

Leigh Keno is part of a new matched pair. He and Stephen B. O'Brien Jr. of Boston's Copley Fine Art Auctions are having back-to-back sales in New York City in mid-January 2011. A jointly issued press release stated their intent was to "to kick off Americana Week."

The back pages of O'Brien's Copley Fine Art Auctions' catalog for his July 22 and 23 sale included two facing full-page ads, one for his auction house and one for Keno Auctions. The ads showed that the two were planning to have auctions on consecutive days in Stamford, Connecticut. In August, however, the venue changed to the Church of St. Ignatius Loyola at 980 Park Avenue in Manhattan.

Keno's inaugural sale took place in Stamford on May 1 and 2, during which he set a world record for New York furniture (\$1,428,000) and for an 18th-century American folk portrait (\$1,118,600). For the past five summers, O'Brien has held a two-day sporting sale in Massachusetts—the first in Boston, the rest in Plymouth—where he

has set multiple auction records of his own, for decoys, decorative shorebirds, and works by sporting artists.

Previews for both auctions will start on Saturday, January 15 at 10 a.m. Copley's sale will take place first, on Monday, January 17; Keno's will follow, on Tuesday, January 18. O'Brien said that he and Keno have decided to do these sales "as a cross-marketing venture. We thought there would be some interesting crossover, with his clients interested in what we sell and vice versa."

O'Brien said consignments will be limited to 350 lots or until the auction is full. The deadline for consideration is November 15. He has already lined up decoys by A. Elmer Crowell and Joseph Lincoln and paintings by Ogden Pleissner, Aiden Lassell Ripley, and Lynn Bogue Hunt, as well as a collection of etchings by Carl Rungius. The sale of five wild-animal oil paintings by Rungius was the highlight of O'Brien's July sale, accounting for \$1,305,250 of the total. Seven lots of Rungius etchings of

animals followed the oils, going for \$5462.50 and \$6325 at the high end. (A full report on that sale, which achieved more than \$4.2 million, appeared in *M.A.D.*, October 2010, p. 28-C.)

According to the press release, Keno will sell a wide variety of American paintings, folk art, furniture, and decorative arts, including property from the collection of Joseph and Janet Shein. Featured will be rare examples of blue-decorated salt-glazed stoneware, a collection of 19th-century weathervanes, a full-length portrait of a young girl by Erastus Salisbury Field, and a rare Goddard-Townsend school Newport slipper-foot tea table. The release also stated that Keno will soon be announcing "the discovery of a cache of previously unknown drawings and sketches by one of America's most famous artists."

For more information, contact Copley at (617) 536-0030 or <info@copleyart.com> and Keno at (212) 734-2381 or <info@kenoauctions.com>.

Difficulties in Overseas Transactions

by Daniel Grant

The Asian art and antiques sales at Eldred's in East Dennis, Massachusetts, generally have gone quite well—with occasional exceptions. Some of the mainland Chinese buyers, who may not have read the contract when they registered to bid, or perhaps didn't understand what they read, as soon as they have won objects have begun to dicker with Eldred's staff over the price and the auction house commission.

"You never see that here," said Josh Eldred, director at the auction house. He meant that American and European buyers know the rules: you pay the price you bid plus the auctioneer's stated premium. Period.

Those foreign buyers need to have the process explained to them gently, so that they follow through on their purchases. Push them too hard, and they will just walk away, without much recourse on the part of the auctioneer. Everybody's learning something, and for Eldred the lesson is that "there are cultural differences in how you buy things."

These differences are also part of what is involved in developing a global art market, bringing new buyers from all over the world, whose wealth has helped to buoy galleries and auction houses in the U.S. and Europe.

"We are adding new clients all the time from the emerging markets," said Heather Barnhart, Christie's U.S. regional director. Tobias Meyer, Sotheby's director of contemporary art, claimed that "a significant number of Asian buyers have entered the market, and they are buying aggressively."

Along with their money occasionally come some parochial ideas of how transactions take place, such as saying you will buy something and then walking away or refusing to pay or assuming that an auction represents the beginning of a period of negotiation.

Aileen Agopian, director of contemporary art sales at Phillips de Pury & Company, noted that despite rules published in each catalog that payment must occur within 30 days of the conclusion of an auction, she has seen winning bidders from the developing world "ask for payment terms, stretching out over weeks or months at times." The auction house doesn't like making exceptions and bending rules, "and we certainly wouldn't want to do it a lot."

Nevertheless, accommodating this crop of new buyers has forced Phillips de Pury and others in the art trade to become more "flexible." One hears that word often these days. On the other hand, new wealth in China, India, Latin America, the Middle East, and Russia has brought about new players in the art market now and new prospects for the market in the future.

"We were affected like everyone else in 2008 by the recession," said Adam Sheffer, a partner of New York City's Cheim & Read contemporary art gallery. A drop-off in sales from past buyers was more than offset by "an enormous surge of business in the Middle East. There has been an enormous increase." He and

others at the gallery have met Middle Easterners at various art fairs around the world. "We have traveled to homes in the Middle East" to meet individually with prospective collectors "who have an interest in the artists we represent."

That's the good side. He also noted, "One out of every three sales we make doesn't take place," because a collector may agree to purchase a specific work but never sends the money to pay for it. "After several months of waiting, we just put the work back on the market. You can't hold a grudge or say 'I'm never going to deal with that person again.' People in the Middle East like to complete conversations and not leave things hanging for another time. They will say, 'Yes, I want to buy this painting,' even if they don't intend to actually buy it, because they think this is the way to be polite. What we've learned is that you can't do business in another culture the way you do it here." Certainly, he added, "In a down market, you don't turn down business."

Other dealers and auctioneers have similar incidents to recount. Chicago auction house owner Leslie Hindman noted that some Russian buyers have been "slower paying and require many telephone calls."

Nicholas Olney, director of Manhattan's Paul Kasmin Gallery, noted "more back-and-forths on the phone" when it comes to getting paid by new collectors in the Middle East and Far East. In most instances, sales are concluded successfully, although payments may be made over an extended period of time with periodic efforts made by the buyer to reduce the price.

"It's part of being a dealer in a global market," said New York City art dealer Mike Weiss. "You have to change your way of doing things" when confronted by Chinese and Russian buyers who, "even when they have signed a document to buy something, just see it as a piece of paper,

and they'll pay whenever they choose to." Collectors from the developing world can't be pressured into paying, because "you don't want to lose collectors." Yet he also doesn't want to wait for as long as a year, because the artwork in question may be worth more if he were free to sell it. "It's a kind of pain I choose to undergo because ultimately I will come out ahead."

Not every dealer and auction house takes these cultural differences in stride. David Nash, partner in New York City's Mitchell-Innes & Nash, stated that their gallery's buyers are "one hundred percent Americans and Western Europeans. We have had inquiries from Russian collectors, but they're not very straightforward. They say they'll buy something and then not pay for it."

Auction houses check on the creditworthiness of prospective collectors when those people register to bid at their sales, but the systems that largely work for people in the United States and Europe are less reliable in the developing world. Those registration forms generally ask for the bidder's name, address, telephone number, e-mail, bank accounts, credit cards, and "trade references" (art galleries and other auction houses with which the individual has done business in the past). Bidders may be reluctant to provide bank and credit card information, and overseas banking institutions are less apt than those in the U.S. to give out customer information to auction houses, according to Greg Rohan, president of Heritage Auction Galleries in Dallas, Texas.

"We take extra steps to check references," Rohan said, adding that trade references are often better indicators than those from banks. "If other auction houses say they've paid in full and paid on time, that's a pretty good indicator that they'll do the same with us." Heritage holds it in the collector's favor if he or she has ordered catalogs from Heritage in the

past. Rohan said only 1% or 2% of all Heritage's auction sales fall through, "usually for reasons of death, divorce, or tax liens," but that overseas buyers are no more likely to fail to pay than those in the United States.

In the wake of the financial turmoil that has engulfed much of the world in the past two years, auction houses have been taking second looks even at their long-time clients. "Post-September 2008, we have reevaluated everyone's credit line," Rohan said.

Others have done much the same. In addition to the credit card, bank, and trade references, auction house staffers rely on Google and other search engines to find out "where their homes are, where they socialize, what boards they're on, how solidly fixed they are in their communities," said Christie's Heather Barnhart.

People overseas seeking to register for an auction may be less easy to track on line, according to Gene Shannon, president of Shannon's in Greenwich, Connecticut. "When a new person wants to bid, the girls here Google the name to find out if that person actually exists and lives where he or she claims to live," he said.

Auction houses maintain blacklists of buyers who fail to pay, and they provide information on those people to other auctioneers who make inquiries. Still, in a world where new wealth sometimes creates instant art collectors, auction houses reliant on Google and recalcitrant foreign banks are forced to be flexible and to take much on faith. That appears to be the mantra of those operating in the global art market.

"You have to give people the benefit of the doubt," Josh Eldred said. Then he added, "I am more comfortable with domestic buyers than with overseas buyers."

New York Auction Bill Vetoed

by Betty Flood

New York Governor David A. Paterson has vetoed legislation that would have created statewide auction requirements by extending the current strict and effective consumer protection provisions that regulate the practices of auctioneers in New York City to counties statewide with a population of 200,000 or more.

The legislation, which was sponsored by Assemblyman Richard Brodsky (D-Westchester) and Senator Daniel Squadron (D-Manhattan), had the support of the majority of auction houses in New York City and throughout the state.

Governor Paterson, in vetoing the legislation, said, "This is a worthy purpose, and the sponsors have made great efforts to make the auction process fairer. Indeed, New York City has a similar set of guidelines in place, and many of the bill's provisions are sensible and thoughtful. However, the bill contains a significant flaw that would undermine its purpose and show confusion."

Paterson explained that the bill's provisions were to be enforced by the consumer protection officer of each county and in New York City by the Department of Consumer Affairs. "It does not, however, set forth the counties' enforcement powers or remedies. Indeed, it is entirely unclear what—if any—action a county is authorized to take pursuant to this legislation. One possibility is that each county would exercise its own administrative processes to the extent they exist, to enforce this law. But this construction would lead to a differential and non-uniform enforcement, while

some counties might not have any mechanism to enforce at all. Further, some auction houses operate within many counties, and they would have to adjust to these differing standards. In sum, it would create a detailed and admirable set of consumer protection rules, but leave the agents of enforcement uncertain as to how to obtain compliance with these requirements."

"Once again, Governor Paterson has chosen to veto important legislation that would have provided vital consumer protections," commented Assemblyman Brodsky. "Currently, auctioneers who operate outside of New York City are not obligated to tell the truth when they make statements to potential buyers in regards to items they intend to auction. In fact, the vast majority of auctions that take place outside of the five boroughs are not regulated at all under state law. The governor's rationale behind this veto is dubious at best, and it is just another example of the executive branch mishandling important state affairs."

Senator Squadron was disappointed that Governor Paterson vetoed the bill and said, "In a market where buyers and sellers rely on a genuine interest in an item to find a fair price, it doesn't make any sense to allow auction houses to create fake bids. This bill would protect both buyers and sellers by prohibiting sham bids and ensuring transparency and fairness in the auction process. I will continue to work with my colleagues in government to pass these protections into law."