American Journal of Cultural Sociology
https://doi.org/10.1057/s41290-021-00134-1

ORIGINAL ARTICLE

Theory of an art market scandal: artistic integrity and financial speculation in the Inigo Philbrick case

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Accepted: 3 May 2021

Abstract

Focusing on the case of Inigo Philbrick and his alleged fraudulent overselling of artworks by Rudolf Stingel, we offer a new theory of art market scandal that builds upon Alexander's framework of the pure and impure, and Adut's concept of transgressive publicity. We argue that the presence of an art market creates latent impurity, according to the Hostile Worlds conception of markets as an impurification of art. The further financialization of an artwork into shares redoubles money's impurification of art by creating what we term a *financial simulacrum.* Philbrick's case allows us to expand Adut's theory from mapping an art scandal of moral decency to conceptualizing an art *market* scandal of financial transgression. We argue that financial transgression—as enabled by the increased securitization of art—depends on the persona of the art dealer as intermediary, a projection that is itself a simulacrum. Thus, we frame Philbrick archetypally as *hydroponic*, *validated*, *novel yet neutral,* and *self-pardoning*. Drawing on interviews of expert insiders and close reading of court documents and press articles, we contribute a model of art market scandal that encompasses the dual artistic and financial nature of traded artworks and the shared art-industry risk of regulation.

Keywords Scandal · Art market · Simulacrum · Financialization · Rudolf Stingel · Inigo Philbrick

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Published online: 16 June 2021

Introduction

On June 12, 2020, US federal law enforcement agents apprehended the art dealer Inigo Philbrick on the Pacific island of Vanuatu. Charged with aggravated identity theft and wire fraud, he now faces up to 22 years in prison (*U.S.A. v. Philbrick* 2020). It was a stunning reversal of fortune for the then-32-year-old, who was widely regarded as a rising star in the highly competitive arena of the contemporary art market. Philbrick's arrest and criminal indictment triggered an art market scandal not because of the scale of the alleged fraud but because of the complex structure of his deals. The estimated total of his alleged fraudulent scheme, $20 million, is a fraction of other recent art fraud cases. By comparison, the director of the legendary New York City-based Knoedler Gallery was charged in 2016 with selling forged artworks to the tune of $80 million, and in 2010, art dealer Larry Salander, former director of the Salander-O'Reilly Galleries, pleaded guilty to twenty-nine felony counts of grand larceny in a scheme that defrauded investors of over $120 million.[1]

The complex structure of Philbrick's art deals leads to a new category of art market scandal that goes beyond moral decency or impurity of markets to signal crimes of financialization. According to charges by the US Department of Justice, Philbrick was not just selling artworks he did not own to individual clients, as Salander did. Instead, he brokered complex art-financing deals and sales partnerships with various offshore entities and shell corporations, whose founders sought to flip blue-chip art for big profits (Kinsella 2020b).[2] Multiple people participated in his deals and were exposed to legal and market risk. Philbrick was a pure speculator who operated as an intermediary—generally not taking full ownership of works—and who sold artworks in shares as if they were financial derivatives. Even in a world accustomed to complex compromises between art values and money values, Philbrick's financialization of art violated collective norms to such an extent that he had to be purged, not just by duped investors, but rather more broadly, by the field.

We use the case of Inigo Philbrick to generate a theory of art market scandals. The case is ideal for theory-building because it draws from two distinct but related systems of social value: the world of finance and the world of visual art. Fig. 1 presents a conceptual map of our argument, and we refer to it throughout the paper. In this model, every artwork has two natures, artistic and financial. It also has two domains of value: the institutional realm of critics and museums and the market realm of dealers and sales. These values are in continual tension as artworks are circulated, viewed, compared, criticized, and praised. This is not a zero-sum game in which only one value can win, but an ongoing dialectical relationship of mutual dependence.

The dual nature of the artwork supports interpretations of value that are both hermeneutical (reading meaning into its symbolism) and pragmatic (calculating worth on the market and in network ties). Art market scandals are, therefore, a hybrid of

[1] Knoedler:https://news.artnet.com/art-world/art-industry-news-april-24-2020-stories-1844289. Salander: https://www.nytimes.com/2010/08/04/nyregion/04salander.html.

[2] https://news.artnet.com/art-world/inigo-philbrick-intelligence-report-2020-1800972.

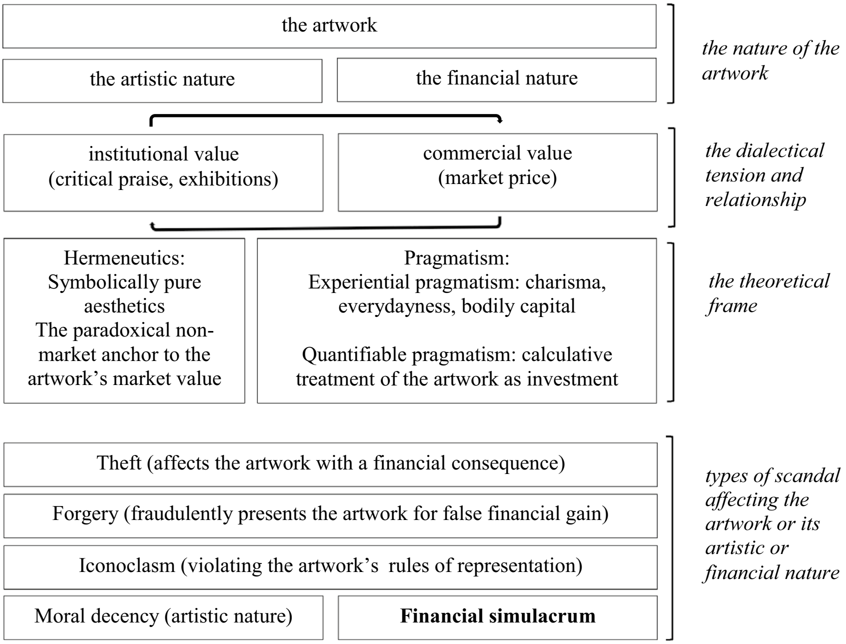

Fig. 1 Working Theoretical Model of Art Market Scandal. Figure by the authors

financial crime and art crime, combining offense elements from both. As one part art crime, they feature a cultural object that crystallizes moral values and meanings. As one part financial crime, they feature money as an impersonal tie that generates expectations about trust and obligation.

In cultural sociology, scandal is a disturbance to the social order that is precipitated by a normative transgression. The binary codes of purity and impurity that bind societies and give meaning to their internal practices periodically face contestation and challenge (Alexander 1989). In this regard, art market scandals originate in the "pure" and involve gradations of impurity. Social rupture occurs not at the intrusion of the impure into the pure, but rather at the point when the impure sphere is exposed to scrutiny and regulation by the pure (Alexander 2006, pp. 58–59).

Our model of art crime scandal links cultural sociological work on scandal with economic sociological work on markets and culture. In Zelizer's (2001) work on the interaction between intimate and commercial spheres, she identifies two schools of thought—Hostile Worlds and Nothing But. In a Hostile Worlds view, artistic and economic systems of value cannot interact. They have competing logics which must be kept distinct. In a Nothing But view, all forms of value can be made legible by markets (Grampp 1989). In the Hostile Worlds view, money must be kept separate from art, and the entry of money into the artistic sphere taints the purity of art. Through this Hostile Worlds lens, the art market is already impure because of the entry of money into the value systems of art.

We identify a compounded impurity which occurs through financialization by applying Baudrillard's concept of the simulacrum. We introduce the term *financial* *simulacrum* to theorize this double impurification not only of an artwork entering the marketplace but of its secondarily being securitized into fractional shares. Philbrick allegedly double-sold fractional shares in artworks so that collectors unwittingly owned more than 100% of the work. This alleged fraud heightens the structural nature of the financial simulacrum. With more than 100% of the work sold, the fractional shares are even further severed from any realizable claim to a portion of the artwork itself. Thus, the financial simulacrum allows the betrayal of one of the only relational ties that art market insiders can rely on: that they are buying a real share of aesthetic creation—a claim to a work that really exists. In this way, the Philbrick case typifies a new breed of art market scandal that involves not only the financial realm but specifically the fracturing of the financial integrity of an art object that has been divided into shares that function separately from the artwork.

What keeps these simulacra "real" is Philbrick's ability to pull off his deals by using personal qualities to give the deals meaning. Philbrick's dealmaking depended on an archetypal self-presentation as his financial transactions became increasingly derivative from the real. It was Philbrick who successfully traversed the space between artistic and commercial value, compelling art-market-adjacent speculators to trust him as an art market insider. This new map of art scandal across the dual artistic and financial nature of the work, mediated by the persona of the intermediary, is encapsulated in Fig. 1 and developed throughout this paper.

The rest of the paper is structured as follows. In Section I we present a review of relevant literature. We build on the sociological literature on scandal by placing it within idiosyncratic constructs of the art market, drawing together diverse literatures spanning market analysis, studies of valuation in economic sociology, and frameworks for the archetype of the dealer. These literatures allow us to synthesize the valuation of the art objects, the authority of Philbrick as a dealer, and the theorizing of financial simulacrum. In Section II, we present our methods, data, and analytical approach. In Section III, we discuss the institutional rules and social values that govern art market relational ties, and then explain Philbrick's violation of those ties through the fraudulent sale of an emblematic artwork by contemporary painter Rudolf Stingel. We analyze Stingel's market quantitatively using the Artnet Database and study reports by the company ArtTactic evaluating Stingel's investment prospects. In Section IV, we generate an archetype of art market scandal through four personal and social characteristics of Philbrick. These characteristics animate the theoretical map of the scandal (Fig. 1) by demonstrating the nature of his role as an intermediary. Section V offers conclusions.

Literature Review

Our theory of *art market scandal* requires analysis of all three components of that term: art, markets, and scandal. We begin by discussing cultural sociological work on scandal, then move to a targeted analysis of social scientific and humanistic accounts of the iconographic and social agency of art, and finally connect these bodies of work with economic sociological research on valuation, and finance. These literatures allow us to synthesize the valuation of the art objects, the authority of

Philbrick as a dealer, and the structure of—and moral response to—the financial simulacrum.

Scandal, according to Adut (2008), is the "disruptive publicity of transgression." Noting that not all norms-transgressions trigger a scandal, he argues that scandal assumes the publicization of an apparent transgression to a "norm audience"—a public united by some level of identification with the norm that has apparently been violated. To this end, cultural sociologists have emphasized that scandal is the outcome of social position-taking, and have demonstrated that artworks have the capacity to crystallize moral questions about group solidarity and norms (Alexander and Bowler 2018; Beisel 1993; Heinich 2005). Theft, forgery, and iconoclasm are paradigmatic examples of moral violations of art that can trigger scandal (see Fig. 1).[3] Writing about political scandal in *The Civil Sphere*, Alexander argues that allegations of anticivil behavior are crucial in transforming "putative office regulation" into affairs and scandals (Alexander 2006, p. 135). Anticivil behaviors include secrecy, lack of cooperation, aggressive use of power, and selfishness rather than solidarity.

Less important than the veracity of the scandalmongers' claims, however, is their interpretive power. To be besmirched by scandal renders a person and her actions polluting and impure. "Their symbolic damage can be immediate," Alexander writes, "whether or not legal sanctions follow" (Alexander 2006, p. 135). In art scandal, interpretations of meaning are a dialogical process from hermeneutical readings of the artwork—or the underlying, unwritten symbolism of its images—to practical assessments of the offender's motives, actions, and appropriate sanctions, and back again. This process is captured in the third row of Fig. 1. Prior work on art scandals has emphasized the hermeneutical dynamics. For purposes of our argument, we emphasize instead the pragmatism of market processes.

To frame a theory of art market scandal requires us to traverse the dialectical tension between purity and impurity, or—in the terminology of Fig. 1—the institutional and market values of art. Art market participants are forced to navigate formal and informal rules about exchange and valuation. Value is peculiarly fraught with regard to art given the complex interplay of social and cultural as well as financial capital (e.g., Bourdieu 1984, 1993). Some scholars have explained this as an outcome of the inherent incommensurability (Espeland and Stevens 1998; Fourcade 2011) of certain objects with money, an argument associated with the Hostile Worlds perspective (Satz 2010; Velthuis 2005; Zelizer 2005). Extensive qualitative work on art market participants problematizes this perspective, however (Gerber 2017; Wohl 2016). Coslor (2010) identified a plurality of views about art and money in her study of contemporary art collectors and dealers in Chicago and New York. "Art sales are a place where the worlds of money and cultural meaning come together with regularity," she writes, "requiring work to maintain the boundaries of acceptable practice in order to appease those who hold hostile worlds views" (Coslor 2010, p. 3). For this reason, she avers, studying the interplay of institutional and market values in art requires a cultural theory of the art market. The culture of the art market includes

[3] The category of "theft" includes looting and sale under duress as well as burglary or art heist.

social practices and speech acts that create a normatively enforced distance between the artwork as art and the artwork as financial product. For example, relational civility (e.g., McCormick 2015) can mask talk about money underneath a "cultural camouflage" of talk about art, within "pricing scripts" and other choreographies of conversation around the sale of art (Velthuis 2005, 2011).

To this end, one of the most crucial symbolic functions of the dealer is to mediate this space between art and money. Dealers need to be fluent in the discourse of finance and of galleries, to translate across fields, and to be adept at the cartographies of social and economic capital that dominate the global art market. Dealers generally do this by carrying out the "impure" work of finance and sale while also performing the rhetoric of art. Dealers are distinguished by their position as principals (those working in institutions such as galleries and auction houses or those selling artworks for which they have possession or some fiduciary duty) or as intermediaries (those more independent sellers of art who may have access to a work for sale but are at heart transactors more than even occasional stewards of art) (Khaire 2017). While access to art and to collectors is a key form of value across dealers, there are strong differences between dealers who take a principal position—selling works from inventory in the secondary market or stewarding careers of individual artists in the primary market (e.g., Cohen-Solal 2010; Winkleman and Hindle 2018)—and those like Philbrick who are agents. This agent role is intensified when what is sold is not an artwork but a share in a work of art, particularly foregrounding the financial rather than artistic nature of the artwork.

Art market culture does not prohibit discussion of prices or profits; the sale of art *requires* some discussion of money for the practical purpose of maintaining exchange processes. Instead, the culture can be characterized as an elaborate performance of disinterestedness that relies on appropriate relationships between art and money. Zelizer's term *connected lives* describes this intersection of personal and commercial, or artistic and economic, worlds (Zelizer 2005, p. 20–22). The exchange or purchase of goods and services combines intimacy and economic activity in ways that link people beyond the initial transaction. For Zelizer, intimacy refers to relations that depend on "particularized knowledge received, and attention provided by, at least one person—knowledge and attention that are not widely available to third parties" (Zelizer 2005, p. 16). Skilled art dealers not only have access to such knowledge and attention; they know how to *perform* market knowledge as though it belongs to the intimate sphere with art. For example, a dealer might reveal unpublished details of a work's provenance, or ownership history—a lineage that connects the present owner with all previous owners and, theoretically, directly to the artist's hand (Greenland 2021). This performance of market knowledge as existing in an intimate sphere reinforces the art market's utopian fantasy of pure aesthetic relationality between collectors and art.

The financial simulacrum interrupts that fantasy because it untethers a financial transaction from the reality of the work of art. The simulacrum, in Baudrillard's thesis, is a representation of a thing whose original no longer exists or that never had an original. As Baudrillard writes:

Such would be the successive phases of the image:

> it is the reflection of a profound reality;
> it masks and denatures a profound reality;
> it masks the *absence* of a profound reality;
> it has no relation to any reality whatsoever: it is its own pure simulacrum.
>
> In the first case, the image is a *good* appearance—representation is of the sacramental order. In the second, it is an evil appearance—it is the order of maleficence. In the third, it plays at being an appearance—it is of the order of sorcery. In the fourth, it is no longer of the order of appearances, but of simulation. (Baudrillard, 1994, p. 6)

Applying this framework, the artwork is the first appearance. The market nature of the work is the second—"evil" in its appearance along Hostile World lines. The third is the financialized or securitized nature of the work, divided into shares that "mask" or "denature" the reality of the artwork in the first degree as transacted for money in the second. The fourth phase is the financialization to such an extent that the original underlying artwork becomes irrelevant or conceptually detached. Philbrick's alleged dealings fit this phase because he oversold shares such that the financial product literally did not correspond to the artwork. A financialized artwork that is sold legally—for example, shares in a non-fungible token (NFT) or artwork sold over an exchange (e.g., Schneider 2021)—for which the original object is stored in a freeport or otherwise never accessed by the purchaser—also fits this category of the financial simulacrum.

In the case of financialized shares in art, what maintains the fiction of the simulacrum is the reality of human activity, including the surrounding signs, symbols, and stories around the work. As we will see in the Philbrick case, *the financial copies took on a meaning of their own.* Many of his investors never saw the actual artworks they thought they were buying. Crucially, they also never met or learned the names of other investors, advisors, and arbitrageurs involved in the financial instruments. While we focus on the financial simulacrum in our theory building, we also argue that that simulacrum is held in place by a projection of the dealer's personal characteristics—a projection that itself has a simulacrum-like relationship to the person of the dealer. Given the abstractions of the modern global financial art trade (McAndrew 2010, 2020) yet the singularity of the individual artwork (Karpik 2010), we need the archetype of the informed yet stylish dealer to keep the financialized shares connected to the cultural capital that they represent.

Especially in the case of intermediary dealers who are representing artists and artworks as an agent rather than as a principal, the dealers are particularly tasked with performing archetypally in order to signal expertise as representative for the work of art. Art dealers often deploy not only field expertise but also bodily capital to generate trust and forms of desire. In a narrowly defined sense, bodily capital refers to the assets that comprise the complete physical "look" of a person: height, proportions, physiognomy, phenotype, personal grooming, and sartorial choices. To adapt the term more broadly to a field obsessed with aesthetics, the art dealer's body is one of his assets, "his instrument and object of work" (Wacquant 1995, p. 66). Dealers may be judged aesthetically as a proxy for their taste in art. Although more art deals have moved online in recent years (Buchholz, Fine and Wohl 2020), in-person meetings remain the preferred transactional scenario. Handshakes, eye contact, small talk, and time spent together are meaningful components of trust-ties. These relational encounters anchor the ephemeral nature of the simulacrum in the more solid assurances of the salesman's demeanor, an archetype we analyze specifically in Philbrick's case in the following sections.

This interaction of ephemerality of the financial simulacrum and grounded relationality of the dealer's archetypal presence is only possible in the context of art investment and financial study of art markets as took hold in the second half of the twentieth century. Beginning in the late 1950s, the art market developed a particular knowingness about the financial nature of works of art (Gabriel 2017, p. 634). Those early collectors of twentieth century American and European art profited handsomely from investments that were sometimes made, in the first instance, from love of art or desire to support artists (Whitaker and Kräussl 2020). Lovo and Spaenjers (2018) have offered a typology of art collectors to distinguish those who have love of art from those interested in financial speculation, acknowledging that the wealthier the collectors the more they could afford their love of art, even in a downturn. Those collectors who are financially motivated may also have absorbed the growing literature on art as a financial asset class.

This financial study took root in Baumol's (1986) analysis of Reitlinger's (1961–1970) three-volume record of art sales in *The Economics of Taste*. Isolating only those sales of works that went to auction twice—the so-called "repeat sales"—Baumol found that returns to an investment in art outperformed the rate of inflation by 0.55%. Later scholars expanded and reinforced these findings (e.g., Goetzmann 1993; Mei and Moses 2002, 2005). Subsequent art finance analyses added hedonic regression (e.g., Renneboog and Spaenjers 2013; Korteweg et al. 2016), a method in which many of the characteristics used in appraisal (McNulty 2013; McAndrew 2007) are combined to find which ones best predict the price of the work (hence the term "hedonic" as which characteristics are most pleasing and thus represented by price). These studies laid an academic foundation for the financialization of art. And in studying large sample sets, these studies encouraged a view of the financialization of art from a distance, as if one were buying shares, arguably setting the stage for the securitization of art required for the financial simulacrum.

The financialization of art—specifically the securitization of art into fractional shares—has grown with the development of blockchain technologies in the arts (Whitaker 2019). This development lags behind securitization in the broader field of finance—the development of the Black–Scholes (1973) options pricing model and the wave of financial derivatives that followed. As MacKenzie (2006) has written, those financial models came to be performative, that is, they worked because everyone followed them. The securitization of art is that much more complex in that there is no underlying valuation model—apart from connoisseurship—and thus prices may be set at auction—economically as a price-clearing mechanism (Klemperer 2004) or performatively as a result of interactions in the room (Heath 2012)—or via rhetorical performance and pricing script (Velthuis 2005). This combination of financialization and reliance on rhetoric created space for Philbrick's creation and maintenance of the financial simulacrum.

Methodology

To build our theory of the financial simulacrum we treat the story of Inigo Philbrick as a case of scandal, but of a type that challenges previous analyses of scandal in sociology. Empirically, we focus on the aspects of Philbrick's life and career most germane to his activities as an art dealer. Every social actor is a complex being who exists in multiple spheres of relations and agency. The task of case study necessitates that this complexity be judiciously bound for purposes of comparison. To this end, we adopted Abbott's (1992, p. 65) understanding of the case/narrative approach as "fuzzy realities with autonomously defined complex properties." Theory-building case work also requires contextualization to illuminate in a new way the concept or phenomenon under consideration. We place the Philbrick case in dialogue with the social actors in his environment, including buyers, sellers, artists, and artworks. In this sense, we follow Abbott's second move, seeing cases as "a dialogue of action and constraint that we call plot" (Abbott 1992, p. 65). The concept of plot captures the performativity, dramatic tension, and character archetype that constitute the narrative arc of Philbrick's rise and fall.

We use a mixed methods approach that combines interviews with expert insiders, critical reading of art-market press and essayistic firsthand accounts, and art market analysis. In line with Adut's theory of the role of publicity in scandal, we read mass media, including gossip columns, art market newspapers, and social media posts as significant shaping forces in the art market scandal. For the interviews, we met with five art world insiders whose expertise spans due diligence, high-level private dealing, financial transaction management, and intermediary sales functions similar to those of Philbrick. We interviewed these insiders with the express understanding that the interviews were on background and that their identity would not be revealed. With permission, we reveal that we interviewed Kenny Schachter, an artist, curator, and essayist whom Philbrick allegedly betrayed as a collaborator and whose firsthand accounts of his time with Philbrick inform the second area of our methodological approach.

In the second category of our methodological approach, we focused on the coverage of the Philbrick case in the court documents and the news. The primary court document is the U.S. government's complaint against Philbrick, which offers a detailed analysis of the alleged facts of the fraudulent transactions, as well as an ability to corroborate the journalistic accounts of the fraud. The predominant journalist covering this case is Eileen Kinsella, a respected reporter who has previously focused on art crimes. Kinsella wrote a series of articles on the Philbrick case for *Artnet News,* a respected intra-industry source run by the company Artnet, which is a predominant provider of auction sales analysis through its Artnet Database. The journalistic arm, Artnet News, generally runs independently, as far as we know. We also attended a public program at which Kinsella spoke on the Philbrick case. She is known to one co-author through a past public program on art crime. The story was also covered in the *New York Times* and other general news sources. We used these accounts both as factual reporting published in well-vetted papers of record and as texts that could be read critically within the analysis of publicity around the crime.[4]

The third category of our analysis draws on both art-market data and art-investment research reports. For the data, we employ the Artnet Database, one of a handful of industry-standard digital records of a wide universe of public auction sales results. We focus on Rudolf Stingel and analyze the roughly 300 paintings of his that have sold at auction. We employ standard descriptive statistical methods to try to understand the factual pricing circumstance around Philbrick's art purchasing and sales behavior. We attempt to understand contextually whether there was momentum or hype in Stingel's market, so that we can connect that understanding to our analysis of Philbrick as an archetype. In addition to the raw auction data, we use two research reports provided by the respected company ArtTactic. These reports are generally directed at art market investors to offer a snapshot of an artist's auction performance, museum exhibition history, and other points of information that might recommend the artist to a buyer at a given price point. These reports are analogous to equity research reports in the financial services industry. They complement the auction data itself with a more holistic view across credentializing by primary-market art galleries (as opposed to secondary-market auction sales), as well as exhibitions in commercial galleries and museums.

Analysis: mapping the Philbrick scandal

Inigo Philbrick was born in Connecticut in 1987 to Harry Philbrick, a longtime director of the Aldrich Museum, and Jane Philbrick, an artist and university professor. He entered the world with impeccable art market pedigree. Like his father, Inigo studied at Goldsmiths College, University of London, an institution lionized in the art world for incubating Damien Hirst and the other "Young British Artists" (YBAs) who dominated the contemporary art market in the 1990s. In 2010 Philbrick interned at the prestigious White Cube Gallery for Jay Jopling, the YBAs' catalytic dealer, going on to serve as a director and then manager of secondary market sales for the gallery (Kinsella 2019). In 2013, Philbrick opened an eponymous gallery in London with Jopling's backing (Bernstein 2020) and then later opened a second gallery in Miami (Kinsella 2020b). As Kinsella notes, there were "whispers" about Philbrick's financial dealings even then. Philbrick's investment methods relied on careful analysis of an individual artwork's *market*. At the same time, his investments existed in a modern financial context in which art is studied as an asset class.

A key example of Philbrick's dealer style was the transaction activity around Rudolf Stingel's *Untitled* (2012), the photorealistic painting of the artist Pablo Picasso (Fig. 2). The Stingel painting was part of a group of artworks that Philbrick co-purchased with the German art investment group Fine Art Partners

[4] The essayistic accounts of Philbrick that we consider are written by Kenny Schachter, who, with both great honesty and prose styling, revealed the extent of his friendship, betrayal, and ongoing interaction with Philbrick in a series of essays across *Artnet News* and *Vulture* (Schachter 2019, 2020).

Fig. 2 Rudolf Stingel, *Untitled,* 2012. Oil on canvas. 95 × 76 in. (241.3 × 193 cm). © Rudolf Stingel. Photo: Rob McKeever. Courtesy Gagosian

(FAP) in November of 2015 (Kinsella 2019). They paid $14 million to acquire a bundle which included pieces by Wade Guyton, Yayoi Kusama, Donald Judd, and Christopher Wool, as well as the Stingel *Untitled* (2012). Philbrick and FAP purportedly agreed that the acquisition value of the Stingel was $7.1 million and that they would try to sell it at a target price of $9 million (Kinsella, 2020b). Philbrick was responsible for approximately 30% of the acquisition cost, but the parties agreed that Philbrick would only pay his share when the works resold. This structure of arrangement cemented Philbrick's role as an intermediary, a co-investor of record but not one who was fronting cash. Philbrick did, however, take possession of the work, and assured his partners that the work was securely stored (Kinsella 2020b).

Shortly after the acquisition of the Stingel in late 2015, Philbrick allegedly sold 50% of the Stingel (more than his ca. 30% share) to another investor (Kinsella 2019). Two months after that, Philbrick told his co-investors that they still owned the Stingel (Kinsella 2020b). But in June 2016, Philbrick reportedly sold the Stingel outright to yet another set of investors (Kinsella 2020b). Over this roughly six-month period, Philbrick's 30–35% share ballooned in his transactional record to 50% and then 100%. At this stage, Philbrick no longer owned the Stingel at all, but FAP still believed they were the majority owners. It was only in May 2019 when the Stingel sold at auction at Christie's in New York that Philbrick's alleged fraud became visible. The work sold for $6.5 million (with premium; $5.5 million hammer price). That was far short of the $9 million target. Philbrick had told FAP that they were the consignors of the work and that the auction house had provided a $9 million

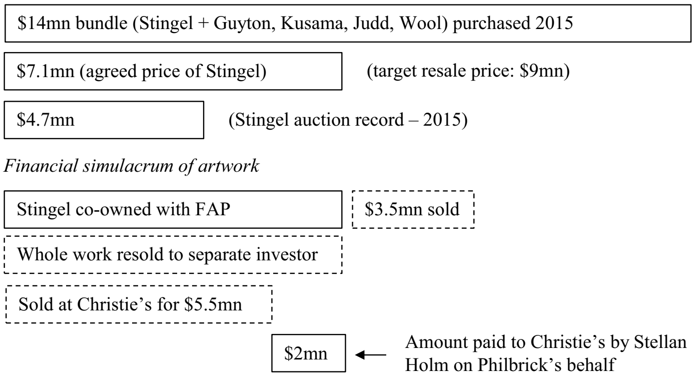

Fig. 3 Rudolf Stingel, *Untitled* (2012): Financial Trajectory and Creation of a Simulacrum. Figure by the authors

guarantee. FAP asked Philbrick to pay them for the transaction. Philbrick allegedly provided falsified documents to FAP to show this consignment.

Months later, FAP contacted Christie's directly and learned that Philbrick was not the consignor. In fact, not only was Philbrick not the consignor, he was the buyer. Through the gallery Stellan Holm, Philbrick had been the winning bidder on the Stingel. Stellan Holm never relayed to the auction house more than $2 million of the payment. Once the parties recognized the machinations of the alleged fraud, they filed lawsuits against Philbrick (Kinsella 2019). Figure 3 shows the financialization of Stingel's *Untitled* (2012). The dashed lines signify the fraudulent representations around the financialized and doubly sold work. The dollar figures in the dashed boxes represent the transactions that break the financial integrity of the work through double selling and unacknowledged transfers, all buoyed by Philbrick's aggrandizements. When the artwork enters the realm of financialization and market projections, it ceases to be "the work" alone and operates instead as "the future." In the language of hermeneutics, it is a text capable of sustaining multiple readings and—crucially—of taking on new symbolic meanings distinct from its original.

In order to better understand Philbrick's position-taking decisions, we consider the Stingel incident as a model case. We employ the Artnet database and analyze Stingel's auction results for paintings. From 1998 to 2020, Stingel saw 321 paintings go to auction. Of those, 248 works were successfully sold, with 69 works "bought in" (the auction term meaning a work failed to sell, usually because bidders did not offer a price over the consignor's reserve). A further four works were withdrawn from sale or otherwise listed in the database without a sales price. The Stingel work—for which Philbrick and his co-purchasers paid $7.1 million—is a notable, even extreme, outlier in Stingel's market to that date. According to the Artnet database, the record for a Stingel was $4.76 million, a price only achieved in May 2015. The previous record for a Stingel at auction was $2.66 million, set in 2010. Even looking at all sales through October 2020, the Stingel sale with Philbrick as buyer, not consignor—at $6.5 million (with premium)—is the third highest Stingel sale at

Fig. 4 Rudolf Stingel Ratio of Auction Sales to Works Bought In at Auction (2008-2020). Figure by the authors. Data source: Artnet Database

auction. Only one $7.94 million sale and one record $10.55 million sale exceeded it; those sales occurred in 2018 and 2017 respectively, after Philbrick acquired the work. At best, Philbrick was aspirationally pricing the Stingel as if the market were going up.

It is hard to know from the available information how Philbrick decided on the $7.1 million acquisition price. One wonders what independent due-diligence information Philbrick's co-investors were using or whether they were relying on their hunches about Philbrick's reputation for astute art historical knowledge. As Kinsella said in a public program hosted by the Center for Art Law, some of the fraud could have been averted with due diligence as basic as a Google search (Kinsella et al., 2021). It is possible that Philbrick's performative, and possibly substantive, love of art served as a mark of moral certitude, inviting the trust and credulity of his counterparties.

Unfortunately, some aspects of the story point to the lack of art-world knowledge of Philbrick's co-investors. For example, they purportedly believed Philbrick when he said he had consigned their "jointly held" work, the Stingel, to Christie's. Yet Philbrick told them the auction house had guaranteed the painting for $9 million. When the work sold, the published price was $6.5 million (with premium). By definition, an artwork sells at or above the guarantee (before premium). Thus, the co-investors could have known at that point that Philbrick's alleged statements to them were inconsistent with the publicly disclosed facts of the case. It is fair to ask, from a financial standpoint, if a momentum argument was being made. Philbrick might have convinced investors that the Stingel was growing in value and also would not decline. This would have created a beguiling pull for those whose main motivation to participate in the art market was purely financial.

In addition, the co-investors could have consulted independent data, via Artnet, or reports, via companies such as ArtTactic. The data generally do not back up a momentum argument, that the works were on an upward trajectory. First, Stingel's market shows substantial volatility in price and a high risk of a work failing to sell. In our sample of the 321 records from 2000 to 2020, roughly 23% of all Stingel paintings that went to auction failed to sell. Figure 4 shows the ratio of works sold versus buy-ins for each year from 2008 to 2020.

While it is true that Stingel's prices have risen over time, they have not risen to a level that would make Philbrick's projections earned, and the prices have not

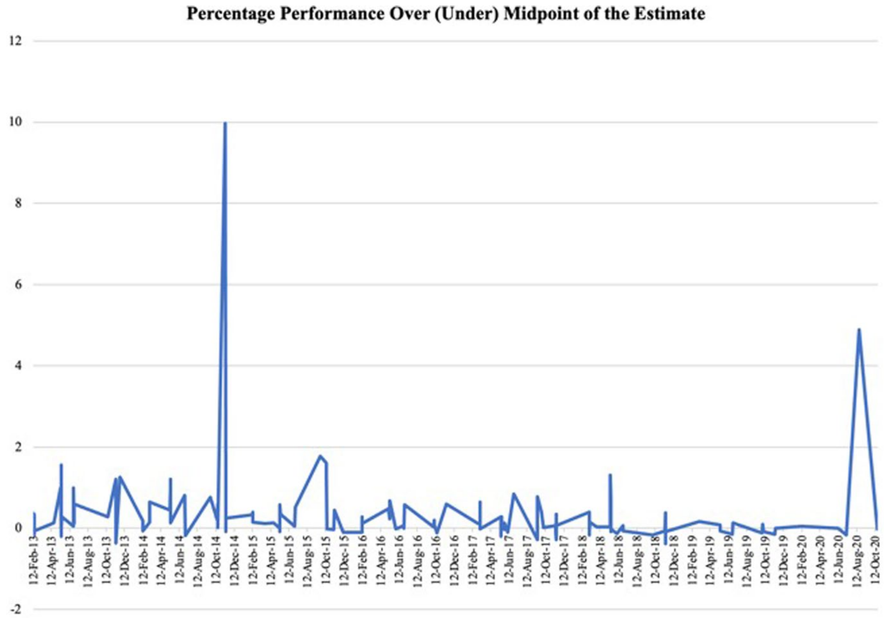

Fig. 5 Rudolf Stingel Auction Price Relative to Midpoint of the Estimate (2013–2020). Figure by the authors. Data source: Artnet Database

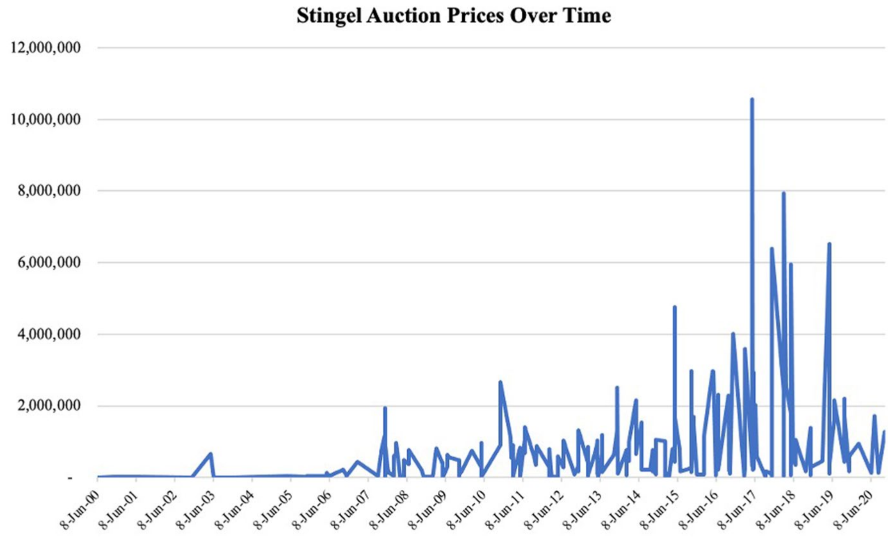

Fig. 6 Rudolf Stingel Auction Prices by Artwork (2010–2020). Figure by the authors. Data source: Artnet Database

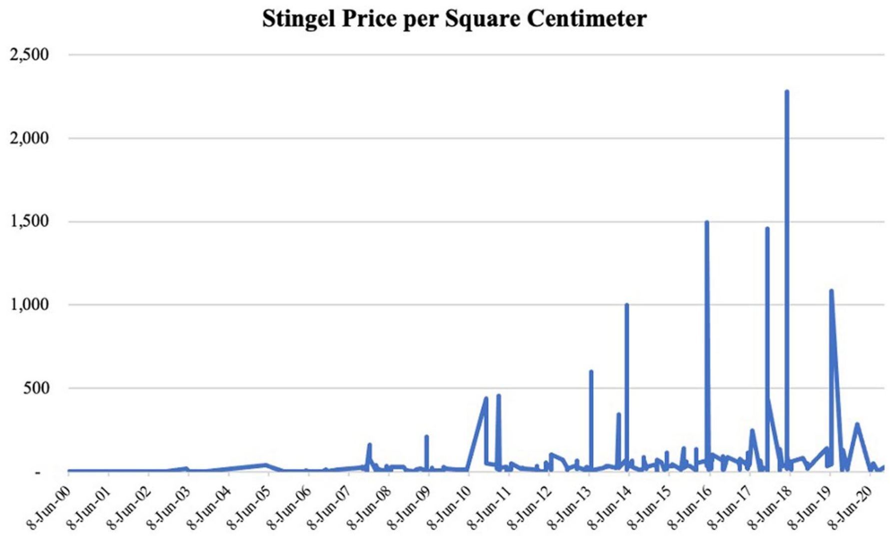

Fig. 7 Rudolf Stingel Auction Prices by Square Centimeter (2010–2020). Figure by the authors. Data source: Artnet Database

noticeably outperformed the estimates. Figure 5 shows this lack of performance relative to pre-auction estimates. Figure 6 shows the rise in prices over time in absolute terms, while Fig. 7 shows the change in prices over time per square centimeter in order to normalize by size of painting.

Stingel does have distinct bodies of work, and the Picasso portrait comes from what is generally the most prized series of his works—that is, the portraits and not the foil paintings. Yet the public auction market generally does not support the prices assigned by Philbrick.

Market reports by the firm ArtTactic around that time make the case for Stingel, without justifying the full price assigned by Philbrick. According to ArtTactic, Stingel's photo-realist works increased in price by 600% from 2009 to 2016 (ArtTactic 2017). The number of Stingel works to go to auction grew in the years leading up to Philbrick's acquisition, and then declined 30% in 2016 (ArtTactic 2017). Stingel also received a strong number of gallery and museum exhibitions—a form of institutional endorsement that can bolster auction prices—but that number of shows also then declined (ArtTactic 2018).

Persona as conduit: archetypes

The structure of Philbrick's financial transgression, and his success in creating and maintaining a financial simulacrum, derives from Philbrick's persona. To traverse the space between artistic and financial meaning-making, Philbrick needed a set of qualities that made him at once placeless and an insider, glamourous and a more bookish connoisseur. As journalists noted, Philbrick looked every bit the part of a rich and rakish young dealer. He was "an omnipresent figure at art-market events, usually sporting a five o'clock shadow, a tailored Italian suit, and a shirt with the top two buttons unbuttoned" (Kinsella 2020b). Schachter described Philbrick as part Justin Timberlake (Schachter 2020) yet with a quiet demeanor that perhaps signaled an intellectual relationship to works of art.

We outline Philbrick's core characteristics in four categories: Philbrick embodies a rootlessness we call "hydoponic," an art-world imprimatur we call "validated," a capacity for spectacle together with blending in that we call "novel yet neutral," and a tendency—after his Icarus-like fall—to be "self-pardoning." We present these facets and then place them in a narrative that animates our map of the scandal.

Hydroponic. First, Philbrick is unrooted yet has an origin story. Rather than a plant potted in soil, his core persona is hydroponic, springing from a surface layer, floating in water. Philbrick operated in the United Kingdom as a young American. Because of this outsider status, he was unmarked class-wise, gliding along the surface of British society. Although this outsider status may be easier to manage in the reverse direction—the tweeded, British-accented expert in the U.S.—fundamentally, Philbrick's success depended simultaneously on his placelessness and his expertise.[5] The art market's opacity would support such oblique roots and in-the-room performativity.

Validated. Philbrick's placelessness exempted him from being pegged into a neat social hierarchy at the same time his credentials ensured his entrée into certain social situations. Philbrick was credentalized from the outset by his parents', especially his father's, art historical accomplishments. With a museum-director father, Philbrick grew up steeped in art history. Following in his father's footsteps to study at Goldsmiths, University of London, Philbrick reified this part of his background. He then embodied, in the words of one expert insider, the "myth of the terrible prodigy." Luminaries of the field validated Philbrick as such. He was championed by super-gallerist Jay Jopling and various senior auction house leaders and commentators. Jopling said of Philbrick, "He struck me as a smart, ambitious young man with a good eye for art and an impressive commercial sense" (Kinsella 2020b). Simon de Pury, former chairman of Phillips auction house, called Philbrick "one of the most talented young dealers" (Kinsella 2019). Kenny Schachter, the artist, private dealer, and curator, synthesized this placeless yet validated persona when he described Philbrick as "American but vaguely posh accented, with an English-educated art-museum-curator father" (Schachter 2020).

Novel yet Neutral. The art market's preference for new trends, faces, and ideas favors up-and-coming outsiders like Philbrick. As Schachter writes, Inigo fully earned the word "party" as a verb. In Schachter's unsparing and entertaining *Vulture* essay "The Art World's Mini-Madoff and Me," Schachter chronicles their friendship,

[5] Other perpetrators of art world scandal have shared this placelessness, in particular Michel Cohen, the scandalized French art dealer who defrauded U.S. investors and currently lives outside extradition reach as a French national living, purportedly, in France. What Cohen said of his time in the U.S. might apply to Philbrick as well: "Americans always think that someone from somewhere else is going to know more than they do" (Engle 2019, 14:40).

and his having been "immediately smitten" with the "sharp, fun, and funny" Philbrick (Schachter 2020). Emphasizing Philbrick's bodily capital as well as his malleable social position, Schachter describes him as "slim, neither short nor tall, with closely cropped gingerish curls and carefully manicured stubble to the point just shy of reaching a fully-fledged beard" (Schachter, 2020). Philbrick cultivated a carefully studied and groomed neutrality, and appeared to be, again in Schachter's description:

> [t]he sort of person who fit in seamlessly among the well-educated, well-tailored, well-traveled tribe that populates the art world even if, unlike so many of them, he didn't happen to have the inherited funds. Already, however, he had the airy arrogance and profound self-assuredness you find in the smoothest and most convincing of art dealers (Schachter, 2020).

Schachter and Philbrick, "art world wingmen for each other in life and business," drank together ("institutional amounts of red wine and Monkey 47 gin" (Schachter 2020)), roughhoused, and seemed inseparable. Philbrick's ludic novelty may also create the personal equivalent to Velthuis's observations in "The Venice Effect" that artworks are sometimes well received in markets specifically because they are new. Velthuis presents the paradox: "The fresher the signal the stronger its impact" (Velthuis 2011). Philbrick's bodily capital and gender afforded him this shiny, youthful energy as a wunderkind dealer. Nevertheless, Philbrick was described to us as quiet, perhaps allowing a degree of projection of these stories onto him.[6]

Self-Pardoning. After Philbrick was caught he justified his behavior by insisting there were no real victims. To the press, he has presented himself as a morally decent person whose only flaw was to dream big. The fiction that financial crime has no real victim—especially when the victims are still wealthy—is a common refrain in white collar defenses (Jacobs 2005). It is used to argue that there was no crime. Philbrick has adopted this fiction in his defense.

His inclination toward self-forgiveness seemed to go hand in hand with a kind of mansplain-laden denialism, attempting rhetorical sleight-of-hand toward incriminating details or invoking the privileged position of believing one should be exempt from consequence because of good intention. Philbrick's lack of expressed remorse dovetails with his prior persona as imperviously confident, as Schachter describes him, "saunter[ing] into the salesrooms… with balls of steel" (Schachter 2020). But by the end of the story, despite his hopes of a return to a less complicated before-time, Philbrick reached a point of no return in his self-exile and subsequent imprisonment.[7] Philbrick reinforced this persona in his Vanuatuan exile, where he developed a reputation on the island for rescuing dogs (Kinsella 2020a).

[6] He shares the distinctive profile of quiet demeanor yet brazenly luxurious personal style with Jho Low, the Harrow-educated Malaysian scion of the 1Malaysia Development Berhad ("1MDB") scandal. That scandal ensnared Goldman Sachs, the Malaysian government, and an assortment of Hollywood celebrities in Low's alleged embezzlement of $4.5 billion from Malaysia's sovereign wealth fund (Hope and Wright 2018). Physically, Philbrick cultivated a shiny, well-dressed youthfulness in line with such art-and-fashion luminaries as Anna Delvey, who falsely presented herself as a Russian heiress and defrauded friends and investors on a non-existent Manhattan real estate investment (Pressler 2018).

[7] Philbrick's disappearance may have exacerbated his legal consequences because it gave the impression of trying to go to a locale without U.S. extradition, even though in fact Vanuatu did not meet that criteria.

These characteristics—hydroponic rootlessness, validated trust, appealing novelty yet neutrality, and a tendency to self-pardon all come together in the archetype of a dealer who can traverse the space between speaking as an art expert to transcendent and priceless value and then speaking to financial investors about (allegedly oversold) fractional shares in art. Essential to his success as a dealer was the multifaceted "outsider" role that he credibly performed. Philbrick was the art guru to the money people. He was the financial whiz to the market-shy art lovers. He was the upstart youth with a connoisseur's eye, in a business in which youth, beauty, money, and value have always intersected in powerful and contradictory ways.

Conclusions

By mapping the financial simulacrum in relation to the archetypal art finance dealer, our model presents a way to think about financial, not only artistic, scandals around works of art. In addition, our analysis adds to cultural sociologists' theorizing of social purity through the creation of art's (impure) financial simulacrum. Yet, following from Adut's theory of publicity and the consequences that the whole field may face from the publicized transgression, Philbrick's story raises larger questions about the risk of regulation of and forced transparency in art markets overall. At the time of the transgression, the art market was facing new forms of regulation, both the impacts of GDPR, the European privacy directives toward online art sales, and new regulation in the EU, in the UK, and now in the US regarding requirements that art dealers conduct anti-money-laundering (AML) due diligence and follow more stringent "know your customer" (KYC) rules than typically observed in the arts. In that context, one could say that the risk of Philbrick's transgression is represented by public or governmental momentum toward greater regulatory oversight (Mullen 2020).

We have not seen that potential consequence. Instead, Philbrick's story has thus far remained sealed off as the narrative of a lone individual who has, in our reading, taken this Icarus-like fall. Yet even still, Philbrick's case points to a much more fundamental and widespread financialization and lack of transparency around art sales. The traditional opacity of art markets may have suited the sale of whole artworks, but opacity may be more consequential with this financialization, and fractionalization, of investment in art. In that context, these systemic questions of opaque financialization may be more important than the theatricality or spectacle of Philbrick's arrest and incarceration. His story and dramatic capture may mask larger but quieter dynamics of money-laundering or tax evasion that are necessarily enabled by the complexity of valuing art and the opacity of the art market. Philbrick's story takes place in an art world lacking in transparency, regulation, and agreed accounting systems, and built on trust ties and relationships forged over years and even decades. Malfeasance, "shady" deals, and high-risk practices are, in many regards, endemic to the art market given customs of transaction privacy and the inherent fungibility of subjective valuations of art. Philbrick became a lightning rod to expiate the pollution of over-financialization and stave off the collective threat of hyper-regulation of art markets.

To this end, the role of financialization in art opens the door to a number of additional lines of work. First, art dealers have largely been studied as social actors who provide intimate ties between buyers, sellers, and artists. When Joseph Duveen, the storied British dealer, described himself as a "matchmaker" who brought art-rich but money-poor European aristocrats together with money-rich but art-poor American moguls (Behrman (2002 [1951]), he presaged economic sociology's interest in "good matches" and market ties (Zelizer 2005). In a few instances, his matchmaking extended to marriages; he was physically bringing together people and art into good matches. Today, however, art financialization includes many more people than the classic buyer-dealer-seller triad. Philbrick was less a matchmaker than an arbitrageur who brought together loose conglomerations of people, firms, and other entities. What linked them was *risk* first, art second. Sociologists could productively attend to the implications of this by assessing how contemporary dealers capitalize on finance to expand the space between artistic and commercial value, and to extend chains of social relations through art transactions, both with actors inside the art world (Becker 2008) and those financially motivated investors who are adjacent to it.

Second, our theory suggests there is more work to be done on the evolving meaning of art in the era of global finance. In art market finance, when the artwork is split into shares, each share can act as a representation—in Baudrillard's sense of being a (financial) copy of the artwork. The financial simulacrum takes this a step further, by generating copies of the financial copy, eventually replicating and selling them so that in some cases the copies exceed the size and value of the original work. Sociologists of culture have generally treated copies as problems of authenticity, or as replication crises that undermine the singularity of the original. But the financial copy goes further, into realms of social ties, durable meanings, and the nature of trust. Finance, in other words, may be stimulating new forms of copying that require theories other than material uniqueness or culturally specific anxieties about iconographic fidelity. The high prices paid in early 2021 for digital art as non-financial tokens (NFTs), for example, indicate the unsettled nature of digital copies and finance.[8] An NFT *Everydays: The First 5,000 Days,* by the artist Beeple (Mike Winkelmann) sold for $69.3 million dollars, at the same time that anyone can own a high-resolution jpeg of the same image. Now the artwork is not an original but the financial structure around it is. And that financial structure, owned by MetaKovan (Vignesh Sundaresan), the principal of an NFT-investment fund, is being fractionalized into shares that can be bought by members of the public (Mak 2021; MetaKovan 2021). Thus, people can own a disembodied financial simulacrum of the work and, at the same time, can own one of infinitely many equal copies of the work itself.

[8] An NFT is a type of token on the Ethereum blockchain that can allow a digital image or other file to function as an original and singular (i.e., non-fungible) object whose singularity is recorded on the blockchain. Blockchain is a distributed ledger technology, meaning a special database structure in which one can create public trust in records without having to trust a central authority as the recordkeeper.

Philbrick's story serves as a microcosm of broad social questions of what is real and what is valuable. The structural and symbolic roles of art and money both shape-shift. A traditional artwork such as a painting cannot be divided, as if cut with scissors, and so any fractional ownership disconnects the financial shares from the work itself. Yet in the case of digital works, the artwork retains its aesthetic integrity in many copies while also being synthetically structured as a single unique financial object—one then engineered into shares with a promise of democratic participation, on market terms. Thus the map of art market scandal becomes emblematic of the larger social questions of what constitutes symbolic versus structural action, in the nature of art, in the design of financial instruments, or more societally in larger social futures of justice and repair. It appears so far that Philbrick's purported guilt will not disproportionately result in systemic change in the arts, but that the art market might even become engulfed in further stories. In the publicity feature of scandal (Adut 2008), the real villain may be revealed to be wealth itself.

Acknowledgements The authors wish to acknowledge Kenny Schachter and numerous other expert insiders who wished to remain anonymous, as well as Giana Ricci, Rani Singh, and Olga Rosen, and Anders Petterson of ArtTactic. Both authors contributed equally to the preparation of this article.

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