

NAMES IN THE NEWS

LAWYER OF THE WEEK

Portrait of an art and IP lawyer

MICHAEL RAPPAPORT TORONTO

Recently, Bonnie Czegledi, an international art and cultural property lawyer, received a frantic phone call from a client, who had been warned by a Canada Customs official that a Flemish oil painting he wanted to bring home to Canada from Europe may be Nazi-looted artwork. The client's family had owned the painting for four generations, yet now he feared that it could be seized at the border.

Immediately, Czegledi sprung into action. She helped her client trace the provenance of the painting — the history of ownership — to prove that his great-grandfather had purchased the painting in Paris in 1921 and that after his death it was passed onto his grandfather, then to his mother and finally to him.

"My client still had the bill of sale from his great-grandfather's papers," Czegledi says. "A search of relevant databases showed it had not been reported as a loss or theft between the years 1933 and 1945, and we provided a letter from a local museum explaining where the painting had been during those years."

Paperwork in hand, Czegledi's client was able to sail through customs and bring the painting home safe and sound.

Czegledi's path to becoming an international art and cultural property lawyer wasn't quite so smooth. As a child, she hid her drawings and paintings under her bed, since her parents discouraged her from following her first love: Art. Pressured to find a practical career, Czegledi studied law at Osgoode Hall Law School and toiled for years in insurance defence and commercial law. Still, she clung to her dreams.

"Always in the back of my mind, I was thinking about how I could become an international art and cultural property lawyer, when



PHOTO BY KEITH PENNER

Bonnie Czegledi

everyone said it couldn't be done," Czegledi recalls.

Pursuing this goal, Czegledi took courses in art and cultural property law from Harvard, Yale and the University of Jean Moulin in Lyon, France. She even represented visual artists pro bono, though sometimes she accepted paintings in lieu of payment. Finally, in 2004 she opened up her own boutique art and cultural property law office and art gallery in the trendy Toronto district of Yorkville.

Today, she counts art galleries, museums, private collectors and visual artists among her clientele. A significant portion of her practice is assisting purchasers to do the due diligence when buying art work or cultural artifacts.

Two of the major concerns for purchasers of art are title and authenticity.

"[P]urchasers should request documentation pertaining to the provenance of the piece and much depends on the country of origin of the object," she says. "In terms of authenticity, there is both an objective (scientific) and subjective (expert's opinion) method. This is, again, a complicated area and each

case is different... With scientific tests one may be able to show that a painting was painted at the same time the purported artist was creating; however, that is not itself conclusive in determining that it is authentic and that the artist to whom it is attributed actually painted it and no one else."

She has also assisted clients in recovering lost and stolen artworks.

"The first thing I advise clients who have artwork stolen is to post a photograph and details on the Art Loss Register," Czegledi says, referring to the database based in New York City of over 180,000 works of stolen art.

Worldwide, the black market for stolen art and cultural artifacts is around \$6-billion U.S., according to the

FBI. To combat art theft, the U.S. has specially trained FBI officers and Europe has specially trained Interpol officers, but in Canada the RCMP doesn't have any staff specifically trained in the art of art theft investigation.

Czegledi bemoans Canada's dismal track record on art theft. She notes that Canada has the 11th-highest rate of art theft in the world. And Toronto is considered a haven for art thieves.

"Given art's intangible value, its irreplaceable nature and its role in cultural heritage, sentences should be more serious than for ordinary monetary crimes. Otherwise, art thieves will keep on stealing."

In her spare time, when she isn't painting pictures or lecturing on art and cultural property law in Canada, the U.S. and France, Czegledi has also worked to track down the rightful owners of Nazi-looted art.

And Czegledi is coordinator of legal issues for ICOM, the International Council of Museums, headquartered in Paris. The mandate of the council is to preserve cultural artifacts and artwork, a mission Czegledi embraces with passion. ■

THE BAR STOOL PIGEON

PIGEON HOLE

■ Dr. Bar Stool Pigeon, B.Sc., M.D., Ph.D., was dismayed, appalled and somewhat intrigued by a recent investigative series in *The Toronto Star* on phony degree mills, which churn out counterfeit degrees and transcripts. Caught in the web of deceit, was a third year law student at York University, who purchased a fake undergrad degree to get into Osgoode Hall and then falsified her transcripts to land an articling gig at prestigious Bay Street law firm *Wildeboer Dellelce LLP*. While the exposé caused substantial embarrassment for both the law school and law firm (not to mention the student, who lost the articling position and is facing expulsion) one can't help but wonder if the whole fiasco could have been avoided with a little due diligence. After all, how hard is it to make a phone call to confirm a student's status or request that transcripts be submitted in a sealed envelope directly from the registrar's office?

MOVES

■ In Ottawa, **Michael Kergin**, the former Ambassador of Canada to the United States of America (2000 – 2005), joined *Bennett Jones LLP* as a senior advisor.

■ In Montreal, **Michael Fortier**, formerly Canada's minister of international trade, returned to *Ogilvy Renault LLP* as an M&A partner in the business law group. Fortier first joined the firm in 1985 and managed Ogilvy Renault's London office from 1992 to 1996.

■ In Toronto, **Kelley McKinnon**, formerly deputy director of enforcement and chief litigation counsel for the Ontario Securities Commission joined *Gowling Lafleur Henderson* as a partner and head of its securities litigation group. Also in Toronto, *Sotos LLP* added two new associates, corporate lawyer **David Gray** and franchising law expert and intellectual property lawyer **Markus Cohen**.

■ In Vancouver, **Robert Worthington**, formerly the manager of international tax services at PricewaterhouseCoopers, joined *Borden*

Ladner Gervais as an associate practising tax and **Kim Yee** joined *Harper Grey LLP* as an associate practising insurance and health law.

LAW FIRM NEWS

■ Ottawa law firm *Perley-Robertson, Hill & McDougall LLP* launched an International Arbitration Group with the addition of **Andrew de Lotbinière McDougall** as a partner. An Ottawa native, McDougall spent the last nine years based in Paris where he was an international arbitration partner with leading international law firm *White & Case LLP*.

■ *McInnes Cooper LLP*'s office in Fredericton was awarded the Pitney Bowes Corporate Award from Sport New Brunswick and Canadian Sport Centre Atlantic for its contribution to the development of sport in N.B. in the past year.

HONOURS

■ Winnipeg lawyer **David Matas**, senior legal counsel of B'nai Brith Canada, was appointed as a member of the Order of Canada, for his contributions to human rights legislation as well as to immigration and refugee law.

CASE FILE

■ An Australian couple who defaulted on their mortgage were served with legally binding court documents via the social networking site Facebook, *The Canberra Times* reported. While both e-mails and mobile phone text messages have been accepted before to serve court documents, the ruling by the Supreme Court of the Australian Capital Territory that lawyers can send legally binding court documents through the site is unprecedented. After lawyers for the mortgage provider demonstrated that the couple were ignoring service by e-mail and couldn't be served personally, the court permitted them to serve the court documents to the couple by a message sent from the Facebook account of a co-defendant, who was a friend of the couple on Facebook.

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CIRCULATION
Circulation Controller
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SUBSCRIPTION RATES
1 year (48 issues): \$255 + GST
2 years (96 issues): \$435 + GST
U.S. and international subscriptions: \$340/year
Law student rate: \$57.50 + GST
Individual copies: \$9.50 + GST
GST/HST/QST No.: R121051767

Postal Information: Please forward all postal returns to: Circulation Controller, *The Lawyers Weekly*, 123 Commerce Valley Drive East, Suite 700, Markham, ON L3T 7W8. Return postage guaranteed. ISSN 0830-0151. Publications Mail Sales Agreement Number: 40065517.

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