

Park West denies they defrauded buyers in cruise ship auctions

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MONDAY, 02 FEBRUARY 2009 11:08

SEATTLE (ACNI) - Multiple class-action lawsuits are currently facing Park West Gallery Inc., of Southfield, Mich., including a complaint filed in Seattle's U.S. District Court, Western District, that jointly names Park West, two major cruise lines, and several other corporate entities as defendants. Park West is vehemently denying any wrongdoing and plans to fight to protect its reputation and business interests.

The Seattle case, in similar fashion to a suit filed in Michigan, hinges on the authenticity, or lack thereof, of artworks auctioned by Park West on certain cruise ships. Plaintiffs allege the art they purchased in onboard auctions conducted by Park West were misrepresented as originals when, in fact, some were forgeries.

The law firm Hagens Berman Sobol Shapiro is representing the plaintiffs in the Seattle-based action, who are indicated on the complaint as "Rodney J. Blackman and Myra J. Kean, individually and on behalf of all others similarly situated." The full list of defendants, updated as of Oct. 3, 2008, is shown as "Park West Galleries, Inc., Fine Art Sales, Inc., HSBC Bank Nevada, N.A., HSBC Finance Corp., Holland America Line Inc., Holland America Line-USA Inc., Royal Caribbean Cruises Ltd."

Originally filed on Sept. 2, 2008, the lawsuit alleges the defendants engaged in a scheme to knowingly defraud passengers aboard cruises by selling forged artwork to unsuspecting purchasers. Specifically, the suit claims Park West sold pieces of art "ostensibly created by artists Salvador Dali, Pablo Picasso and Rembrandt, when in fact the defendants knew - or should have known - that some of the pieces were forgeries."

According to the complaint, auctions held onboard ships account for "a significant portion of the cruise ships' revenue through revenue-sharing agreements with the art auction companies." For a number of cruise-ship companies, not just those involved in the litigation, Park West's auctions have become a revenue source as important as many other mainstream onboard concessions, such as boutique shopping, gambling or nightclub shows. Reports peg the cruise-ship art-auction revenue in the hundreds of millions of dollars annually.

Park West's Web site confirms that the company conducts art auctions at "locations throughout the world, as well as on 85 cruise ships operated by Carnival, Celebrity, Disney, Holland America, Norwegian, Oceania, Regent Seven Seas and Royal Caribbean cruise lines."

Within the Seattle-based lawsuit's Substantive Allegations section, it is stated that Park West "attributes its success to its self-proclaimed 'integrity and professionalism that have been a part of the business since its gallery first opened in 1969.' Park West further claims to rely on recognized scholars to document and to review its collections. Among these persons [is] Bernard Ewell, who Park West maintains [is] 'the internationally recognized authority [on] Salvador Dali and appraiser of the Salvador Dali Museum in St. Petersburg, Florida.'"

The lawsuit claims co-defendants HSBC and Holland America participated in, and benefited from, Park West's art dealings onboard. Holland America shares revenue with Park West on all pieces sold in onboard auctions, and the lawsuit claims the cruise line should have known the pieces sold were not authentic. A division of HSBC offered purchasers private-brand credit cards with very high credit limits - reportedly up to \$50,000 in some cases - so passengers could bid on artworks in the onboard auctions.

A second class-action lawsuit, filed on Dec. 23 in the Circuit Court, Oakland County, Mich., names 10 plaintiffs, each seeking a refund on artworks purchased from Park West Gallery that they allege are either fakes, have fake signatures, or were "heavily overpriced and misrepresented as bargains and investments."

In the case of the Michigan litigation, Park West Gallery filed a countersuit on Dec. 23, 2008 against plaintiffs from the original complaint as well as the Arizona-based Web site Fine Art Registry (FAR), its founder and CEO Theresa Franks; and Frank Hunter, operator of another art Web site and director of the Salvador Dali Archives, Ltd. of New York. Park West alleges Fine Art Registry has waged "a campaign of defamation and business interference" against it.

Specifically, Park West's countersuit is charging the plaintiffs with: "publishing numerous false and defamatory statements about Park West, attempting to destroy Park West's goodwill and reputation by use of false and defamatory statements, interfering with existing contractual relationships between Park West and its customers, and interfering with Park West's prospective business opportunities." Park West is seeking a permanent injunction against the individual plaintiffs and Fine Art Registry along with actual and punitive damages.

A Park West statement alleges that Fine Art Registry's "defamatory attacks" began in 2007, "shortly after the gallery rejected a business offer from the start-up Web site's management." Their statement continues: "FAR approached Park West to buy the Web site's art registry services. For an annual membership fee of \$9.95 and \$2.25 per registered work, FAR simply lists an artwork on its site without examining the actual work, researching its authenticity or guaranteeing the Web site's future existence. Park West saw no value to its customers in spending well in excess of \$1 million per year for FAR's service, and passed on FAR's solicitation."

Park West alleges that soon after they declined to sign up for FAR's services, Park West became the target of defamation at the hands of FAR, "forcing the gallery in April 2008 to take its initial legal action in Michigan and Florida against FAR." Park West's legal counsel, Young & Susser, noted in the statement that a "FAR-sponsored suit similar to the one filed in Michigan this year was dismissed in California in December 2008," and that Park West is seeking reimbursement for legal fees in that case.

Park West Gallery is one of the world's largest art dealers and occupies a 63,000-square-foot headquarters and gallery in Southfield, Michigan. The firm also maintains a 181,000-square-foot "fulfillment center" and gallery in Miami Lakes, Fla. The company's founder and CEO, Albert Scaglione, unequivocally defends his company's integrity. In a statement, he said: "Over the last 40 years we have served more than 1.2 million satisfied clients through our gallery sales as well as our land and sea auctions. Our reputation is dear to us and we stand behind the authenticity of everything we sell, including the works of art involved in the meritless lawsuits..."

Fine Art Registry's Theresa Franks told *Auction Central News* she has been conducting an ongoing investigation into the business dealings of Park West since spring of 2007, when she saw an article in a Phoenix newspaper about a local resident named Gary Holloway. "He had been ripped off on a ship and had to go to a Park West land auction in order to get his point across...These auctions all take place at sea on international waters, where anything goes. There's no law enforcement, no overseers, and no one is watching what the auctioneers are doing."

Franks has produced two documentaries about allegedly fake artworks sold in cruise-ship auctions. One of the documentaries concerns Londoners Sharon Day and Julian Howard, both of whom are attorneys. The couple had purchased some artworks, including a few prints from Dali's Divine Comedy set, from an onboard auction conducted by Park West in March 2008. According to Franks, as Day and Howard were departing the ship, they asked if it were possible to obtain the remaining prints in the Dali series so they could have a complete 100-print set. Franks said Day and Howard were told by a Park West representative that perhaps the required prints could be pulled from other cruise ships. Day and Howard were later advised that a complete set in "pristine condition" was, indeed, available to them and being held in the company's fine art storage facility in Michigan.

Franks said the purchase was consummated for approximately \$400,000 plus a 15 percent commission [*Ed.-exact amount has not been confirmed*], and the prints were shipped to New Jersey where the couple awaited their delivery, together with experts they had summoned to authenticate the art. Among those present, said Franks, were Paris art dealer and Dali authority Nicolas Descharnes, the aforementioned Frank Hunter of Salvador Dali Archives Ltd. in New York, and a representative of McCrone Associates of Westmont, Ill., a company that specializes in unique particle identification and materials characterization and analysis.

"Both Nicolas and Frank had an immediate reaction - that they were fake," said Franks. "Nicolas has looked at many fake signatures, which seem to come from two sources. He said some are in a fake Italian hand and some are in a fake U.S. hand. He can tell the difference, but said that he had never seen this particular hand before."

Franks does not hold back in her accusations aimed at Park West. She said she attended and videotaped a Park West auction in Westlake, Calif., where she witnessed unusual activity and a free flow of alcohol. "They had an open bar and would leave it in the hallway of the hotel for the bidders. At one point the auctioneer even got off the podium, grabbed a bottle of champagne and downed it like he was at a frat party. And they had staff encouraging people to bid."

After the auction, Franks said, the unsold art was "thrown around" and left unattended overnight. "If you had artworks that were by Dali and Rembrandt, wouldn't you at least have a guard watching it overnight?"

The convoluted maze of lawsuits surrounding Park West took an interesting turn on Jan. 28, 2009, when the company announced its legal team had been beefed up with the addition of former Assistant U.S. Attorney and FBI Art Team legal advisor Robert E. Goldman. One of the most respected legal experts in the field of fine art, Philadelphia-based Goldman told *Auction Central News* that he believes the outcome of the litigation will be "important to the entire art industry." Goldman continued: "If reckless individuals and organizations are permitted to falsely attack the hard-earned reputations of legitimate art dealers without consequence, the art market, including artists, auction houses, museums, dealers and collectors, will suffer irreparable harm..."

Explaining how he became involved with Park West's defense team, Goldman said he was approached by Albert Scaglione in the fall of 2008 and "invited [to] examine the company's people, policies, operations and collection." Goldman said he was given carte blanche and open access. "There were no boundaries or barriers to my study," he said, "and I emerged with a deep respect for, and trust in, this extraordinary organization of honest, hard-working professionals." He said that based on his first-hand observations and decades of art-law experience, he not only joined the Park West legal team but also left his position with the Pennsylvania law firm Fox Rothschild in order to devote all of his time to the pending litigation. "That should tell you the level of importance with which I view the outcome of these pending cases."

Goldman said he is appalled over the way the Internet can "create a sense of false authority. Fine Art Registry has been defaming Park West on its Web site, and rather than accepting Park West's invitation to sit down and straighten out the facts - which FAR has gotten completely wrong - the operator of the site, Theresa Franks, has simply continued to post false information. I'm making it my full-time job to see that the damage to Park West's reputation is stopped."

Auction Central News will continue to report on the pending litigation and would remind readers that defendants in all of the above-mentioned lawsuits are innocent of charges until proven guilty in a court of law.

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