

Dirty Pretty Things

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Despite few laws on “blood diamonds,” buyers can take the initiative in this ethically charged area.

Although we like to think of ourselves as regular Perry Masons, many of our clients really just need the help of an Ann Landers (or, in some cases, Sigmund Freud).

Our art dealer client, Danielle, for instance, came to us shortly after her boyfriend proposed. Having wept through the film *Blood Diamond* on a transatlantic flight, Danielle was concerned that the stone in her engagement ring might have been illegally smuggled out of a war-torn African nation.

So-called blood or conflict diamonds originate in areas controlled by rebel groups and have been used to fund armed conflict in countries such as Sierra Leone, Angola, Liberia and the Democratic Republic of the Congo. Although Danielle is somewhat eccentric (who else drives an oat-powered Subaru?), her fears were not altogether unfounded: Her fiancé had indeed bought the ring during a business trip to Africa.

We tried to reassure Danielle that, according to most estimates, less than 1 percent of diamonds on the market today are blood diamonds, but she was not appeased. “One percent of the diamond industry’s worldwide trade can finance a

lot of blood shed!” She fretted. “Not to mention all those diamonds mined in abusive labor situations.”

We pointed out that in the past few years there has been a concerted international effort among nongovernmental organizations (NGOs), corporations and others in the diamond industry, including more than 70 nations, to address the problem of blood diamonds. In 2000, the United Nations General Assembly passed a resolution calling for a global rough-diamond certificate plan, and two years later the Kimberley Process Certification Scheme was formally adopted. Although exact numbers are hard to come by, experts believe that the process has significantly reduced the flow of conflict diamonds, which represented around 4 percent of the world’s production in the late 1990s.

The cornerstone of the Kimberley Process is the certification of rough diamonds, which are only allowed to be exported from participating countries with written assurance that they were not used to finance conflict. Participants are permitted to engage in trade only with other participants, and as an added safeguard, diamonds must be shipped in tamper-resistant containers. Each nation affixes its own certificate on the invoice that accompanies the rough diamonds from the mines to the cutting and polishing centers of Antwerp to the stores on Fifth Avenue, saying they have been handled in accordance with the provisions of the Kimberley Process.

Critics point out that the process is not a formal treaty but merely a voluntary commitment by those engaged in the trade, and that it lacks any effective method of monitoring whether countries are actually regulating their diamonds. The process establishes no universal guidelines, mandates no independent watchdog and contains no requirement that the governments even independently verify whether the diamond industry is complying. Moreover, it does not spell out any significant action that must be taken against transgressors, so each country may devise its own sanctions, however minimal.

“It sounds like the Kimberley Process is a toothless tiger,” Danielle observed. “Does the United States have any legislation governing these diamonds?”

Fortunately, the answer was yes. After revelations that Al Qaeda had been laundering money through conflict diamonds, the U.S.- by far the biggest player in the diamond market – passed the Clean Diamond Trade Act (CDTA) in 2003 to stop the movement of these stones. The CDTA tries to prevent rough diamonds from being imported into the country unless they are controlled by the Kimberley Process or are in accord with U.N. Security Council resolutions. U.S. Customs officials can demand that a diamond importer provide the requisite Kimberley Process certificate, and if the certificate is missing or if the stones are not in the appropriate container, they may seize the shipment. The law imposes a civil penalty of up to \$10,000 for anyone who violates, or tries to violate, any license, order or regulation issued under the act, and imposes criminal penalties of \$50,000 per

violation on corporations and individuals and/or 10-years imprisonment for individuals. To our knowledge, however, no one has been tried or convicted in the U.S. under CDTA.

“So is there any way to be absolutely certain that a diamond is conflict-free?” Danielle asked, eyeing her rock suspiciously.

Unfortunately, no. At best, a person looking to buy can ask retailers a few key questions: What is the source of the diamonds? Do you have a written guarantee from your suppliers stating that the stones are conflict-free? Do you carry out spot checks on your suppliers? In making such inquiries, a buyer can acquire a general sense of whether retailers take the issue of blood diamonds seriously. The more information disclosed, the better.

“Because a diamond’s value is largely symbolic-as a symbol of love and purity-the industry is dependent on consumer perception and pressure, and is vulnerable to consumer concern,” says Corinna Gilfillan, head of the U.S. office of the advocacy group Global Witness. “People asking questions is a big deal.” And in the wake of recent controversies in the art world-especially in the antiquities and African ethnographic markets-this issue is more likely to be on the sophisticated consumer’s radar screen.

Are conflict diamonds a significant problem today? Marc Hruschka, U.S. president of the jeweler Chopard, doesn’t think so and largely credits the Kimberly Process. He observes that “the chances of a consumer buying a blood diamond from a reputable retailer are

about the same as the Brother-in-Law winning the Nobel Prize for Literature.” (We assume that he believes our Nobel won’t be forthcoming anytime soon.) The head of another major jewelry firm was reluctant even to speak about conflict diamonds for fearing of giving the issue “legs.”

A week after our initial meeting, Danielle learned that her fiancé had bought the ring from a dealer in Ghana. This was not good news. Although Ghana itself is a member of the Kimberly Process and is not a war zone, the country has been used as a transfer point for diamonds smuggled from the Ivory Coast, where there is still active conflict in the north involving child soldiers. The Ivory Coast is also the only country still subject to U.N. diamond sanctions.

“I knew this guy was too good to be true!” she fumed. “His mother voted for Reagan, you know. I have a good mind to sell the ring and donate the proceeds to Rottweilers Against Racism!”

We explained that, in most states, courts view an engagement ring as a conditional gift, so her betrothed could force her to return it if she broke off the engagement.

“Not in Montana,” Danielle declared (quite rightly). “And that’s where I’m moving!”

At that point, we knew a different kind of counseling was in order. Where was Ann Landers when you needed her?