



## **THE ART OF FRAUD: AN INTERNATIONAL & CROSS-DISCIPLINE PANEL OF EXPERTS ASSESS AN ART FRAUD**

**CASE STUDY  
Wednesday, 24th March 2021**

Mr Baia is a UHNWI with a personal interest in art but lacking special knowledge about the same, both about technical aspects and about the art market itself. Mr Sella is a reputable player in the art market, usually acting as an agent but also as an art dealer. Mr Sella agrees to sell some art to Mr Baia, however Mr Seller is acting as the undisclosed nominee/agent of Mr Oli Garch, whose wife is on the US sanctions list. Mr Baia pays Mr Sella a substantial deposit in USD, with the rest payable on delivery.

Mr Sella never provides the art to Mr Baia, giving one reason after another for the delay (amongst other saying it is stuck in the Geneva freeports). Mr Baia threatens to start proceedings against Mr Seller before the English courts. The threat of proceedings encourages Mr Sella to offer to settle the dispute by providing different art instead. Mr Baia agrees and is provided with the art, but he doesn't verify its authenticity.

Mr Baia uses the art to get a loan from his friend Mr Len Der, with the art as collateral. Mr Len Der doesn't verify its authenticity either. Mr Baia loses the money that was loaned to him so Mr Len Der looks to enforce against the collateral. Mr Baia and Mr Lender learn that the art Mr Sella has provided to Mr Baia is very likely unauthentic.

Mr Baia obtains a WFO from the English courts in support of proceedings he starts against Mr Sella. The English proceedings involve (i) seeking to void the settlement agreement with Mr Sella, and if that succeeds then (ii) claiming back the monies/the art that was never delivered. Mr Baia also initiates 28 USC § 1782 proceedings before US courts to trace the monies and obtain evidence in support of the English litigation.

In the course of the English proceedings, Mr Sella discloses that Mr Oli Garch supplied him with the fake art, that Mr Sella never received the original art from Mr Oli Garch despite Mr Sella passing on the money from Mr Baia to Mr Oli Garch. Mr Oli Garch received the original art from his deceased mother.

The parties want to join Mr Oli Garch to the proceedings. However, Mr Oli Garch had commenced a negative declaration before the Swiss courts when he was put on notice of the potential action.

Once Mr Oli Garch is joined to the proceedings, the trial proceeds. The first factual question is whether the settlement art is real or not. The lack of authenticity is proven. The settlement is voided. The claim for the monies/art is also proven.

Amongst their assets, Mr Oli Garch and Mr Sella hold art in trust structures in the Isle of Man. Post-judgment disclosure ensues against the Isle of Man trust structures. Disclosure shows that Mr Sella has art consigned with an auction house. It is about to be sold. Mr Baia proceeds with seeking to enforce the judgment against the art held through the Isle of Man structure. Mr Baia's investigators also identify other assets held in offshore structures.