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Huntington Coin Collection and Donation Protection

Zhengcheng Li
lzc1984@hotmail.com

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Huntington Coin Collection and Donation Protection



Zhengcheng Li (Christopher)

Art Business of SIA, 2016

The greatest struggle is that building knowledge and finding out truth. This paper is for my parents and my uncles.

Index

Part I Foreword

Part II Huntington, ANS and HSA

Part III HSA vs ANS, Coin Auction and Final Result

Part IV Discussion

Part V Conclusion

Part VI Reference

Part I Foreword

Mr. Archer M. Huntington (1870-1955) was one of the greatest collector and donor in American history at the early 20th century. He was the founder of Hispanic Society of America and the president of American Numismatic Society. During his lifetime, he set up one of the most important Hispanic coin collection and donated all these coins to Hispanic Society of America in the meanwhile loaned to American Numismatic for study and research purpose. After he passed by, at 2008 Hispanic Society of America sued against America Numismatic Society for getting back the Huntington coin collection with other related documents and photos. Hispanic Society of America won the case and got back the coins. After that, they sold all the coin's collection with the help of Sotheby. Based on my study, this auction violated the will of the donor and the relevant government authority were also not fulfilling their obligations. Through my article, I would analysis the whole case and try to use evidence to proof that Hispanic Society of America does not have the moral right to auction Huntington Coin Collection and the Charity Bureau does not make enough work to prevent such culture tragedy. Further discussion about how to prevent such culture tragedy would also be discussed. This article could be reference to those people who would like to donate their collections to museums and institutions.

Part II Huntington, ANS and HSA

The Huntington coin collection involved many persons and institutions. As background introduce, I would like to talk about Mr. Archer Milton Huntington (here after as “Mr. Huntington”), American Numismatic Society (here after as “ANS”), Hispanic Society of America (here after as “HSA”), the relations between them and the significance of Huntington coin collection.

Mr. Huntington was born in New York City in New York City on March 10, 1870.¹ He was the son of Arabella (née Duval) Huntington and the stepson of railroad magnate and industrialist Collis P. Huntington.² His mom was a great collector of old Dutch master paintings and his father could afford Mr. Huntington took the best education at his age. Greek and Latin was taught in his school and Mr. Huntington first visited Europe in 1882³. He wrote in his diary after visiting the National Gallery:” I think a museum is the grandest thing in the world. I should like to live in one.”⁴ People believe since this trip he stated lifelong love in art and museums with special focus on the history and culture of the Iberian Peninsula.

As Mr. Huntington also had enough money inherited from his father in 1900, he was able to started collecting all kinds of art, literature or numismatic items related to the history and culture of the Iberian Peninsula and its influenced colonies. Specially in coin collection area, his initial intention was to publish a study of the entire Spanish numismatic history himself.⁵ In 1899, Huntington joined ANS and in 1905 he became its president.⁶ With Mr. Huntington’s generous donations, ANS could purchase e the land at upper Manhattan and built its first building near HSA. Furthermore, Mr. Huntington set up a publication fund for ANS which allow ANS to publish academic papers and books related to numismatic fields. With all his efforts, “ANS was transformed form a relatively small club of collectors into a research institution of international standing.”⁷

Besides his influence at ANS, Mr. Huntington was also the founder of HSA. “On may 18, 1904, Archer Huntington executed the Foundation Deed for a public Spanish Library and museum, to be called The Hispanic Society of America. The object of the institution was the advancement of the study of the Spanish and Portuguese languages, literature, and history”⁸

Mr. Huntington coin collection was known as one of the most significant coin collection for Iberian history. In the book “Magnificent Coins of The Spanish World” written by David Trip, his collection “...is a collection not of sections, but of collections—each one of which could stand on its own as

1 Handbook of Texas Online, Laurie E. Jasinski, "Huntington, Archer Milton," accessed December 01, 2016, <http://www.tshaonline.org/handbook/online/articles/fhu77>.

2Wikipedia, Archer Milton Huntington, last modified at 17th November 2016, https://en.wikipedia.org/wiki/Archer_Milton_Huntington

³ Hispanic Society Web, Archer Huntington, accessed December 1,2016, <http://hispanicsociety.org/about-us/history/>

⁴ Hispanic Society Web, Archer Huntington, accessed December 1,2016, <http://hispanicsociety.org/about-us/history/>

⁵ ANS Magazine, “Truth and Plain Dealing”, by Robert Hoge, Andrew Meadows, and Ute Wartenberg Kagan, accessed December 1,2016, <http://numismatics.org/magazine/huntingtonwinter08/>

⁶ ANS Magazine, “Truth and Plain Dealing”, by Robert Hoge, Andrew Meadows, and Ute Wartenberg Kagan, accessed December 1,2016, <http://numismatics.org/magazine/huntingtonwinter08/>

⁷ ANS Magazine, “Truth and Plain Dealing”, by Robert Hoge, Andrew Meadows, and Ute Wartenberg Kagan, accessed December 1,2016, <http://numismatics.org/magazine/huntingtonwinter08/>

⁸ Hispanic Society Web, Archer Huntington, accessed December 1,2016, <http://hispanicsociety.org/about-us/history/>

a world class cabinet of museum quality and consequence. ...is universally agreed to be the most spectacular collection of coins relating to the entirety of Spanish history outside of Spain, It is hailed as the finesse ever assembled by a private collector, and ranks among the most comprehensive ever amassed, either by an individual or institution. ... After Huntington made it his intention to assemble coins from every period and in every land where Spanish influence was felt, even with the lightest touch.”⁹

In 1946, Mr. Huntington decided to transfer 38,000 coins, which was still his personal property and kept in the basement of the Hispanic Society, to ANS.¹⁰ The physical transfer of the coins was continued throughout 1947, and ANS documented in its archives as “1947 Loan”.¹¹ In August 1949, Mr. Huntington transferred the ownership of these coins to HSA and after he passed away in 1955, HSA found another 6,390 piece coins had not been transferred and studied by ANS. In 1957 HSA transfer these 6,390 coins to ANS as added to the “1947 Loan”.¹² The entire loan being routinely reapproved by the HSA Board on a year-to-year basis.

Both ANS and HSA are non-profit institutions and greatly supported by Mr. Huntington. But these two institutions have different focus. After Mr. Huntington passed away, they have different realities and missions.

ANS is a center for the experts, dealer and public to study and appreciate coins, currencies, medals and other related objects. It also loaned its coins and medals to other museums as ANS might not have enough space for exhibition, but other museums could show the coins and benefits the public. After HSA loaned Huntington coin collections to ANS, ANS loaned some of these coins to other museums for exhibition and education purpose. One significant example is that an ancient Roman Silver Denarius coin with the head of Brutus, commemorating the murder of Julius Caesar.¹³

HSA announced its mission as “to collect, preserve, study, exhibit, stimulate appreciation for, and advance knowledge of, works directly related to the arts, literature, and history of the countries wherein Spanish and Portuguese are or have been predominant spoken languages, all in the service of the public and in accordance with the highest professional standards.”¹⁴ Based on its own statements, “arts and history of the countries wherein Spanish and Portuguese” was a quite broad definition which could cover many items. As common sense, Coins are inventions of human civilizations and reflects the arts and history of its period. William H. Woodin, Franklin Delano Roosevelt’s first Secretary of the Treasury wrote that: “coins are the metallic footprints of

⁹ Magnificent coins of the Spanish world, David Tripp, with a Biographical essay by Selby Kiffer.

¹⁰ ANS Magazine, “Truth and Plain Dealing”, by Robert Hoge, Andrew Meadows, and Ute Wartenberg Kagan, accessed December 1, 2016, <http://numismatics.org/magazine/huntingtonwinter08/>

¹¹ Archer Huntington’s Legacy Lost-- Another Great Coin Collection Caught in a Legal Battle, by Tom DeLorey, in *Coinage Magazine*, Jan 2011—Dec 2012.

¹² ANS Magazine, “Truth and Plain Dealing”, by Robert Hoge, Andrew Meadows, and Ute Wartenberg Kagan, accessed December 1, 2016, <http://numismatics.org/magazine/huntingtonwinter08/>

¹³ Coin Toss: Hispanic Society’s Contradictory Stances on the Rights of Archer Huntington’s Heirs, by Culture Grrl, January 23, 2013, <http://www.artsjournal.com/culturegrrl/2013/01/coin-toss-hispanic-societys-contradictory-stances-on-the-rights-of-archer-huntingtons-heirs.html>

¹⁴ Mission statement, by HSA, accessed December 2, 2016, <http://hispanicsociety.org/about-us/mission-statement/>

man.”¹⁵ So based on HSA’s mission, Huntington coin collection shall be included in its preservation.

Part III HSA vs ANS, Coin Auction and Final Result

As the starting point of Huntington collection legal fight, we have to started focus on the original location of both ANS and HSA. From it all story starts.

In between the late 19th century and early 20th century, as American raising up quickly, there was a “American Renaissance” movement which also reflected in the architectural and culture world. In the Washington heights, with financial supports from Mr. Huntington, a series of buildings for museums and institutions was built as to form a neo-classical city in upper Manhattan. As written in the article “Beaux-Arts, the City Beautiful, and the Hispanic Society of America” by JØRGEN G. CLEEMANN: “The unity of the buildings at Audubon Terrace is reflected not only in the unity of purpose as it relates to public education, but also in a general thematic unity that could be described simply as “civilization.” This complex provided a single location in which one could study and admire the accomplishments of a once-powerful empire of the Old World (the Hispanic Society); the artistry of the money used by a variety of world civilizations (the American Numismatic Society);... In this thematic unity, we may discover the personal interests of Archer Milton Huntington, the wealthy patron who brought these institutions together on Audubon Terrace.”¹⁶ Huntington’s originally plan was great and ambitious, but when time passes by, the community reality changes, and the location also bring some inconvenience to both HSA and ANS.

In 1993, the HSA director Theodore Beardsley was quoted in Artnews magazine as saying that he didn’t do more to promote the museum’s treasures to the local communities because of its residents’ “Low level of culture”.¹⁷ And because the location is at 155th street and Broadway, it is also too far off for tourist track. The museum could get very few income from ticketing and during the 2007 and 2008 economic crisis, the trust assets dropped from 64 million dollars to 46 million dollars.¹⁸ Although its name is Hispanic Society of America, it is focus on Spanish old master painting and culture, which hard to attract American Latino community to involved. HSA want to reform and planned to move its office, but are lack of money. I would like to predict that all the crisis forced them to make a unclever decision: cooperate with Sotheby Auction House and getting back the Huntington coin collection from ANS and sell them. It may bring 25 to 35 million¹⁹revenue to solve their financial struggle.

ANS faced the same location problem when they were in Washington heights old building. I interviewed Ms. Joanne D. Issac, the ANS museum administrator, for the ANS moving history and reasons. She told me that Washington heights is far away from Wall Street and other financial center in downtown Manhattan, both the ANS numbers and tourists are very difficult to reach.

¹⁵ Magnificent coins of the Spanish world, David Tripp, with a Biographical essay by Selby Kiffer.

¹⁶ Beaux-Arts, the City Beautiful, and the Hispanic Society of America, by JØRGEN G. CLEEMANN, accessed December 2, 2016, <http://www.learn.columbia.edu/hispanic/essays/beaux-arts.php>

¹⁷ New York Times, An Institution Departs With a Shrug, Not a Sigh, by JOHN FREEMAN GILLAPRIL 2, 2006

¹⁸ New York Times, An Outpost for Old Spain in the Heights, by FELICIA R. LEENOV. 11, 2011

¹⁹ Coinsweekly, Huntington Collection for sale-Spanish history in 37,895 coins, January 12,2012

Furthermore, at the past the Washington heights community's security situation was not so good and negatively influence people's visiting desire. With the help of a generous donor, ANS owned a new building at 96 Fulton Street New York City and moved there. But to maintains a building is over ANS's budget. So ANS sold the building and move to Canal Street in downtown Manhattan in 2008.

In 2007, a new loan agreement was made between the Trustees of The Hispanic Society of America and The American Numismatic Society about the Huntington coin collection. It became effective February 1, 2007. Such agreement indicates that ANS is "a New York not-for-profit corporation formerly located at Broadway at 155th Street, New York, N.Y. 10032, and now located at 96 Fulton Street, New York, N.Y.10038". And in the article 5 of such loan agreement, it wrote "The location of the Objects while on Loan is as to be follows: 96 Fulton Street, New York, NY. None of the Objects may be re-loaned or transferred to any other entity or location without the prior written approval of the Hispanic Society". The loan agreement also said "The loan is made for a term of one year, commencing on February 1, 2007, and ending on January 31,2008.... The loan shall be automatically renewed from year to year unless the Hispanic Society gives written notice of non-renewal at least one hundred eighty (180) days prior to the end of the then-current term....The Hispanic Society may cancel this Loan for cause at any time, in its sole discretion, without liability, but will make effort to give reasonable notice thereof."

With the help of the above-mentioned articles, HSA make an argument to stop the loan because ANS moved its location again and not inform HSA. According to the Complaint submitted by HSA's attorneys to the Supreme Court of The State of New York County of New York (Index No. 600423/08), "In or around April or May 2007, Dr. Codding learned that the Numismatic Society planned to again move to a new location."²⁰ and " On or about July 16,2007, the Trustees of the Hispanic Society unanimously adopted a resolution determine not to renew the Revised Loan Agreement."²¹, "on about July 19, 2007, Dr. Codding send to Dr. Wartenberg a letter advising the Numismatic Society that the Hispanic Society had decided not to renew the Revised Loan Agreement."²² Based on the same document, regarding the loan termination issue, Dr. Mitchell A. Codding, Executive Director and President of HAS,²³ have not got any response from ANS regarding his "July 19,2007 letter". In the following November 19, 2007 and January 25,2008, Dr. Codding wrote two letters about not renew the loan and returning the coin collection issue. ANS never response to any of these letters. On January 28 Dr. Codding attempted to call Dr. Wartenberg, the Executive Director of ANS,²⁴ Dr. Wartenberg declined to speak to Dr. Codding. After the 2007 loan contract ended on January 31,2008, Dr. Wartenberg sent to Dr. Codding a letter in which she declined to respond to the January 25, 2008 letter. And ANS announced its location move publicly and will closed from March 1, 2008 through at least September 1,2008. From all these evidence, we could find out that HSA choose a excuse written in the 2007 Loan contract for not to renewing the loan contract and ANS acted very passively and did not communicated with HSA enough for the preparation of the loan termination. And both partied had

²⁰ The Hispanic Society of America v. the American Numismatic Society, complaint, Index No. 600423/08, 5 (February 13, 2008).

²¹ The Hispanic Society of America v. the American Numismatic Society, complaint, Index No. 600423/08, 5 (February 13, 2008).

²² The Hispanic Society of America v. the American Numismatic Society, complaint, Index No. 600423/08, 5 (February 13, 2008).

²³ Staff. December 10, 2016. <http://hispanicsociety.org/about-us/staff/>.

²⁴ ANS Staff. December 10, 2016. <http://numismatics.org/about/contact/>

to meet at Supreme Court of the State of New York County of New York rather than talked in a meeting room peacefully.

Based on the “Loan Agreement 2007”, “This Agreement shall be construed in accordance with and subject to the laws of the State of New York, United States of America,..., and any cause at law resulting from this Agreement must have venue in New York, New York.”²⁵ On February 13 2008, HSA submit its complaint to the Supreme Court of the State of New York County of New York, asking the court to issue “an order of seizure”²⁶ or “a permanent injunction”²⁷ for ANS to return its coin collection and other relevant photos and archives. The Attorneys for HSA argued that HSA as a plaintiff “may bring an action to recover possession of a chattel under CPLR Article 71.”²⁸ They also use the case “Solomon R. Guggenheim Found v. Lubell, 77 N.Y. 2d 311, 317-318 (1991)”²⁹ and the case “Int’l Packaging Corp. v. Marshall, 68 Misc. 2d 575 (N.Y. Civ. Ct. 1971)”³⁰ to claim that “Once demand for return of the property is made and that demand is refused, the holder of the property is in wrongful possession, even if possession was lawful until the moment of demand and refusal.”³¹ The court issued a summons to ANS on the same day.

When ANS got the summons, they first tried to extending the time to respond to the complaint, then they argued that “court intervention is premature”³² because “the parties are actively negotiation to see if the matter under dispute can be compromised.”³³ And since “Approximately 400 high value coins have already been identified by ANS and are being placed with an unquestionably secure New York bank vault at JP Morgen Chase...”³⁴, there would be almost no risk for the Huntington coin collection even ANS move its location. And as ANS maintained Huntington collection as part of its own collection, if they returned the Huntington coin collection back to HSA, “the imposition of a preliminary injunction would greatly harm ANS with little benefit to HSA”.³⁵ Furthermore, ANS asked HSA to provide all the documents related Huntington’s will and his suggestions about how to handle his coin collection.

²⁵ Loan Agreement, Article 13, signed by Hispanic Society of America and American Numismatic Society in 2007.

²⁶ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Memorandum of Law in Support of Plaintiff's Application to Recover Chattel, page 4 (February 13, 2008).

²⁷ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Memorandum of Law in Support of Plaintiff's Application to Recover Chattel, page 4 (February 13, 2008).

²⁸ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Memorandum of Law in Support of Plaintiff's Application to Recover Chattel, page 4 (February 13, 2008).

²⁹ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Memorandum of Law in Support of Plaintiff's Application to Recover Chattel, page 4 (February 13, 2008).

³⁰ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Memorandum of Law in Support of Plaintiff's Application to Recover Chattel, page 4 (February 13, 2008).

³¹ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Memorandum of Law in Support of Plaintiff's Application to Recover Chattel, page 4 (February 13, 2008).

³² The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Defendant's Memorandum of Law in Opposition to Plaintiff's Application to Recover Chattel, page 3 (March 12, 2008).

³³ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Defendant's Memorandum of Law in Opposition to Plaintiff's Application to Recover Chattel, page 3 (March 12, 2008).

³⁴ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Defendant's Memorandum of Law in Opposition to Plaintiff's Application to Recover Chattel, page 3 (March 12, 2008).

³⁵ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Defendant's Memorandum of Law in Opposition to Plaintiff's Application to Recover Chattel, page 5 (March 12, 2008).

After having two oral argument on March 20, 2008 and April 2, 2008, Supreme Court of The State of New York County of New York made the judgment by justice Charles E. Ramos.³⁶ on April 25 2008 (Index No. 600423/08(CER), JUDGMENT). Based on such judgment, HSA as Plaintiff has “unconditional right to demand return at any time upon due notice”³⁷ and ANS as Defendant “is legally obligated to return said Coin Collection and Photographic Materials, together with all identifying data and legends pertaining thereto”.³⁸ Following the judgment, ANS returned back the Huntington coin collection, the relevant photos and documents to HSA and the whole case was resettled on September 19th, 2008.³⁹

If everything stops here, HSA get back its coins with the purpose of researching, conservation and exhibition the Huntington coin collection, nobody would feel regret about the whole case. But just like what indicated in a letter written by Attorney of ANS Mr. Richard C. Seltzer to justice Charles E. Ramos on March 26, 2008, “HAS has retained Sotheby’s Inc. as its advisor to value the Coin Collection.”⁴⁰ rather than nonprofit institutions such as “the British Museum; Museo Arqueologico Nacional, Madrid, Spain; or Museo Casa de la Moneda, also in Madrid”.⁴¹ HSA board decided to assign the whole Huntington coin collection to Sotheby’s Inc. for an auction.

On December 15th, 2011, Sotheby’s announced that “it will offer the magnificent Archer M. Huntington Collection of coins from the Hispanic world in a sealed bid auction ending on 8 March 2012.”⁴² For such sale, Dr. Codding, the Executive Director and President of HAS, said:” While we are placing no restrictions or requirements on the buyer, we value Archer Huntington’s achievement so highly that we have instructed Sotheby’s to sell this collection as a single lot. Sotheby’s had earlier explored placing the collection with public institutions in Spain, Europe and the United States, and we will continue to do so.”⁴³ For the ANS’s attitude to such auction, it would be no more clear showing in the letter written by ANS’s Attorney Mr. Richard C. Seltzer to justice Charles E. Ramos. It stated that: the ANS scholarship is of inestimable value to ANS, particularly if HAS proceeds to “deaccession” all or any part of the Coin Collection at auction. As noted in Court, the ANS scholarship enhances the ability of ANS to participate most successfully in any future auction of the returned coins.⁴⁴ But the result of the coin auction does not meet any of the above mentions wishes both from HSA and ANS. A consortium made of different coin dealers

³⁶ The Hispanic Society of America v. the American Numismatic Society, Judgment, Index No. 600423/08, page 1 (April 25, 2008).

³⁷ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Judgment page 2 (April 25, 2008).

³⁸ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Judgment page 2 (April 25, 2008).

³⁹ The Hispanic Society of America v. the American Numismatic Society, Index No. 600423/08, Order Granting Motion to Resettle Judgment, page 1 (September 19, 2008).

⁴⁰ Richard C. Seltzer to Charles E. Ramos. March 26, 2008.

⁴¹ Richard C. Seltzer to Charles E. Ramos. March 26, 2008.

⁴² Sotheby’s. "The Vast Archer M. Huntington Collections of Coins Relating to the History of Spain Will Be Offered as a Single Lot in a Sealed-Bid Auction at Sotheby’s New York." News release, December 15, 2011. Page 1, Accessed December 10, 2016. <http://files.shareholder.com/downloads/BID/0x0x529014/96f0bd79-bdd4-45f4-9585-86e61ea5c3d1/529014.pdf>.

⁴³ Sotheby’s. "The Vast Archer M. Huntington Collections of Coins Relating to the History of Spain Will Be Offered as a Single Lot in a Sealed-Bid Auction at Sotheby’s New York." News release, December 15, 2011. Page 3, Accessed December 10, 2016. <http://files.shareholder.com/downloads/BID/0x0x529014/96f0bd79-bdd4-45f4-9585-86e61ea5c3d1/529014.pdf>.

⁴⁴ Richard C. Seltzer to Charles E. Ramos. March 26, 2008.

won the auction and purchased the entire group of 37,895 coins collected by Archer Huntington.⁴⁵ After the Sotheby 2012 auction, the 37,895 coins was divided into different groups and auctioned separately in different auction houses at different locate in different date.

Although there was no public agency or institutional organization try to stop HSA to sell all the Huntington Coin Collection, private coin collectors and coin dealers made their efforts to help ANS retrieves the Coin Collection. One secret benefactor purchased 1,9000⁴⁶ pieces coins from the Huntington Coin Collection and loaned them in a long-term agreement to ANS for exhibition and study in 2012. At January 2013, another 7,291⁴⁷ Ex-Huntington Coins was purchased by a friend of ANS and loaned them to ANS for exhibition and research. In 2015, ANS Chairman of the Board Kenneth Edlow donated 163 rare gold coins from the 5th and 6th centuries and 1073 medieval and modern Spanish coins from Ex-Huntington Coins to ANS.⁴⁸ Based on the above data, ANS has already got back 27,527 pieces coins from 37,895 pieces Ex—Huntington Coins, which means about 72.64% of total Ex-Huntington Coins could serve the public interest again.

⁴⁵ DeLorey, Tom. "Another Great Coin Collection Caught in a Legal Battle." COINage, Page19-20, Jan 2011-Dec 2012.

⁴⁶ Lee, Rosenbaum. "New Flash: American Numismatic Society Retrieves Another 7,291 Ex-Huntington Coins (plus a visit to "Brutus" at the Met)." CultureGrrl. January 28, 2013. Accessed December 10, 2016. <http://www.artsjournal.com/culturegrrl/2013/01/news-flash-american-numismatic-society-retrieves-another-7291-ex-huntington-coins-plus-a-visit-to-brutus-at-the-met.html>.

⁴⁷ Lee, Rosenbaum. "New Flash: American Numismatic Society Retrieves Another 7,291 Ex-Huntington Coins (plus a visit to "Brutus" at the Met)." CultureGrrl. January 28, 2013. Accessed December 10, 2016. <http://www.artsjournal.com/culturegrrl/2013/01/news-flash-american-numismatic-society-retrieves-another-7291-ex-huntington-coins-plus-a-visit-to-brutus-at-the-met.html>.

⁴⁸ Stolyarik, Elena. "FY2015 Collections Report", ANS Webpage. Accessed December 10, 2016.

Part IV Discussion

HSA requested ANS to return the Huntington Coin Collection has its legal rationality, but HSA assigned Huntington coin collection to Sotheby for auction should be questioned in both legal and moral perspectives. First, I would discuss the gray area might cause a legal problem for HSA to assign the Huntington Coin Collection to Sotheby's for sale. Second, I would like to analysis the conflict between the coin auction and the will of Mr. Huntington. Further discussions will be made about museum moral and the public agency have not act enough to protect public interest. At the end I would give discuss how could a donor protect his or her donations and the financial challenge faced by museums.

In a legal perspective to see the whole case, my personal opinion is that HSA has the right to get back all the Huntington collections, but need court permission to sell them in an auction.

It's clear the HSA loaned the Coin Collection to ANS. "When a person or other entity loans artwork to an art museum, the transaction-delivery, use, and return-is subject to the law of bailment."⁴⁹ In this case HSA loans coins rather than artwork to ANS, it is still belonging to the loan scope and subject to the law of bailment. According to the "Loan Agreement 2007", HSA is the "Lender" and ANS is the "Borrower". In another word, ANS is the Bailee who shall "takes on the burden of being responsible to return the goods to their owner."⁵⁰

If we could go through the "Hispanic Society's Trust Indenture" signed by Mr. Huntington in 1907. In page 3 it was written "This grant is made therefore upon and only upon condition that neither the said Board of Trustees nor their successors shall grant convey assign transfer or set over any of the real or personal property of which it may be seized or possessed whether acquired by virtue of this grant or otherwise to the New York Public Library, ...or to any other library corporation institution or person whomsoever and whatsoever except for the purpose of investing and re investing funds of and for the Hispanic Society of American the sale of publications of...or duplicates as provided for in the Constitution and by-laws. " In page 4 it was written "that neither the said Board or its successors will grant, convey, assign transfer or set over any of the real or personal property of which it may be seized or possessed whether acquired by virtue of this grant or otherwise, to ...; that the above condition shall be deemed a part of the consideration hereinbefore mentioned; that the said condition shall be of the same essence of this grant; and if said condition shall in any manner be broken, then and in that event this grant shall become and be void and of no effect as if it never had been made, and the said Trustees or their successors shall give up and surrender quietly and peaceably the property hereby granted to the heirs executors or administrators of the said Archer Milton Huntington or if no representatives be then living or no such estate exists or by reason of the lapse of time or for any other reason the said representatives or estate cannot receive the said property, then the same shall be given up and surrendered to the Board of Trustees or other Directors of various institutions of learning in Spain ..." This document "directed that all of Huntington's benefactions to the HAS should revert

⁴⁹ Lerner, Ralph E., and Judith Bresler. Art law: the guide for collectors, investors, dealers, and artists. New York City: Practising Law Institute, "Loans "page 1873, 2005.

⁵⁰ Overview of Bailments, December 10 2016, <http://2012books.lardbucket.org/books/the-law-sales-and-marketing/s24-01-introduction-to-bailment-law.html>

to him or to his heirs if any portion of his gift were disposed of.”⁵¹ Although Mr. Huntington donated his coin collection to HSA and loaned them to ANS after 1907. Such Trust Indenture shall be reviewed and discussed if HSA seeking court approval before assign the coins for auction, or if the Charities Bureau request HSA to ask court approval for deaccession its Huntington Coin Collection. Then there has possibility that HAS either has to give up its deaccession plan or give up its right to own the Huntington Coin Collection and other inherited assets.

In moral perspective to see the case, the coin auction violates Mr. Huntington’s wish and creates moral flaws to HSA.

We could check Mr. Huntington’s personal activity and letters and predict his opinion about the usage of his coin collection. In 1948, Mr. Huntington purchased the Gautier collection of over 1000 coins and donated to ANS with the purpose of complement the coin collection. Huntington used to write a letter to George Miles in 1946, “originally, the idea, as is obvious, was presenting of Spanish influence throughout the world from a numismatic standpoint.” With all the above evidence, it could be assuming that Mr. Huntington himself do believe his coin collection is part of his collection serve the purpose of present Spanish influence. On March 9th 1949, Mr. Archer M. Huntington wrote a letter to that time ANS President Mr. Louis Caulton West, he wrote: “I began collecting coins at about the age of nine.... I became aware of the fact that I had been little more than a mere collector and that I was faced with the consideration of backgrounds of history, science and art... I had resolved to place the (coin) collection in their (ANS) hands when the time came. And I looked forward to the time when the interest of the (ANS) members would become an active force for the production of scholarly work of a high order.” From such letter, we could see Mr. Huntington started his coin collection since childhood and saw his coin collection more than a hobby, he hoped that ANS could use his collection to produce more scholarly work. But in fiscal year 2010, the HSA described the coins on its Form 990 tax return as “precious and other metals” and categorized as “investments” rather than collections.⁵² In order to sell Huntington Coin Collection, HSA even deny they had coin collection, they only had precious metals as investments. I guess Mr. Huntington might turn in his grave if he knows HSA’s attitude to his coin collections.

Furthermore, in an earlier letter written on November 27th 1946 from Mr. Huntington to Mr. West, Mr. Huntington even wrote: “I had arranged it(coin collections) partly in the cases, and held these from the collections of the Hispanic Society as long as possible owing to my desire that they should eventually be part of the Numismatic Society’s collection...” From this letter, it shows us that Mr. Huntington even had a vision to donate his coins to ANS. But in 2008, HSA stopped loaning the Coin Collection to ANS and sold all the collection in an auction. It obviously violates Mr. Huntington’s will.

The Hispanic Society of America is a New York Charitable Trust. Based on the art law, “The museum as a charitable trust is administered by a board of trustees. The trust relationship imposes on the board of trustees a high degree of responsibility to protect, preserve, and increase the museum’s assets—its trust funds and its collections. Among other affirmative duties to the

⁵¹ Lee, Rosenbaum. "Coin Toss: Hispanic Society’s Contradictory Stances on the Rights of Archer Huntington’s Heirs”, CultureGrrl. January 23, 2013. Accessed December 10, 2016.

⁵² Lee, Rosenbaum. "News Flash: 1,004 Ex-Hispanic Society Coins to Be Re-Auctioned in Spain; American Numismatic Society Retrieves 10,000 Pieces." CultureGrrl. June 13, 2012. Accessed December 12, 2016. http://www.artsjournal.com/culturegrrl/2012/06/american_numismatic_society_re.ht

beneficiary, the board of trustees is charged with the duties of loyalty and of care. The duty of loyalty, the trustees' most fundamental duty, requires each member of the board of trustees to administer the museum assets solely for the public's benefit."⁵³ We could check the HSA's mission and collection management policy. HSA's mission is "to collect, preserve, study, exhibit, stimulate appreciation for, and advance knowledge of, works directly related to the arts, literature, and history of the countries wherein Spanish and Portuguese are or have been predominant spoken languages, all in the service of the public and in accordance with the highest professional standards."⁵⁴ And HSA collection includes "Magnificent examples of ceramics, glass, furniture, textiles, ironwork, and jewelry abound among the more than 6,000 objects in the Hispanic Society's varied collections of decorative arts."⁵⁵ All this statement shall also give credit to coins collection of Hispanic world, as coins itself are also very important arts. In many decorative arts, such as necklace and other jewelry items, coins especially gold coins are very important components of those items. To sell all the Huntington coin collection, could not compliance HSA's own collection policy. But HSA seems choosing to forget its responsibilities and manage its assets solely for the financial purposes. In the Complaint (Supreme Court of the State of New York County of New York, Index No. 600423/08) dated on February 13, 2008 issued by attorneys for Plaintiff the Hispanic Society of America, it said "The coin collection is considered unrivalled in some areas, particularly the Visigothic collection." It is the evidence to show that even HSA saw the significance of Huntington Coin Collection, but still insisted on selling all the coins in one lot and facing the risks that such "simply could not be replicated"⁵⁶ collection might disappear from public view and could not be reached by scholars.

The executive director of HSA Dr. Mitchell A. Coddington said: "The decision to sell The Huntington Collection followed an extensive review and valuation of the coins as well as an evaluation of their place within the HSA's mission. As an art museum and research library we have never exhibited the coins nor retained expertise in the field." When we go through his talk there are some logic problems. Dr. Coddington potentially argued that coins collection are not belongs to the proper collection scope of an art museum and not within the HAS's mission. Based on the letter sent by Mr. Archer M. Huntington (the founder of HAS) to Mr. Louis Caulton West (the President of ANS at that time) on March 9th 1949, Mr. Huntington said "In Numismatics there are still some fields to be ploughed. For instance, what of the art of medal and coin? Its progression through history has been quiet and unnoticed to no small degree. And yet it brings phases of history to our door as well as art expression and insight not to be ignored." According to Mr. Huntington himself, coins are also art and need more research. HSA as an art museum, which inherited such great coin collection but never exhibit or research on its coin collection, what a resources waste! Even when ANS want to do the research and catalogue such collection, HSA just withdraw the coin loan and assign them to Sotheby's for auction and make money. Dr. Mitchell A. Coddington's words for sure

⁵³ Lerner, Ralph E., and Judith Bresler. *Art law: the guide for collectors, investors, dealers, and artists*. New York City: Practising Law Institute, "Charitable trust" page 1853 to 1854, 2005.

⁵⁴ Collections management policy, accessed December 2, 2016, <http://hispanicsociety.org/about-us/collections-management-policy/>

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⁵⁶ Sotheby's. "The Vast Archer M. Huntington Collections of Coins Relating to the History of Spain Will Be Offered as a Single Lot in a Sealed-Bid Auction at Sotheby's New York." News release, December 15, 2011. Page 2, Accessed December 10, 2016. <http://files.shareholder.com/downloads/BID/0x0x529014/96f0bd79-bdd4-45f4-9585-86e61ea5c3d1/529014.pdf>.

might bring negative reputation to not only HSA but also to the whole museum circles. In Ms. Lee Rosenbaum (written name as CultureGrrl) article “Hispanic Society, Metropolitan Museum, Middlebury: One Institution’s Trash Is Another’s Treasure”, she pointed out that “If an institution really has no use for certain works that are worthy of public display, it should give or lend them to other public institutions that would gladly show them.”

In this case, we could also see that public agency is not acting and fight for the public benefits.

There are three agencies could be involved and might prevent the sale of Huntington coin collection except ANS. They are Charities Bureau, Association of Art Museum Directors and American Association of Museums. CultureGrrl followed the Huntington coin collection auction case and questioned these three organizations.

The Charities Bureau is responsible for “supervising charitable organizations to protect donors and beneficiaries of those charities from unscrupulous practices in the solicitation and management of charitable assets. The Charities Bureau also supervises the activity of foundations and other charities to ensure that their funds and other property devoted to charitable purposes are properly used, and protects the public interest in charitable gifts and bequests contained in wills and trust agreements.”⁵⁷ The charities bureau chief Mr. Jason Lilien gave a public statement as: “The Hispanic Society did not obtain court approval of the sale. New York law requires court approval when a donor imposes a restriction on a sale and the donor is not available to consent to releasing the restriction. Jason Lilien, Bureau Chief of the New York State Attorney General’s Charities Bureau (which oversees nonprofits), said that the Hispanic Society informed the Attorney General’s Office that the Society would not be seeking court approval because the coin collection was not subject to a donor restriction preventing the sale. Mr. Lilien added, however, that the Charities Bureau would review the sale “if we had reason to believe that a law was violated or new facts came to our attention.”⁵⁸ But “the coin collection was not subject to a donor restriction preventing the sale “still not clear according to 1907 Hispanic Society’s Trust Indenture. Just because of the information from HSA, the Charities Bureau stop doing any farther questioning.

For the Association of Art Museum Directors, they replied CultureGrrl as: “Chris Anagnos [AAMD’s executive director] has spoken with the HSA and they confirmed that they are abiding by AAMD’s policies for deaccessioning.”⁵⁹ AAMD also “trust” HSA and stopped further questioning.

The most significant and typical answer was from American Association of Museums, their reply was: “At first blush on the HSA situation, the fact that they intend to use the proceeds for collection purposes is keeping with the [professional] standards. Breaking the will [actually, the trust indenture] is a question for the [HSA’s] board and, perhaps, the Attorney General, as you note.”⁶⁰ This was so clear that through the hot potato back to someone else hand and try to avoid

⁵⁷ About the Charities Bureau, accessed December 2, 2016, https://www.charitiesnys.com/about_new.html

⁵⁸ Monetizing the Money: Why Did No One Stop the Hispanic Society’s Coin Disposal?, by Lee Rosenbaum, June 14, 2012, accessed December 2, 2016, http://www.artsjournal.com/culturegrrl/2012/06/monetizing_the_money_why_did_n.html

⁵⁹ Blind Oversight: AAMD, AAM Condone Hispanic Society’s Coin Dispersal, by Lee Rosenbaum, June 25, 2012, accessed December 2, 2016, http://www.artsjournal.com/culturegrrl/2012/06/aamd_aam_condone_hispanic_coin.html

⁶⁰ Blind Oversight: AAMD, AAM Condone Hispanic Society’s Coin Dispersal, by Lee Rosenbaum, June 25, 2012,

any further trouble, rather than try to save the museum reputation and maintaining donor's confidence.

As we could see from the performance of these public agencies, we might understand why nowadays more and more big name collectors decided to set up their own museums rather than donate their collection to an already well established institution. The museums shall learn the lessons from Huntington coin auction, that make revenues by selling collections may benefits in a short term, but in a long term view it would heart the donor's enthusiasm.

As a donor, they could learn from this case that donate their collection in the right museums or institutions are super important. Only when one museums mission is clear and the donation objects meets its collection focus, the donation could be exhibit and researched easily in the future. If one donor has different criteria collections, donate them into different museums according to different categories are necessary. For example, if Mr. Archer M. Huntington donate his coin collection to ANS, even without any restrictions, ANS would not sell all the coins in one time just for making revenue. ANS might sold poor quality repeating coins for fund raising, under the priority consideration of maintaining the collection.

Donors shall try to avoid any donation involved in more than one museum or institutions, to reduce the opportunity for legal struggle issue. A clear timing and item scoped Trust Indenture can also serve as a strong evidence to prevent the grant party misuse their inherited assets.

If the donor was influential enough, he or she might also donate the restricted gift to museums and institutions. Based on the art law, a restricted gift is "property may be given to an art museum in the form of a charitable trust in which certain restrictions are placed on the use of the trust property."⁶¹ But nowadays most museums would not take restricted donations, as it might bring many operational and legal troubles and arguments in the future. "Wither a museum should accept a restricted gift depends, in part, on the restriction."⁶² My personal suggestion is the restriction should meet the public interest, the museum mission and be practical. It should clear suggestion rather than a comment. "The deed of gift use precatory language, rather than mandatory language. ...Although not imposing a legal obligation, precatory language can be constructed to impose a moral obligation on the museum to adhere in good faith to the donor's restriction, deviating only when so dictated by sound judgment in the particular circumstances."⁶³

The Huntington Coin Collection legal struggle also reflects a crisis in today's museum circle, that is how could non-profit organizations legally generate enough money to survive. ANS don't have enough money to operate its building, and has to sell the building and continue moving from one place to another, even until today ANS rent offices for daily operation. HSA was even worse, had to put its coin collection as investments for selling and raise money for future operation. Both of their solutions could only solve a short period financial crisis, but could not improve its financial status in a long-term view. HSA is a charitable organization, ANS is an exempt organization. Both

accessed December 2, 2016,

http://www.artsjournal.com/culturegrll/2012/06/aamd_aam_condone_hispanic_coin.html

⁶¹ Lerner, Ralph E., and Judith Bresler. Art law: the guide for collectors, investors, dealers, and artists. New York City: Practising Law Institute, "Restricted Gifts "page 1870, 2005.

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organizations could run related business based on IRS regulation, such as gift shops, books stores, cafes and other facility which could be explained related to its charitable or educational purposes. Both organizations need to change themselves and make people to approach them easily. With more visitors, their cash flow might could change in a long-term view.

Part V Conclusion

The 2008 Hispanic Society of America vs. American Numismatic Society case followed by the 2012 Sotheby's New York "Huntington Coin Collection Auction" became a classical case for the study the relations between donors and institutions, relations between donations and institutions, relations between different institutions and relations between institutions and auction houses.

Legally speaking, Hispanic Society of America as the plaintiff has the full title of Huntington Coin Collection; and morally speaking, American Numismatic Society as the defendant also shall have the right to continue the research to the Coin Collection based on Mr. Huntington's will.

It was a tragedy and morally wrong for Hispanic Society of America sold all the Huntington Coin Collection, and the public service agency such as the Charities Bureau did not act positive to defend the interests of the donors and the interests of the public.

Donors need to avoid a single donation involved in multiple institutions and museums, and be more careful to choose institutions according to their histories and missions. Although restricted gifts might not be accepted by museums, donors could describe his or her suggestion and left clear moral obligations to the donee.

Although with the help of coin dealers and coin collectors, American Numismatic Society finally retrieved about 72.64% of total Ex-Huntington Coins. But the whole case also reflects the financial difficulties faced by American museums and non-profit art organizations.

Due to the resources limitation, in this article there are very few information about the business details between Hispanic Society of America and Sotheby's New York. And such journal also lack case studies about the revenue structures from different museums and non-profit art institutions. Therefore, further studies could be done in the future.

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