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Gauguin in alleged fraud by former NFL star

Ponzi-scheme case highlights vulnerability of those looking for a quick return on art

By Riah Pryor. Art Market, [Issue 244](#), March 2013

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A former US National Football League player has been arrested by federal authorities on charges that he accrued more than \$2m through Ponzi schemes, including a fraudulent opportunity to invest in a painting he said could be by Paul Gauguin and worth a potential \$58m.

Russell Allen Erxleben was arrested at the end of January, accused of using The Sorcerer of Hiva Oa (date unknown) as part of a Ponzi scheme, a type of investment fraud in which so-called "returns" are paid to earlier investors using funds from later investors. He remains in custody after waiving a detention hearing last month and is pleading not guilty.



Russell Erxleben in 1977

According to court papers, Erxleben, beginning in 2009, is accused of using the identity of a company called the Gauguin Partners, formed previously by two individuals "who located and contracted to purchase" the painting. There is no suggestion of wrongdoing by the founders of this company. The papers say that Erxleben, who was not a member of the Gauguin Partners, "nor associated in any way with that entity", "fraudulently solicited investors for money to authenticate the painting". He said that the process would cost around \$75,000, of which \$25,000 was to be paid up front. He is alleged to have said that the work could be worth as much as \$58m.

Further details of the painting, its ownership and its provenance are not given in the indictment, which describes the work as being by Gauguin. There is a work with the same title, dated 1902, in the collection of the Musée d'art moderne et d'art contemporain de Liège, in Belgium, but a spokesman for the museum says it is unaware of any legal situation and that the work in its collection is "inalienable" public property.

It is unclear how much money Erxleben is accused of having accumulated from the Gauguin venture. He is charged by the US federal authorities with five counts of wire fraud, one count of securities fraud and two counts of money-laundering. He was previously sentenced to 84 months in prison after a conviction for securities fraud.

If the allegations are true, it would not be the first time that such a

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scheme has been attempted in the art world. In 2010, the New York Old Master dealer Lawrence Salander was sentenced to six to 18 years' imprisonment, after pleading guilty to extracting \$120m from clients—money he then used to pay other investors.

"Ponzi schemes cross over just about every industry and appear to be thriving worldwide," says Kathy Bazoian Phelps, a US lawyer who specialises in bankruptcy law and fraud, and who has co-written a book on Ponzi schemes. "They tend to involve promises of high or consistent returns to investors and often target affinity groups. An air of secrecy or exclusivity makes them especially enticing."

There is an increasing number of investors who are interested in art but may not have expertise in the field. "Art sounds mysterious and valuable," Phelps says. "While it may not be necessary to be an art aficionado to invest in art, it is necessary to understand the business model and what will be generating the investment returns."

Thomas Woodham-Smith, the co-founder of London's luxury-goods fair Masterpiece (27 June-3 July), agrees. "Those looking for a swift, high level of return are most vulnerable to schemes like this," he says. "There can be this risky mentality of putting all your eggs in one basket and of over-investing. It's important to take a step back and remember that nothing is easy."

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