

# COMMENTS ON THE ART MARKET

## VOLUME 9

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### **A Gray Area - Are You Kidding!?**

In early July an individual called the gallery, claiming to be a dealer, and stated that they had a client interested in a painting by Antonio Jacobsen that was illustrated on our web site. We discussed the work in more detail and then ended our conversation. On July 19<sup>th</sup> a woman by the name of Laura, claiming to be an employee of that dealer, called and informed me that their client was very interested in the work. They had a few more questions (which I answered) and wanted me to send on some additional, digital, images. Within the hour I had E-mailed them three more images - a close-up of the signature, a close up of the inscription on the back to the painting and a full, framed, image.

On Friday evening I was speaking with a dealer friend of mine from California and he asked if I had been on eBay to see a particular work... I told him no, but while he was on the phone I went to their site. I looked up the item he called me about and told him that I did not think it was by the artist in question... he thanked me and we hung up.

Since I was already on eBay I began to scroll through the different offerings... I made it half way down the first page when I saw the following:

Antonio Jacobsen American Ship Listed (item #1448058301)

I clicked on the listing and was amazed to see, what appeared to be, our painting being offered for sale. Now we all know that Jacobsen painted numerous versions of the same ship, but each one is always a little different... this, as far as I could tell at this point, was an exact match.

I tried to contact eBay by phone, but that was impossible. The only way to reach them is by E-mail - which I sent. I initially received their standard reply that with the high volume of E-mails it could take 12 - 36 hours before they got to my complaint... the problem was that the sale of this item ended on Sunday, July 22<sup>nd</sup> (not much time).

I decided to take matters into my own hands. First, I attempted to get some additional information, through eBay, on the seller; but unless you are a bidder on the item, you cannot find out who the seller is. Not wanting to tip my hand, I created an identity on eBay and I created another E-mail address on our AOL account... I then placed a bid on the lot and was able to find out more about the seller (who, it turns out, was not actually the seller). The person offering the painting was using someone else's eBay account.

Then, with my new eBay and AOL names I sent an E-mail to the 'seller' through the proper eBay channels. I pretended to be the wife (sorry, it just worked out that way) of a wealthy individual from California (inferring that I was in the film industry) and asked a number of basic questions about the Jacobsen and requested additional images. I was informed that more images would be posted on Saturday so I decided to wait to see them.

Late Saturday afternoon, July 21, the seller posted some additional images of the painting on eBay... you guessed it; they were 2 of the additional photos I sent! That confirmed it... this was our painting!

My next call was to the FBI to file a report. The desk agent informed me that it did not sound like any crime was committed, but after speaking with him for a while he agreed to take the report and pass it on the appropriate squad.

During that weekend I had numerous E-mails with the seller, and in each I included one personal question - trying to see if I could get their real name, address, etc. As we went back and forth, via E-mail, she answered every question I posed and I soon learned her name, the area in NY she lived in, her phone number and in the end, I received all of her banking information. She informed me that I would be better waiting until after the eBay sale to buy the work because paintings of this quality typically do not sell on eBay and that the price for the work was \$23,000 - that was the best she could do because they had a 'very large investment' in the work. HA! Oh, by the way, she also informed me that the work was in their warehouse in Massachusetts - a 4-hour drive from her home; funny, as far as I knew, it was still in our gallery!

I watched the sale end on Sunday - the work did not meet the reserve and did not sell.

On Monday morning I called the FBI office and was informed that my report was sent to the appropriate squad but it would take a few days for someone to get back to me. I also sent additional E-mails to eBay. By Wednesday I received a call from the FBI agent in charge. He was very interested in the situation, but informed me that this was still a **gray** area in the law and that after speaking with his supervisor, there really wasn't much they could do. He asked if I could send him all the E-mail correspondence I had with Laura and after reviewing it, he called to tell me that he was going to pay her a visit to get a statement... not the kind of knock on the door I want to receive! The agent also informed me that things like this go on all the time and that the Internet has made their job even harder with more complaints coming in all the time.

I also received notification from eBay that I had to file a VeRO form - stating that I was the rightful owner of the item up for sale... I faxed that to them immediately. I then received a telephone call from an eBay representative stating that they would be happy to talk with the FBI agent in charge and that they would co-operate with them in every way.

I have still not tipped my hand to the 'seller' and I hope that the FBI does pay her a visit - she needs a good scare and has to learn that this is not the way an honest person conducts business in the art world. However what is really puzzling is that, as I found out from the FBI and my attorney, no crime had been committed. Can you believe that someone can take something they do not own, offer it for sale on the public market, without the owner's permission, and there is nothing wrong with that? Well, as it stands now, they can!

We are very careful with the works of art we own and do not hand them out to just anyone. But in this case, all they had to do was copy the image from the web and place it on eBay... amazing! Please remember to be very careful while traveling the Internet Super Highway... there are a lot of bumps and potholes in that road and some can prove to be very costly! In the end, had they sold the work in the eBay sale, we would have never allowed them to take the painting from us... I wonder what would have happened then?

### **What If You Cannot Afford the Best From a Particular Artist?**

This is a very important question. If you cannot afford the best, then keep searching for an artist whose best works are in your price/comfort range... or, you need to rethink the amount of money you want to spend on art. As I stated in one of my previous newsletters, try not to settle for an average/mediocre example by any artist. We always recommend to our clients that if they cannot afford a good example of the first level artist in the period or style they want, move to the second tier artists. If you find that they are still out of your price range then move to the third tier.

You need to find a level where you can afford the best. As I have stated before, and will keep repeating... the best will always be the best! Rarely will you go wrong when you buy the best...do not settle!! Remember, there is a lot of artwork out there and if you are patient, you will find the right painting.

Also, please keep the following in mind when you are searching for suitable works of art; at some point in the future you, or your heirs, may want to sell the work/works that you have acquired. Buying the best works will make the resale much easier since there is usually a buyer for the best. If you buy works of art that have 'problems' (whether it be the works quality, subject matter, condition, etc.) those works will always be harder to sell.

One final note, if you find that you are so far removed from the first tier artists, and now you are looking at artists who painted in a similar style, but worked years or decades later, you should probably rethink the period of art you want to collect.

Howard L. Rehs

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**Gallery Updates:** From September 13th - 16th we will be participating in the Fine Art Dealers Associations - Los Angeles Art Show. If you live in LA or will be in the LA area during that weekend, please stop by. The exhibit is held on the campus of UCLA. For more information, please give us a call.

If you have a moment, please take a look at our gallery artists' page. Recently acquired works by Henry Victor Lesur, Franz van Severdonck, Charles-Theodore Frere, Alfred Arthur Brunel de Neuville, Edouard Cortes and Sally Swatland have been added.

**Virtual Exhibitions:** This month we have added a virtual exhibition entitled The English Countryside - featuring a series of landscape paintings by the 19th century Victorian artist Henry John Boddington (1811-1865).

Henry John Boddington – *The English Countryside*

We have also added works to the Blanchard, Cortes, Lesur and Cauchois exhibitions. And please remember that all of the paintings featured in our virtual exhibitions are sold.

**Next Month:** I will be discussing another item that one should consider when looking to acquire a work of art - SIZE! How does size affect the price of a work, or does it?