

Ms. Diana R. Shaw
Acting Inspector General
U.S. Department of State
Office of Inspector General
SA-39
1700 North Moore Street
Arlington, VA 22209



June 21, 2021

Subject: Complaint that the current composition of the
U.S. Cultural Property Advisory Committee
violates the law and its Charter by failing to include three members of the art trade

Dear Acting Inspector General Shaw:

On behalf of the Ancient Coin Collectors Guild, this is a complaint that the current composition of the U.S. Cultural Property Advisory Committee (CPAC) violates the law and its Charter by failing to include three members of the art trade. Because of this violation, which has been brought to the attention of the State Department at least five times with no response or corrective action, we are obliged to make this complaint to the Office of Inspector General, for you to investigate and confirm that the CPAC lacks the legally-required "fair representation" and ensure that adequate correction steps occur.

I. The CPAC failure to include three members from the art trade violates the law and its Charter.

The Cultural Property Implementation Act's 19 U.S.C. § 2605(b)(1)(C) requires that the CPAC include "[t]hree members who shall be experts in the international sale of archaeological, ethnological, and other cultural property." This is consistent with 19 U.S.C. § 2605(b)(2)(A), that directs the President's appointments to the CPAC "be made in such a manner so as to insure fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials." Article XII of the CPAC's 2018 Charter¹ also states that "[r]epresentation on the committee is stipulated by Section 306(b) of the Act [codified as 19 U.S.C. § 2605(b) and that it will include] ... (3) three members who are expert in the international sale of cultural property...."

Yet the CPAC does not include three members of the art trade. Rather, it has only one purported member, who is listed as representing the interests of the art trade, though he is not a dealer and was initially appointed as a public member.² That the current composition of the CPAC lacks

¹ The text of the CPAC 2018 Charter is found in the hyperlink listed at the Bureau of Educational and Cultural Affairs' Resources section at <https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/committee-members> (visited May 14, 2021)

² Even though he is a collector, not a dealer, we nonetheless truly appreciate his efforts to ensure the representation of the interests of both small business and collectors.

three art trade members is unquestioned, since the CPAC's own webpage of members does not list three members from the art trade. A copy of the CPAC's current membership, is enclosed for your ready reference, and was found at <https://eca.stste.gov/cultural-heritage-center/cultural-property-advisory-committee/committee-members> (visited on June 21, 2021).

II. The failure to include three art trade members on the CPAC -- besides violating the law and its Charter -- is a serious "fair representation" problem, abuse, and deficiency that also negatively impacts the effective achievement of the policy goals, objectives, and interests of the United States.

Besides being required by statute and its Charter, the inclusion of three art trade members ensures that there is the legally-required "fair representation" on the CPAC.³ This is especially important, since some CPAC members represent hostile anti-collecting views, that are far more extreme than those of the broader archaeological community. As one example, at the CPAC's public hearing on July 22, 2020, one CPAC member who represents archeological interests stated that ancient coin collectors – of which there are many thousands in the United States -- should give up collecting ancient coins and take up another hobby! While this person is no longer a CPAC member, archaeological slots are consistently filled, while slots representing the interests of art trade have gone unfilled for years.

The failure to include three members from the art trade on the CPAC appears to be a long-standing "fair representation" problem. It could create an imbalance in the CPAC's obligations to review and make recommendations, which could negatively impact the public, museums, the trade, and collectors. Gary Vikan, the former Director of the Walters Art Museum and a CPAC member from 1999-2003, wrote that at one 2000 CPAC meeting, that the members of the antiquities trade were "missing," because he was told that they "were now deemed to be flawed by an inherent conflict of interest, so they were not invited." Mr. Vikan wrote that the limited membership on the CPAC "bothered me because the point of CPAC was to bring to the table eleven citizens of good will with different perspectives of the international movement of cultural property." Indeed, Mr. Vikan concluded that the "makeup of the CPAC as I joined was clearly at odds with what I knew the intent of the Cultural Property Implementation Act to be." Gary Vikan, Sacred and Stolen Confessions of A Museum Director (SelectBooks Inc., 2016) pp. 246-247. The book's chapter that have Mr. Vikan's quotations is enclosed for your ready reference.

III. The Inspector General's investigation is necessary and it should conclude that the failure to include three art trade members on the CPAC violates the law and its Charter and that corrective action is necessary.

The failure to include three art trade members on the CPAC, as required by law and its Charter, has been raised with the Department of State at least five times. Specifically, we raised this issue in our letters to the Secretary of State dated May 12, 2021 and April 1, 2021, directly in oral

³ We understand that there are a number of highly qualified members of the art trade who have applied for CPAC slots, but have heard nothing about their applications. We have also urged that the CPAC have members who represent the interests of religious minorities, since some Middle Eastern Governments have claimed community religious property and, in some cases, have evicted minority Jewish and Christian populations.

testimony at the CPAC's public hearing on March 19, 2021, in our written submission to the CPAC dated February 26, 2021, and in Arthur Houghton's letter dated August 19, 2020. We hoped that corrective action would be taken, so that three art trade members were included as members of the CPAC, as required by law and its Charter. Especially since our letter of May 12, 2021, stated that a complaint would be filed with the Inspector General, if no action was taken within 30 days. But since no response or corrective action has occurred, we are now obligated to file this complaint with the Inspector General.

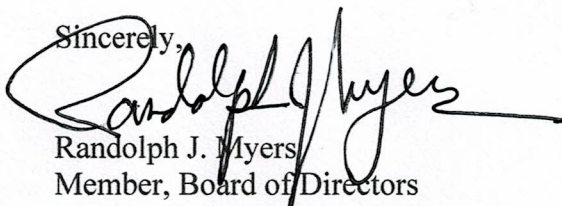
The Inspector General's investigation into our complaint is critical, since the Department of State has taken no action, and the CPAC clearly lacks three members of the art trade that is required by law and its Charter. And the Inspector General has the explicit legal responsibility to investigate this complaint under at least three separate statutory provisions. As detailed below, these three statutory provisions impose a legal obligation on the Inspector General, to engage in the "systematic review and evaluation of the administration of activities and operations of ... bureaus and other operating units of the Department of State," that applies in this situation since three art trade members have not been included in the CPAC as required by law and its Charter.

First, under 22 U.S.C. § 3929(b)(3), which authorizes the Inspector General to investigate "whether the administration of activities and operations meets the requirements of applicable laws and regulations." Second, under 22 U.S.C. § 3929(b)(4), which authorizes the Inspector General to investigate "whether there exist instances of fraud or other serious problems, abuses, or deficiencies, and whether adequate steps for detection, correction, and prevention have been taken." Third, under 22 U.S.C. § 3929(b)(5), which authorizes the Inspector General to investigate "whether policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented."

A courtesy copy of our complaint to the Office of Inspector General is being shared with Secretary of State Antony J. Blinken, Presidential Personnel Director Catherine M. Russell, and the others to whom we sent our last letter -- in the hopes that even at this late date -- that action is taken to include three members of the art trade to the CPAC, as required by law and its Charter.

Please acknowledge receipt of our complaint and keep us advised of your investigation and the corrective action. Please contact me if you want a copy of the earlier correspondence or if you have any questions.

Sincerely,



Randolph J. Myers
Member, Board of Directors
Ancient Coin Collectors Guild
c/o 8709 Stockton Parkway
Alexandria, VA 22308
randolphjmyers@gmail.com

cc: The Honorable Antony J. Blinken, Secretary of State
Ms. Catherine M. Russell, Director of the White House Office of Presidential Personnel

Mr. Stefan Passantino, Chair of the U.S. Cultural Property Advisory Committee
Mr. Richard C. Visek, Acting Legal Adviser, Office of the Legal Adviser
Mr. Arthur Houghton, President of the Global Heritage Alliance

Enclosures: List of current CPAC members found at <https://eca.stste.gov/cultural-heritage-center/cultural-property-advisory-committee/committee-members> (visited June 21, 2021).

Gary Vikan, Sacred and Stolen Confessions of A Museum Director (SelectBooks Inc., 2016), Chapter 16 Working for the President, pp 245-250.



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Native American Cultural

Heritage →

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Cultural Property Advisory Committee

Committee Roster

Executive Director

Allison Davis

Cultural Heritage Center

Bureau of Educational and Cultural Affairs

U.S. Department of State

Washington, DC

Chair

Stefan Passantino

Represents/Expertise: General Public

Partner, Michael Best & Friedrich, LLP

Acworth, GA

Members

Steven Bledsoe

Represents/Expertise: General Public

Partner Larson LLP

California

Joan Breton Connelly

Represents/Expertise: Archaeology,

Anthropology, Ethnology, or related fields

Professor of Classics, New York University

New York, NY

J. D. Deming

Represents/Expertise: General Public

Vice President - Wealth Management

UBS Financial Services Inc.

Nevada

Ricardo A. St. Hilaire

Represents/Expertise: Archaeology,

Anthropology, Ethnology, or related fields

Attorney (Cultural Heritage Law Practitioner)

Deputy General Counsel, Knights of

Columbus

Executive Director, Red Arch Cultural

Heritage Law & Policy Research

Lebanon, NH

Karol Wight

Represents/Expertise: Museums

President and Executive Director of the

Corning Museum of Glass

Corning, NY

Anthony Wisniewski

Represents/Expertise: International Sale of

Cultural Property

Chairman of Livanta LLC

Annapolis Junction, MD

RESOURCES

[Charter of the Cultural Property Advisory Committee](#)
geo.my.salesforce.com/sfc/p/t0

[Annual CPAC Report - Fiscal Year](#)

2018 »

<https://eca.state.gov/files/bure>

[Annual CPAC Report - Fiscal Year](#)

2019 »

<https://eca.state.gov/files/bure>

[Annual CPAC Report - Fiscal Year](#)

2020 »

<https://eca.state.gov/files/bure>

[Cultural Property Implementation](#)

Act »

<https://eca.state.gov/files/bure007019014.pdf>

SACRED AND STOLEN

Confessions of a Museum Director



Gary Vikan

Former Director, the Walters Art Museum

SelectBooks, Inc.
New York



N
516
.B43
V56
2016

Chapter Sixteen

Working for the President

The beginning of the end of the struggle to reconcile my passion for acquiring and displaying sacred works of art with my knowledge that many of them were stolen came in April, 1997. Senator Paul Sarbanes wrote to tell me that he was supporting my nomination for membership on President Clinton's Cultural Property Advisory Committee (CPAC). I was not surprised, and I knew why it had happened. My testimony on behalf of Cyprus in the Kanakaria trial got the attention of Maria Kouroupas, Executive Director of CPAC. The Hellenic triangulation from Cyprus to Maria to Senator Sarbanes was obvious, and just fine by me. I was a hero among Greek-Americans for Kanakaria and for my icon exhibitions.

I suspect they also knew that I favored the return of the Elgin Marbles to Greece and they had every reason to believe that as a member of CPAC, I would take a hard line on the illicit antiquities trade. I had, after all, laid out the canonical guidelines for appropriate due diligence on the stand in Indianapolis. It's about using all best efforts and asking all the hard question in order to discover the truth of the origin of a proposed purchase or gift. This is what Dominique de Menil did with the Lysi frescoes and what Peg Goldberg did not do with the Kanakaria mosaics.

In the years just after the Kanakaria trial I spoke about the illicit antiquities trade and due diligence on many panels before a variety of audiences, from archaeologists to museum directors to art dealers. My foil was the Association of Art Museum Directors' acquisition guidelines that seemed to me to invite hypocrisy. We directors were admonished "not knowingly" to acquire works of art that had been exported from their country of origin in violation of national laws. Not *knowingly*? So how is it that museum curators and directors, who go to graduate school to learn how to research every aspect of a work of art, are somehow rendered stupid and incapable when it comes to knowing the truth about the origins of the antiquities they're buying? It sounded like Peg Goldberg, and I didn't like it. I'm pretty sure Maria Kouroupas loved me for that and wanted me on CPAC to ensure that CPAC would do the good work of helping to interdict the international trafficking in looted antiquities.

Twice a year I'd drive down to DC for two days of CPAC meetings that took place in a stuffy conference room on an upper floor of an ugly government office building just south of the National Mall. What struck me as I looked around the room on the first day of my first meeting, in the winter of 2000, was that there were only six members of the committee present—six out of eleven. Since that's a quorum, we were legally empowered to review the request on the table from Bolivia. But I had to wonder: who's missing, and why? I was told that those members of the committee who, in the past, represented the point of view of the antiquities trade were now deemed to be flawed by an inherent conflict of interest, so they were not invited.

And then I realized that the two of us who were there to represent the point of view of the museum community were certainly AAMD outliers. Vikan, for his role in the Kanakaria trial and for his outspoken opinion-sharing about the hypocrisy of the AAMD acquisition guidelines, was from the archaeologists' point of view, a white knight. And so was Martin Sullivan, CPAC's chair, who at that point

was not even a museum director. But when he was a director at the Heard Museum in Phoenix, Marty was a leader in drafting NAG-PRA, the Native American Graves Protection and Repatriation Act. This required all institutions receiving federal funds to return "cultural items" (grave goods, human remains, sacred objects) to lineal descendants and culturally affiliated Indian tribes. So Marty, too, was a white knight. I realized that Ms. Kouroupas, the stern and mostly silent woman at the end of the table, had done her work. Of all possible museum members of CPAC, she had found the two with the word "repatriation" tattooed on their foreheads.

This bothered me because the point of CPAC was to bring to the table eleven citizens of good will with different perspectives on the international movement of cultural property: three members of the general public, three archaeologists, three people from among the dealing and collecting community, and two museum professionals. CPAC's implementation legislation of 1983 was based on the integrity of a process that would involve these multiple perspectives and voices proceeding through a series of four questions. First, is the cultural patrimony of the requesting State Party (requesting country) in jeopardy from pillage? Second, has the State Party taken measures to protect its cultural patrimony? Third, will the adoption of import restrictions, if taken in concert with other nations having significant import trade in such material, be of substantial benefit in deterring pillage? And fourth, is the application of import restrictions consistent with the general interest of the international community in the interchange of cultural property?

The makeup of CPAC as I joined was clearly at odds with what I knew the intent of the Cultural Property Implementation Act to be. And it was obvious in no time that there were process problems as well. On the table in front of each of us was an enormous Xeroxed book replicating the request from the government of Bolivia. It was so dense and confusing that none among us, I think, could have

figured it out on his or her own. So we had the benefit of a very smart recent PhD whose specialty was the ancient archaeology of the Andes. This meant that the version of the Bolivian narrative we received was that of the Bolivian government as digested and interpreted by an academic whose career interests were coincident with the requesting State Party.

There was one remaining protocol to assure that we had the benefit of other points of view, if only briefly. It is called the "public session." This is a designated period when the double doors of the conference room are swung open and anyone who has signed up can come in and testify. The testifying group consisted mainly of lawyers in fancy suits, all earnest and well prepared and mostly from New York, representing the National Association of Dealers in Ancient, Oriental, and Primitive Art, Sotheby's, Christie's, and the AAMD. (This group had no access to that xeroxed book from Bolivia.) They would tell us what, from their point of view, was really going on, and this could be very important for our deliberations, especially on the question of whether our actions to interdict traffic of cultural property X from country Y could have any salutary outcome. It would be inappropriate to curtail the actions of Americans for some possible greater international good if that action would have no actual benefit.

If we were to learn from the auction houses that virtually no Bolivian antiquities were traded in the US market, but were traded instead in London, Paris, or Brussels, we should then say to Bolivia: thanks but no thanks. I was also struck by how lackadaisical the tempo of our closed-door sessions was—typically academic and wandering—and how crisp the public session portion of our meetings was. With strict time limits and a ticking clock, it was in and out for those NYC lawyer types, and after they left, the committee went back to the business of helping Bolivia.

The next thing that struck me as odd was how much junk was in that request packet from Bolivia. Somehow we were being asked

to care about the import into the US of ethnographic material of the 19th century that I recall included little clay pipes you blow into, and which have a market value of maybe \$25. Why? The implementation legislation requires that to be a qualifying object of ethnographical interest it must be "important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people." Were these tourist-trinket items somehow defining of Bolivian national identity? Were they to be understood as national material assets like oil or tin? And there was another issue: How about modern borders and, in this case, the Bolivia/Peru border? US Customs is asked to stop the import of, for example, a 16th-century wooden beer pitcher (*kero*) that comes from the Bolivian side of the border, but to let an identical one come in that happens to come from the Peruvian side of the border. And why is this? Because Bolivia had asked for such US action but, up to that point, Peru had not. Fair enforcement under such circumstances is impossible.

This craziness brought me back to an *antiquariat* shop in Bucharest in 1975. Elana and I had gone in to look for souvenirs to take home after eight months in Romania. We were told by a surly clerk that one whole area of the shop was off limits, namely, that section where items one hundred years old or older were displayed. Now, from where we stood it was obvious that much of the "stuff" over there was simple, homey, and utilitarian—such as little footstools, pillows, and baskets—and clearly, pretty cheap. But were these trinkets somehow forbidden because they had been nationalized by the Communist State and, much like Romania's citizens at the time, they could not leave the country? This seemed to me not so different from that Communist radio we had in our Bucharest apartment that could get the Leipzig and Dresden stations but not those in Paris or London. And so here I am, in a stuffy conference room in Washington, DC, acting on behalf of the president of the United States, and

it feels as if I'm basically in the same business as Nicolae Ceaușescu, of closing borders. People, cultural property, radio waves, and ideas had all collapsed into one, and it seemed to me I was on a committee that was doing the wrong work in the wrong way.

As it turned out, I was not able to resolve my conflicting thoughts on looted antiquities in the context of CPAC. On April 17, 2003, in the wake of the looting of the National Museum of Iraq and the burning of the National Library, I resigned from the committee. I was angry: "Shock and awe" had not included today's version of the Monuments Men.