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*THE ART MARKET: FROM CHAIN OF TRUST TO CHAIN OF TRANSPARENCY*

Imagine a *strada bianca*, a beautiful dirt road in the hills of Umbria in Italy. Along it there are scattered somewhat dilapidated villas and houses occupied by outsiders, people not from the region, not *nostrano* or home grown like the famous Umbrian *prosciutto*. There is a gay Italian couple, an English couple, a single German man, but very prominently there is an elderly American couple, the Greens. They have put their savings and their dreams and their future in restoring a picturesque ruin along that road. Not knowing the language, not knowing the regional customs and laws, they have to rely on intermediaries to get the work done. And so they do...

The *strada bianca* I asked you to imagine can be found in the great and rather mean novel *After Hannibal* (1997), by Barry Unsworth, the British author who lived the last years of his life in Perugia, the capital of Umbria. He described a world of sheer beauty in which he places outsiders, who pretend to have, but in fact lack, all understanding of the place. The intermediaries of the elderly Greens are a cynical Brit who speaks Italian and a just as cynical Italian contractor. They make use viciously of their ignorance. The most damning scene in the novel is the one where the American couple, which have spent most of their retirement money on the restoration of their home, see how their half-built dream dramatically collapses to rubble.

I know what you are thinking, and you are right. I am comparing the Umbrian intermediaries with the intermediaries in the world of the arts, with the dealers and the auctioneers, the art advisers and the runners, but also with the curators, the academics and restorers. And I am comparing the Greens with the art consumers, with the art buyers and art lovers. It is a rough division, since curators and academics can also be regarded as consumers. It is a division that might even rile

you up. But stay for now with me, who was for years an intermediary himself. And stay with the Italian metaphor. A metaphor, which is very personal, because in real life I also set about a restoration project in Italy, albeit in southern Tuscany.

My middleman was Gianni L., the *geometra*, which is sort of a contractor with close ties to the local administration, a public-private entrepreneur, so to speak. He was, like everybody in a village where everybody knows each other and nobody can afford a quarrel or a fight, he was *molto bravo*, a very good man. And I believed that: he presented himself artfully as *una persona di fiducia, un vero amico*, a trusted and real friend. And to be honest, without people around me who had some distance from the closely-knit community and could have given objective advice, and with mediocre language skills, I who wanted passionately a home in Italy, gave myself no other choice than to believe this newly found friend. I trusted him so much that I even gave him some insight in my personal finances. And, sorry to say, but no surprise in hindsight, I was screwed by him, till the last of my savings was spent on finishing my Tuscan house. And following local customs we are still *amici*, like Gianni's sister, who he screwed with *her* renovation project around the same time, and who is still his beloved sister.

Now in my discussion enters Glafira Rosales. She visits the venerable Knoedler Gallery in New York in 1994. Famed Paris art dealers Goupil & Cie. founded Knoedler in 1846, and the French offshoot was continuously operating for almost 150 years, when Rosales showed director Ann Freedman the first of 40 undocumented Abstract Expressionist paintings and works on paper of major importance. We are talking Rothko, Pollock, Motherwell, De Kooning. Freedman's newly found friend had a good story about the provenance of the artworks, no documents however to show for. But the works were dazzling, fresh and represented an enormous market value. Freedman, blinded by enthusiasm, I hope, or, I hope not, blinded by greed, did give herself no other choice than to believe that these undocumented works were indeed authentic. She found others, specialists, rather authoritative voices, who supported that reality.

In my years in the art trade I often heard stories like the one Ms. Freedman heard when she started her dealings with Rosales: an anonymous client had inherited the paintings from his father who had bought them directly from the artists. Not to boast, but like many others in the trade, I never touched these kind of paintings with their ideal but undocumented provenance. She however believed the story or at least she wants us to believe that she acted in good faith. Freedman claims that she was never able to get from Rosales credible documents that could actually prove the authenticity, nor could she find those on her own. She *did* do research, she told recently in an interview in the Art Newspaper (18 April 2016). [*I quote:*] “I always thought that tomorrow I’ll find a photograph of the artist’s studio and see the corner of [one of the forged paintings.] When you’re doing research, you’re like Christopher Columbus. You’re not sure when you’re going to find land.” [*End of quote.*] I like to add that Columbus never claimed to have found land, before he actually found it.

[Source: <http://theartnewspaper.com/news/news/former-director-of-scandal-beset-knoedler-gallery-breaks-her-silence/>]

I wonder what Freedman told her clients about the provenance of the masterpieces by a Chinese forger working in a garage in Queens, New York. I imagine she had her baseless but fierce belief in the authenticity of the works and was backed up by the reliable status of the Knoedler Gallery and by advice from some authoritative specialists. We know from the court papers that she had some money for the advisors of the purchasers as well. A fake-Rothko she bought for \$4.5 million from Rosales, she sold to casino owner Frank J. Fertitta III for \$7.2. A former Beyeler Foundation curator, scored a consulting fee of \$300,000. He did receive that money not from his client Fertitta, who he was without doubt seriously consulting about the Rothko, but strangely enough from the seller, from Knoedler.

*[Source: "In the current trial, in US District Court in Manhattan, esteemed experts including MoMA chief curator emeritus John Elderfield, Richard Diebenkorn's daughter Gretchen Diebenkorn Grant, Motherwell foundation head Jack Flam, and forensic paint analyst James Martin were just a few of the witnesses who detailed how their warnings about paintings that didn't look right or had serious paint anomalies were ignored."*

*<https://news.artnet.com/art-world/experts-say-ann-freedman-settled-due-to-damning-evidence-423020>*

For a while I was involved in the Friends of the University of Amsterdam in New York and we organized twice a year a lecture or a debate with visiting Amsterdam professors. One time we were so lucky to host the Rembrandt scholar Ernst van de Wetering. He gave an exciting talk for our alumni about the authenticity of a particular Rembrandt painting, a self-portrait now in the *Museo Thyssen-Bornemisza* in Madrid. He proceeded by showing and telling how the painting, regarded as a real one, could not be a Rembrandt. Completely convincing. After a small intermission, where the alumni could get a drink, he went on. He started all over again, now arguing, using the same material and adding some new research that the Rembrandt was to be regarded as a Rembrandt after all. Again completely convincing.

The stories I have just told you are all dealing with trust. The Greens trusted their middlemen and I trusted my middleman. Unlike the Greens who ended up with rubble, albeit imagined rubble on paper, at least I ended up with a functioning house. The Italian stories tell you not just that many people are mean-spirited, but also that people want to trust each other, and that some see an opportunity in that relation of trust. No matter how many times we may have been tricked in our lives, these negative experiences don't hinder us from engaging in a new venture, a new relationship fully based on the looks and the words of another person. "Oh, I really can trust him!" we say to those who only bring up the slightest criticism.

The Knoedler story transferred us from the personal to the general. It is not about plain trust, but about creating trust, building up trust, creating *a chain of trust*. Freedman used the trust, which was acquired by her company over long, long years, to give credence to a story that could not be checked, or better she, being not Columbus after all, couldn't check. She added the trust people had in her as a sound and serious art dealer. Then she added outside trust from specialists, who she must have convinced to trust her, and who she probably had to pay for their authoritative work. However, she suppressed – as the most recent lawsuit made clear – warnings from other highly regarded specialists. And at last Freedman made (consciously or not) sure that – with some serious monetary influence – she dampened the lack of trust the client's advisor may have had. Mr. Frank J. Fertitta III was sold trust first and then a painting for \$7.2 million. Everybody in the *chain of trust* must have been happy, especially Glafira Rosales, who was able to gain the trust of Ms. Freedman or who was able to drag her into a well paying scam. She gloriously walked away with \$4.4 million... until she was busted.

The art industry is not the only one that struggles with trust, as we know. Here a recent ad from an American wealth management company which deals with the issue: <https://www.youtube.com/watch?v=qu0EqwHygw> But the same trust issue plays in all markets of high value like real estate, banking and collectables.

Back to the art world and to the Van de Wetering-story. That story shows rather poignantly that we can not even trust the specialists, who one day find one thing based on research and some time later supported by new research find another. Van de Wetering tells us to take doubt seriously and not sweep it under the mat. In our context it seems essential to me that we cannot suppress doubt, that doubt about provenance and authenticity should be part of the process. The biggest misdeed, if you will, of Freedman was not the trust she had in her source, but in suppressing what was also known and what could have eroded the trust she was selling.

In a talk I gave last year at the *Codart* conference in London I referred to the *über-trust* generator Bernard Berenson, the pre-eminent authority on Renaissance art. His authority was based on connoisseurship, rooted in “a discriminating eye, exceptional memory, perceptive intelligence, and humanistic learning” as the *Encyclopedia Britannica* summarizes it. Berenson’s opinion on the authenticity of a work was not just an opinion; it was a verdict, with enormous consequences for the value of a painting. His biographer Rachel Cohen laid bare Berenson’s abuse of that authority and his self-enriching dealings. I mentioned Cohen’s more generalizing quote in my talk and I quote her here again since it shows so clearly how the *chain of trust* can be corrupted at all stages in more complicated cases. The quote by the way implicates the art buyer as well. [*I quote:*] “The sale of an Old Master Painting is an ethical quagmire. The seller, the authenticator, the dealer and the purchaser are all constantly being implicated in uneasy compromises and having to fend off worries about forgeries, misattribution, gaps in provenance, contested wills, the transfer of works out of their countries of origin, import tax evasion, hasty and destructive restoration, and the wildly fluctuating value of paintings. Everyone involved in the transaction stands to gain the most if the painting is considered to be a great work by the hand of a master, but no one wants to be caught holding the thing at the moment the tide of opinion suddenly changes.” [*End of quote.*]

One element of that talk with the title, *Independent Scholarship, or the Emancipation of the Artwork*, I want to bring up here. Authenticators, like Berenson, will stay part of the story of the artwork. However, under the scrutinizing light of transparency some authenticators will be challenged or crumble, like Berenson, while some others will retain credibility in light of the steadily more accomplished art of technical authentication and growing academic knowledge of art. Academic research, like that of Van de Wetering on Rembrandt, is preferable to connoisseurship alone.

Back to trust. Since nobody seems to be trustworthy, willingly or ignorantly, what is the alternative? I, and the company we started, Artory, think that transparency is the key to the answer. To stay with our Knoedler example: if Freedman would have been obliged to explicitly say: there are no documents or there is no research to support provenance directly from the artist. And: expert A, B and C support the authenticity, but B, C, and D contest it. And: the advisor of the buyer will receive a commission from the seller, I am sure nobody would have touched the works, not even Freedman herself.

The *chain of trust* should be replaced by the *chain of transparency*. What is known about a work of art, academically and commercially, and about its provenance should be inseparably linked to that work of art. The *chain of transparency* should 'neutralize' the intermediaries who were until now able to choose the facts and interpret and present them in a certain way. The *chain of transparency* doesn't allow to suppress doubts, insecurities, vagueness, disputes and disagreements, but to the opposite: the *chain of transparency* will prominently display them for everybody to see.

In light of this conference I would like to add that condition reports and reports based on newly available scientific techniques are essential elements in the *transparency chain*. Restorations should of course be listed and documented as well. In the Knoedler case the forensic paint analyst James Martin was asked by Freedman to check on some of the works, she however ignored his warnings and his opinion was obviously suppressed or toned down in her further dealings with her 'treasure trove'. Beyond Knoedler, we all here in this room know about relining wax-relined impressionist paintings and about the restoration of early renaissance gold ground paintings and the effect these interventions can have on the price, when those are not disclosed.

Transparency doesn't necessarily mean that the information is visible for everybody to see. Transparency is about having all the available information displayed in a clear and accessible format and even more important: transparency is about showing what information is lacking and what information is to be doubted or under discussion.

Public information is – indeed – public and that is what the very useful *Artnet Price Database* is using. Since the start of *Artnet* everybody is able find out the prices of sales in the public domain and that was a great step forward. But *Artnet* does cover just a part of the market: private sales whether directly from artist to buyer, from owner to owner or from gallery to buyer stay undocumented, and right in this area transparency is urgently needed. This doesn't mean however that confidential information is out there for every user to be seen. Buyers however need to have access, so they can see for themselves what is known about the work of art.

Artory is in the final stages of creating a digital platform that can give access to essential and reliable data on artworks to all who participate in the art world, commercially, academically or 'amorously'. Artory will collect part of the data from the public domain like auction results, exhibitions catalogues and academic and general publications; another very important part will be gathered through license agreements or partnerships with data collectors like catalogue raisonnés. Other ways will go through collaboration with archives and academic institutions and through strategic partnerships with commercial partners, and through strictly overseen and legally secured 'clean' collaborations with artists and galleries.

I want to stress the importance for our work of catalogues raisonnés, which are screaming to be digitized. Their release cycle is extreme slow, if one can speak of a cycle at all: most of them are printed just once. A painting that is not included in the catalogue, has to show its authenticity with a bill of sale and maybe a piece of paper by the catalogue scholars that states that the work 'is currently seen as a work of the

artist', an opinion that could change if the research might bring up new information. A digitized catalogue raisonné can easily be updated. We are also developing a cataloguing format for contemporary artists, as to avoid future backlog problems.

The issue most interesting – and challenging at the same time – for Artory, is how to have access to the data that are not public. There we must rely on data that have to be submitted to our platform by its users. And now we have to go back to the pre-transparency part of my talk, we have to go back to trust, *digital trust*.

In our digital world every business is a digital business. *Digital trust* is the confidence placed in an organization to collect, store, and use the digital information of others in a manner that benefits and protects those to whom the information pertains. Banks are a good example of institutions where digital trust is essential for their proper functioning. In other words, the users must be sure that their data are only for their own use and – if wanted – are not accessible for others. Users must trust the institution however to use their individual data in a general way for the greater good of all users. Essential is obviously secure data storage, a complicated technical issue where our team is not just seeing *blockchain* as a *cure all*, but looks at added very much-needed safeguards. Equally important are the possible benefits for the users. The users must have the trust that they are within a reasonable timeframe to benefit from their input. The benefits for an archive or a museum are of course very different than those for an art collector or art dealer. The open and easy accessible dissemination of until now hard to find facts and information for the users of archives all over the world can be a benefit for an archive. The possibility to find what is needed for due diligence for the sale of an artwork can be the benefit for an auctioneer. The chance to cut out unwanted intermediaries – and I can tell you that is a great money saver – is a benefit for both the art collector and the dealer. The possibility to organize and keep continuous control over her or his works of art can be a benefit for an artist. With Artory in place, the commercial art world would not have been stuck with Rosales's forgeries, Ann Freedman couldn't have sold the works and no commissions to advisers would have been paid to former curators.

Artory thinks that it has the answer to the benefit questions for all parties, but you may understand that we can't answer all of them publicly at this moment in time. I will spill the beans of one benefit and that is benefit for the general public: we are creating a platform that will not only be of use for professionals, but will be exciting and educational for those who love the arts or who come across our platform and will fall in love with the arts.

Artory hopes that it can become an instrument that will help in regulating the art market. The Knoedler case – and so many other cases that can be brought up – shows that the market is flawed and cannot be compared with regulated markets like real estate and banking. If art is becoming more and more an asset in wealth management then regulation is an absolute necessity. Artory believes that its secure platform can be a means to self-regulation, not only for art by the way, but for all collectibles.

I started my talk with Italy and I will end there as well. I can tell you honestly that our team and I are *gente molto brava*, that we are *persone di fiducia*, but you don't have to trust us at all. We are however creating a platform that you can trust and we think a platform that will change the way we professionally deal with art. Behind the scenes we call our enterprise the *Monte Fiore* of the arts. It is a joke on *Bloomberg*, but it shows our ambition.