

# Aristophil: was a “Ponzi” stunt at the root of the collapse of a collection specialising in letters, autographs and manuscripts?

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A scandal in the world of letters, autographs and old manuscripts would not have gone unnoticed and the case of Aristophil promises to lead to extensive press coverage. A massive fraud, thousands of works, 20,000 investors and hundreds of millions of euros at stake.

## A very (perhaps too attractive) investment in letters, autographs and manuscripts

In the 2000s, Gérard Lhéritier created a company called Aristophil with the goal of propositioning anyone to invest in the collections of letters and old manuscripts, with the promise of a return of more than 8% each year; this investment being out of the field of the French Solidarity Wealth Tax.

Aristophil acquired, over time, a collection of letters and manuscripts, often substantial and re-sold to investors at an entrance fee fixed at €1,500.

The system functioned on the speculative assumption of a resale at a price presented as attractive but higher than for which the good was purchased, be that in the form of (1) shares in joint ownership (Coralys contracts), or (2) full ownership (Amadeus contracts), by way of a funds intermediary (the Finestim society, and its subsidiary, Art Courtage – exclusive distributors of the products), or directly via the Aristophil company.

The process of acquiring something was accompanied by a convention to terms on which each owner (joint or full ownership) consented to the works being stored by Aristophil, during a certain period of time (5 years minimum), at the end of which the owner promised to re-sell the good to Aristophil, who remained free to buy it or not (a call option).

These investments have been offered in France by the aforementioned companies, but also in Austria via Aristophil GmbH, in Belgium via Artesoris or Luxemburg via Artepoly's. Aristophil would have also had its Swiss, Geneva<sup>1</sup> and Hong Kong, Asia subsidiaries at its disposal.

At the same time, in 2012, Gérard Lhéritier created a Museum of Letters and Manuscripts in Paris, set up in the Hôtel de La Salle, a “hotel particulier” of 1700m<sup>2</sup> in the very posh 7<sup>th</sup> arrondissement of Paris<sup>2</sup>, then a second in Brussels, in which the acquired works were exhibited.

The concept was appealing: manuscripts and autographs full of history, a promise of elevated re-sale value (8% profitability), the support of big names in art and politics. Many didn't resist to the temptation of such an investment. The numbers make your head spin: there were nearly 18,000 “investors”, creating a global total of more than €700,000,000 in subscriptions.

However, voices were quickly raised to warn the market that the value of works on which the titles were based did not correlate with the reality of the market and the assurance of recovering the stake. More interest created more and more uncertainty.

## Alerts from the Autorité des Marchés Financiers (“AMF”): investors beware!

From 2003, the AMF published the first warning about conventions of joint ownership proposed by Aristophil, following which the authority took hold of the Paris public protection office. The criminal court, after an investigation into the matter, held<sup>3</sup> that Aristophil's conduct did not initially come within the scope of practice of the regulator, with contracts not being able to be described as financial products<sup>4</sup>.

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<sup>1</sup> The activities in Switzerland would have been suspended since November 2014.

<sup>2</sup> This particular hotel was sold for more than 30,000,000€.

<sup>3</sup> French Court, Criminal Division, 3 October 2006.

<sup>4</sup> Gérard Lhéritier thus was exonerated from main charges of door-to-door sales or public offering without prior conforming public information.

Contrary to classic financial products, letters, autographs and manuscripts, are in effect considered as “miscellaneous products” the sale of which is not subject to the prior approval of the AMF.

Based on this decision, the group pursued its activities.

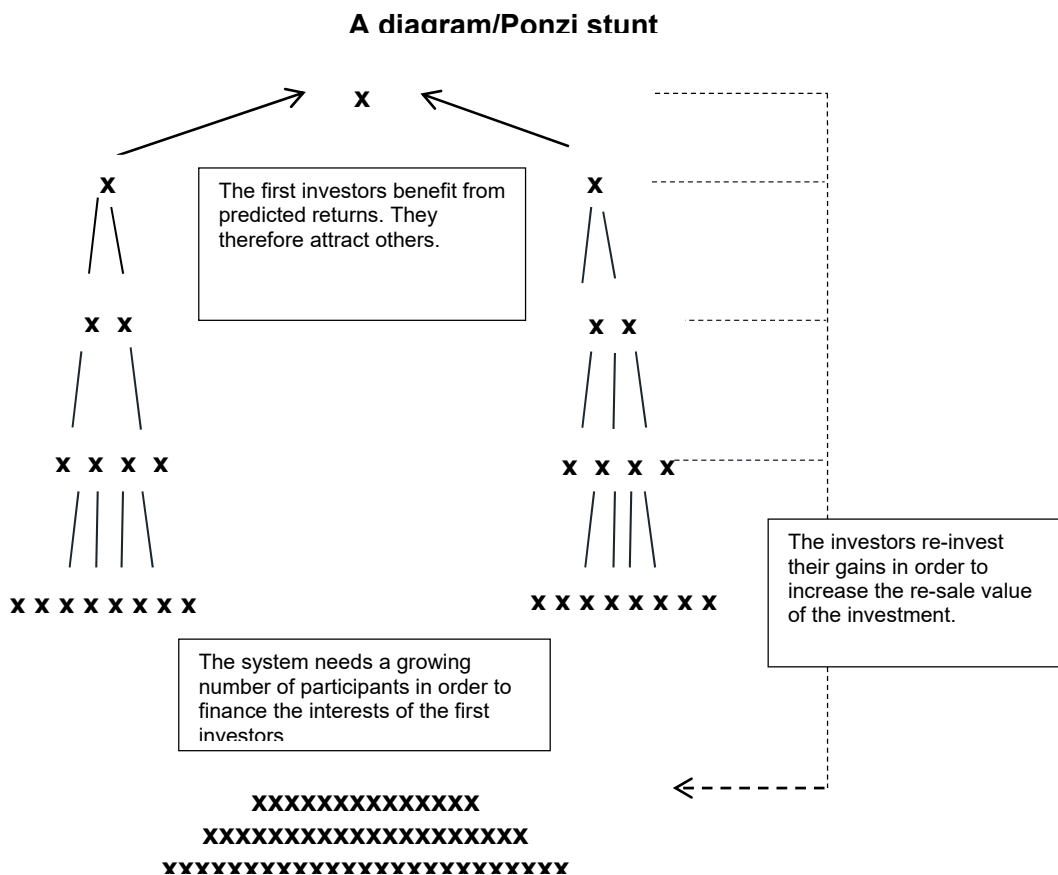
On 12 December 2012, the AMF again published an item alerting the investors about certain unusual investments, such as “letters and manuscripts”.

Finally, in an item dated 26 November 2014, the AMF wished to point out<sup>5</sup> “that the activity of the Aristophil society did not come within the scope of practice of the financial regulator, and that the society’s products had been neither authorised, nor aimed at, nor certified by the AMF. However, the AMF is remembering to regularly alert such investors of the risks of uncommon investments and especially letters and manuscripts, which are not subject to the protective regulation of financial instruments”.

### The criminal investigation and the collapse of the ARISTOPHIL group worldwide

On the basis of a TRACFIN warning<sup>6</sup> and a request for information to the financial prosecutor, emanating from the General Office for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF), in March 2014 the Paris finance squad opened a preliminary investigation, following which a legal investigation was opened.<sup>7</sup>

The Judiciary quickly suspected an arrangement aligning itself to a system known as “Ponzi” scheme which consists of paying initial investors from the funds procured by the new entrants to the scheme.



<sup>5</sup> Following an interview with Gérard Lhéritier in which he stated “All our products are regularly submitted to the FMA and they are always given the green light”.

<sup>6</sup> Treatment of information and action against secret financial circuits.

<sup>7</sup> To clarify, an investigation had already been brought in Belgium from November 2012 relating to activities of the Aristophil society, especially in France.

On 18 November 2014, the Museum of Letters and Manuscripts, the Aristophil headquarters, the Finestim and Art Courtage companies in Lyon, as well as the domicile of Gérard Lhéritier were searched by the repression of financial crime squad and the finance squad.

As part of the investigation, the accounts of the Aristophil company were frozen and the whole of the collections placed under seal.

The Finestim and Art Courtage company were consecutively placed in compulsory liquidation on 29 January 2015, and from 16 February 2015, a procedure of receivership was opened against the Aristophil society then transformed into a liquidation proceedings this summer.

The following 4 March 2015, Gérard Lhéritier, founder and president of the Aristophil society, was put under formal investigation with five other people including his daughter (responsible for the management of the collections) and the public accountant of the company, mainly due to suspicions of organised fraud, misleading business practice and misuse of company assets.

### **The investigation into those responsible and the fate of the investors**

After the turmoil caused by the placing in receivership and liquidation of different entities, many questions remained and you could bet your bottom dollar that this was only the beginning.

How did we get into this situation? Was there fraud? How many tens of thousands of euros had been embezzled? Who advised on what, who and how? What is the true value of the thousands of works seized? Who are those responsible and are they solvent? And above all, **how do you recover the funds that have already been invested!**

Some people refer to the complacency (not to say the complicity) of certain fraudulent antiquarian bookdealers and experts who overvalued the acquired manuscripts, and question the role of some financial advisors and banking establishments.

At this stage, the freezing of assets by the Ministry of Justice nonetheless allows the investors who will have been warned in time (to file proof of claims on time – or applications for relief from expiration of time for appeal, or claims) and who hope to receive, at least a share of their investment from a sale, and from the supply of funds awarded by authorities in the collective proceedings.

That could nevertheless take several years, and as is, a deadweight loss for many golden investors, a loss that is already high. It is up to them therefore to take action, so as to organise their defence.

Stunning legal battles are on the horizon!