve prices set by the art auction houses are reinforced through a phony bidding performance by the auctioneer at the beginning of the auction to justify the estimates and create the appearance of demand. This so-called "Chandelier bidding" is deceptive and distorts the true level of interest for a particular lot.

Flipping Prices

Traders who quickly buy and resell artworks at auction can raise prices exponentially in just a few months. Dealers, critics, and auction houses can plan in secrecy to use publicity and targeted bidding to make certain artists become very expensive. Prices can be inflated before an auction, using estimates based on hype created by paid press coverage and reviews, or during the auctions, when secretive rings of bidders collude to bid the price up. Young artists are often subject to flipping; they are aggressively promoted in the market to flip the value of new and inexpensive commissioned works at art auctions. Earning margins rise very high once naïve collectors start to buy at the flipped prices; however, these speculative operations always require new artists, since profitable margins decline quickly with young artists unable to justify higher prices in the long run. These cycles of flipping young artists result in losses for collectors who overpaid for hyped artists, and damaged reputations for the artists themselves, who are unable to continue selling works at these inflated prices.

Anti-regulation Lobbies

Art auctions houses have been hiring lobby firms to avoid regulations and aggressively fight legal battles with clients and artists taking action for fair rights and business practices. This is the case with the resale royalties law in the U.S., which would conform with the E.U. directive for artists to receive royalties on their works when they are resold at auctions. Such rights have been successfully fought by art auction houses for years with the aid of political lobbyists. Another relevant case that opposes fair regulations concerns the "chandelier bidding" practice. Former democrat assemblyman, Richard Brodsky, spent 19 years attempting to ban "chandelier bidding". In order to increase transparency in the practice, even the Republican Senator John Flanagan attempted to pass another companion bill, which failed under the strong opposition of the auction houses.

Monopoly

The powerful auction houses and a handful of wealthy collectors control a largely unregulated market. This art auction market is, essentially, an elite club that controls who gets in, what the prices will be, who can buy and who can sell. In effect, these elites determine who can succeed and what they must create in order to do so. Such control is well demonstrated in the very limited number of artists and artworks traded at auctions. Consequently, collectors and investors would rather trade only those artists instead of supporting others in the primary market. With the increasing number of new artists, the primary market became flooded with a supply of artworks, thus collectors became increasingly dependent upon the auction houses' gatekeeping control of the market and its demands. Most recently, art auctions have begun promoting new artists and artworks themselves, instead of acquiring them from collectors and galleries who are devoted to supporting and developing artist's careers. When art auction houses act as art galleries and flippers, they further damage confidence in the primary market and usurp the role of art galleries, thus monopolizing the entire art market.

From: ....

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To: (select one)

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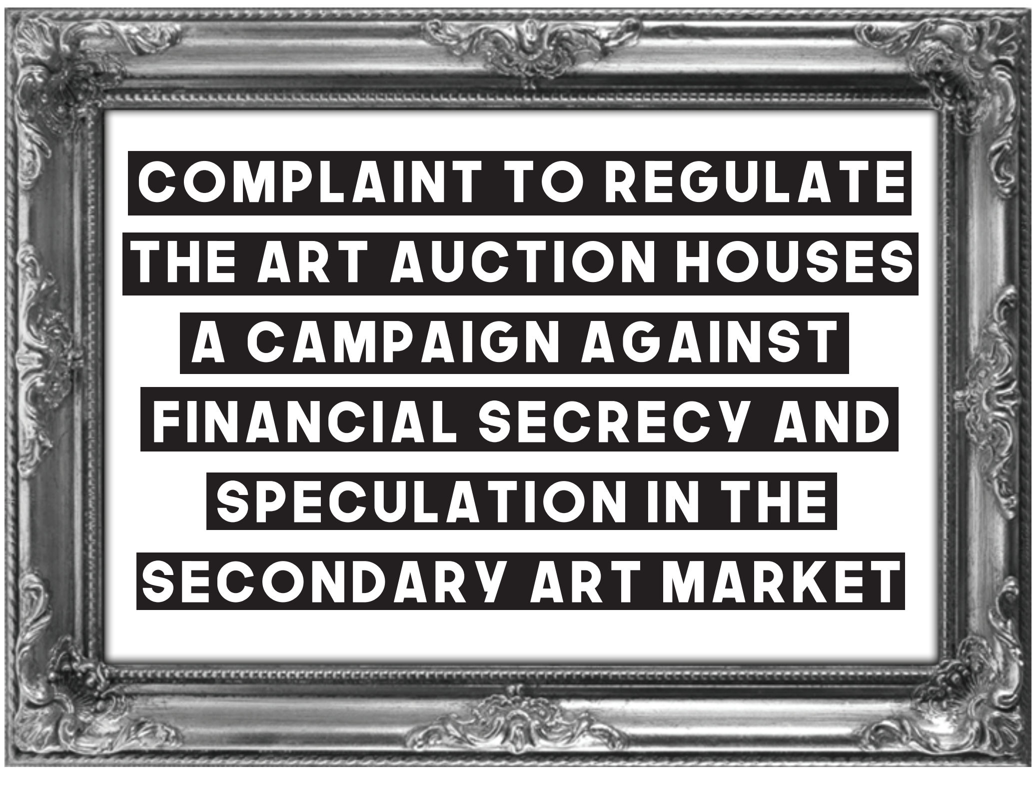
Three Lafayette Centre, 1155 21st Street, NW
Washington, DC 20581. United States.

Department of Consumer and Worker Protection. (Consumer Complaints)
42 Broadway, New York, NY 10004. United States.

Financial Conduct Authority. (Complaints and Whistleblowing)
12 Endeavour Square; London E20 1JN. United Kingdom.



AGAINST FINANCIAL SECRECY & SPECULATION IN ART AUCTIONS