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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

Smithsonian Institution

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JUL 18 1970

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RELEASED

Dear Mr. Keith:



This letter is in further response to your letter of October 8, 1969, in which you requested our Office to review the disposition of certain art works from the National Collection of Fine Arts of the Smithsonian Institution.

The National Collection has disposed of four paintings in the last 6 years. Two of the paintings were sold at auction, one was sold through an art dealer, and one was given to an art dealer in exchange for an American painting. The paintings, [which were by European artists] were sold or exchanged for the purpose of improving the collection of American art works. By this means, the National Collection has acquired a number of American art works and is planning to acquire others.

The Smithsonian Board of Regents had not established a formal written policy on whether art works in the National Collection should be sold or exchanged, but it was subsequently advised of the disposition of these four paintings. Since there were differing views on whether the Smithsonian and similar institutions should sell or exchange paintings, we advised Smithsonian officials that it seemed desirable for the Smithsonian to establish a formal written policy on this matter.

We believe that the practice followed by the National Collection in valuing paintings has been less stringent than appears desirable because it has obtained only one independent estimate of value of the paintings considered for sale or exchange. We were concerned that one estimate might not be an adequate basis for establishing a painting's market value. We therefore suggested that, if a decision was made to continue [to permit] sales or exchanges of paintings, procedures be established requiring more than one independent appraisal of the value of paintings that were being considered for sale or exchange.

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We tested the accuracy of records maintained by the National Collection of the location of paintings. Our tests showed that in many instances the records were inaccurate or did not adequately describe the location of the paintings. During our tests we noted that some of the paintings were leaning in rows along walls and partitions in the main storage area. This method of storage subjects the paintings to the risk of damage.

We discussed these matters with Smithsonian officials with a view toward obtaining appropriate corrective measures. We were advised by Smithsonian officials that the following steps were being taken in response to our proposals and discussions:

- The Board of Regents, in May 1970, adopted a procedure for sales and exchanges of art works which, in effect, established a written policy permitting such sales and exchanges. The procedure requires prior approval of the Director of the National Collection, its Art Commission, the Smithsonian's General Counsel, and the Smithsonian's Secretary for sale or exchange of any art work valued at over \$1,000. The prior approval of the Board of Regents is also required if the art work is valued at over \$50,000.
- The Secretary of the Smithsonian advised the Director of the National Collection that at least one professional appraisal of the value of each art work to be sold or exchanged should be obtained if the estimated value of the art work was between \$1,000 and \$50,000 and that two such appraisals should be obtained if the estimated value was more than \$50,000. In addition, he suggested that the Director solicit the views of the National Collection of Fine Arts Commission on the method to be followed in establishing market value of art objects.

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--The Director of the National Collection advised us that (1) problems in storage facilities were being corrected, (2) a complete physical inventory of art works would be taken, and (3) adequate inventory records would be established.

With regard to valuing art objects, the Art Dealers Association of America requires that appraisals made by its members be the combined judgment of more than one of its members. We believe that, in establishing the market value of art objects that are to be sold or exchanged, the National Collection should consider the opinions of more than one art expert.

Our detailed comments on these and other matters are set forth in the enclosure to this letter.

As a result of agreements reached with Mr. Lloyd Salvetti of your staff, we (1) obtained, and incorporated in the enclosure, the comments of Smithsonian officials on the matters discussed therein and (2) are making copies of this letter and the enclosure available to the Smithsonian, the Board of Regents, the National Collection of Fine Arts Commission, and interested members and committees of the Congress.

Sincerely yours,


Comptroller General
of the United States

Enclosure

The Honorable Hastings Keith
House of Representatives

GENERAL ACCOUNTING OFFICE . . .

OBSERVATIONS ON THE SALE AND EXCHANGE OF PAINTINGS

BY THE NATIONAL COLLECTION OF FINE ARTS

OF THE SMITHSONIAN INSTITUTION

INTRODUCTION

The General Accounting Office (GAO) has examined into the sale and exchange of paintings by the National Collection of Fine Arts of the Smithsonian Institution. This review was undertaken pursuant to a congressional request that GAO look into dispositions of art works belonging to the Smithsonian Institution. As part of our examination, we interviewed officials of the Smithsonian Institution and its National Collection of Fine Arts. We also reviewed appropriate registrar, curatorial, and administrative records of the National Collection and, with the assistance of its personnel, we ascertained that certain works of art were in its possession or were otherwise properly accounted for. In addition, we interviewed officials of the following art firms and museums:

Art firms:

Art Dealers Association of America, Inc., New York, N.Y.
James Graham and Sons, Inc., New York, N.Y.
Parke-Bernet Galleries, Inc., New York, N.Y.
Robert Schoelkopf Gallery, New York, N.Y.
Victor Spark, New York, N.Y.

Museums:

Corcoran Gallery of Art, Washington, D.C.
Freer Gallery of Art, Washington, D.C.
The Metropolitan Museum of Art, New York, N.Y.
National Gallery of Art, Washington, D.C.
National Portrait Gallery, Washington, D.C.

The Smithsonian Institution was created by an act of the Congress in 1846 (20 U.S.C. 41), as an establishment for the "increase and diffusion of knowledge among men." Its business is conducted by a Board of Regents composed of the Vice President of the United States, the Chief Justice, three members

of the Senate, three members of the House of Representatives, and six other persons who are not members of the Congress. The Secretary of the Smithsonian Institution is its executive officer and the director of its activities. He is appointed by the Board of Regents and also serves as secretary to the Board.

The National Collection traces its legislative authority to the act of 1846 which established the Smithsonian Institution. In 1938, by Public Resolution 95, the Congress instructed the National Collection to foster in the United States an appreciation of past and contemporary art, to encourage the development of contemporary art, and to effect the widest distribution and cultivation in matters of such art. In carrying out these instructions, the National Collection stresses American art and considers itself a museum for such art.

The National Collection is headed by a director who is appointed by the Board of Regents and is under the general direction of the Smithsonian's Assistant Secretary for History and Arts. The National Collection of Fine Arts Commission (formerly the Smithsonian Art Commission), created by the Board of Regents, is responsible for considering and reporting to the Board all fine art matters under the National Collection's jurisdiction. The Commission is authorized 24 members, including artists, experts in the fine arts, and business or professional men interested in the fine arts. The members are appointed by the Board of Regents for 4-year terms and serve without compensation. The Secretary of the Smithsonian Institution is an ex officio member of the Commission.

The collection of art works at the National Collection originated in a museum established by John Varden in Washington, D.C., in 1829. It is one of the nation's oldest continuous collections of art works. Over the years, the National Collection has acquired many valuable donations and deposits of art works. As of December 5, 1969, it had over 13,000 pieces of art of various media. The National Collection did not have a permanent home in which to exhibit and store its art works until 1967 when it moved to the old Patent Office Building in Washington, D.C.

NEED FOR IMPROVED CONTROLS OVER
ART WORKS IN THE NATIONAL COLLECTION

The National Collection disposed of four paintings in the last 6 years. These paintings were by European artists, and the disposals were made to provide the means to obtain art works by American artists that would improve the National Collection. We found that the Board of Regents had not established a formal written policy on whether art works should be sold or exchanged and, if such sales and exchanges are to be made, how the market value of such paintings should be established. Also, there was a need to improve the accountability over art works in the National Collection.

Details of our findings and the actions taken by the Smithsonian are presented below.

Paintings disposed of by the
National Collection of Fine Arts

Two of the four paintings which the National Collection disposed of during the last 6 years were sold at auction, another was sold through an art dealer, and the fourth was given to an art dealer in exchange for an American painting.

The paintings were disposed of as the result of plans by the National Collection's former director to provide a means of improving its collection of American art works by selling and trading the European and American paintings--whose dispositions were not restricted by the terms of the gifts and bequests--which it did not intend to exhibit and which it did not need as evidence of the National Collection's history. From the sales and the exchange, the National Collection has acquired a number of American art works and is planning to acquire others.

Information relating to the four paintings sold and exchanged by the National Collection is discussed below.

"Ruins and Figures" by Francesco Guardi

"Ruins and Figures" by Francesco Guardi, an 18th century Venetian artist, was one of 24 paintings donated by

Ralph Cross Johnson in 1919. The former director of the National Collection described it as a very important and fully signed and documented painting.

We found that the National Collection had unsuccessfully attempted to sell the painting to several American museums, including the National Gallery of Art, for \$120,000. The painting was then sold to a European art dealer at a London auction in July 1968, for approximately \$120,000. After commission and other expenses, the net proceeds amounted to about \$107,100. The sale proceeds were used to reimburse the Smithsonian's private funds for a loan to the National Collection to purchase the studio collection of a major 19th-century American sculptor, Hiram Powers.

"Virgin and Child" by Jan Massys

"Virgin and Child" is another of the 24 paintings donated by Ralph Cross Johnson in 1919. It was described by a member of the National Collection's curatorial staff as an unsigned and undocumented painting attributed to Jan Massys, a 16th-century Flemish artist. The painting was traded in June 1969 to an art dealer in New York for a painting, "Helen Brought to Paris," by Benjamin West. The National Collection's staff wanted a painting by West, a prominent 18th-century American-born artist, to fill a gap in its collection of American paintings.

The trade was publicly criticized because the National Collection received a painting which the dealer had priced at \$10,000 for a painting which the dealer had placed on sale at \$35,000. The information that we obtained from the art dealer concerning the paintings is summarized in the following paragraph.

He had mistakenly quoted the West painting's 1961 price of \$10,000 to the National Collection. Although the painting was worth much more than \$10,000 at the time of the trade, he decided to stand by the quoted price. The Massys painting, on the other hand, had increased in value since the trade because through research he had established Jan Massys as the artist; while, at the time of the trade, the painting had only been attributed to that artist. Further, in pricing the

painting at \$35,000, the dealer was also anticipating an increase in its market value. The painting has not been sold and, because the trade was publicly criticized, it has been withdrawn from sale.

The National Collection's staff informed us that the trade was negotiated on the basis of an estimate of the price--\$6,000 to \$8,000--the Massys painting would bring at auction against the asking price of \$10,000 for the West painting. The estimate of the price that the Massys and other European paintings would bring at auction was made by a representative of a well-known art auctioneer. In his opinion, the Massys would bring a low price at auction because there would not be much competition for it--its only interest is for study purposes to illustrate the Italian influence on Flemish painting and it is not the type wanted by collectors. He considered the Massys overpriced at \$35,000. He stated, however, that he would not be surprised if it brought the dealer \$15,000 to \$20,000. He said that a dealer could get a higher price than the auction price for the Massys because he could wait for an interested buyer or could interest someone in buying it, whereas, at auction there would be only a few days in which to arouse a buyer's interest in the painting.

Another opinion on the matter was given by the former chairman of the National Collection of Fine Arts Commission who wrote the Assistant Director of the National Collection that, in his opinion, the exchange was advantageous to the Smithsonian.

We are not in a position to reach a conclusion as to whether the trade was prudent.

"Water Scene With Old Mill"
by Francesco Guardi

"Water Scene With Old Mill," another painting by Francesco Guardi, was one of 59 paintings acquired in 1956 by bequest of Ralph Cross Johnson's daughter, Mabel Johnson Langhorne. Curatorial records indicate that the painting was in poor condition and, according to the former director of the National Collection, was not of a quality suitable for an

art museum. The painting was sold for approximately \$15,600 at a London auction in December 1969. After commission and other expenses, the net proceeds amounted to about \$13,900.

The painting was sold to provide funds to purchase desirable American paintings. Present intentions are to use the proceeds as partial payment for four portraits by 18th-century American artists, Gustavus and John Hesselius, purchased for \$24,000.

We found that the painting had been sold without obtaining the advance opinion of the Smithsonian's General Counsel as to whether the terms of the bequest permitted its sale. The Smithsonian's General Counsel subsequently studied the terms of the bequest and expressed the opinion that the sale of the painting was not prohibited. The Secretary of the Smithsonian has since issued instructions requiring disposals to be cleared through the General Counsel.

"Rome and the Campagna"
by Richard Wilson

"Rome and the Campagna" by Richard Wilson, an 18th-century English artist, was acquired in 1943 by bequest of the Reverend F. Ward Denys. The National Collection's staff sent the painting to a New York art dealer in June 1969 with the intent that he arrange a trade, subject to their approval, for an American painting equal in value to an estimated auction price for the Wilson of \$12,000 to \$16,000.

We were advised that the dealer apparently misunderstood and, instead of arranging a trade, sold the painting for \$17,000. After deducting \$3,000 for expenses and other charges, the dealer remitted \$14,000 to the National Collection. Because the National Collection received payment approximately equal to what it believed it would have received at an auction, it decided that the results of the transaction should be accepted. We were further advised that the proceeds would be applied to the purchase of a painting by the 19th century American artist, Richard LaBarre Goodwin, and several sculptures by the 19th century American sculptor, William Rinehart.

Formal policy adopted on sales and exchanges of paintings

The Board of Regents had not established a formal written policy concerning the sale or exchange of art works in the National Collection. Although the Board was subsequently advised of the disposal of the four paintings discussed above, it had not provided staff members responsible for the National Collection with formal guidance on whether it favored such sales and exchanges and, if it favored such sales and exchanges, under what conditions they should be made.

There are differing opinions as to whether institutions such as the National Collection should sell or exchange art works. At the request of the Secretary, a panel composed of the chairman and two members of the National Collection of Fine Arts Commission, studied the matter. In an April 1969 report, the panel expressed the opinion that the paintings in the National Collection should not be traded or sold. They stated the belief that American art works could be borrowed from other museums for exhibit in return for the loan of unrelated or surplus art works in the National Collection and that such works should not be sold or exchanged for the purpose of acquiring additional American art works. The panel stated also that disposal of paintings should be avoided because the museum's ability to acquire further gifts might be adversely affected if prospective donors knew that the art works they donated might subsequently be sold.

In contrast, officials of a number of museums that we visited told us that museums did make sales or exchanges of art works but that high management levels carefully controlled such sales or exchanges. Also, some of these people stated that a museum should constantly try to improve its collection through judicious sales and trades so that only the best art works educationally, historically, and artistically are kept for exhibition.

Because of differing opinions on the matter, we suggested that the Board of Regents establish a formal written policy as to whether art works should be sold or exchanged and, if such sales or exchanges were favored, the conditions under which they should be made.

At a meeting on May 21, 1970, the Board of Regents adopted a procedure which, in effect, established a written policy of permitting sales and exchanges.. The text of the Board's resolution follows:

"RESOLVED that no object of art in the permanent collection of the National Portrait Gallery or the National Collection of Fine Arts valued at more than \$1,000 shall be exchanged or sold without prior approval of the museum Director, the museum's Commission, the Smithsonian's Office of General Counsel, and of the Secretary;

"that no object of art in the permanent collection of the National Portrait Gallery or the National Collection of Fine Arts valued at more than \$50,000 shall be exchanged or sold without prior approval of the museum Director, the museum's Commission, the Smithsonian's Office of General Counsel, the Secretary, and the Board of Regents;

"that the exchange or sale of any object of art in the National Portrait Gallery and the National Collection of Fine Arts shall be reported to the Board of Regents by the Secretary;

"and that the proceeds from any such sale shall be used solely for the acquisition of works of art for the museum from which it came."

NEED FOR IMPROVED VALUATION
PROCEDURES FOR SALES AND EXCHANGES

The Smithsonian did not have an established procedure requiring the valuation of paintings that were to be sold or exchanged. We believe that such a procedure is needed to provide greater assurance that the proceeds from the sales and exchanges of art works are commensurate with their market value.

For three of the four paintings that were sold or exchanged, we found that one independent estimate of the value of each painting was obtained before the sale or exchange was made. The valuation on the fourth painting, Guardi's "Ruins and Figures," the most valuable of the paintings, apparently was based on a study of the market value of the painting. The study was made by a former National Collection employee who specialized in 18th-century Italian painters.

Two of the four paintings, the Guardi's, were sold at auction. To the extent that competitive bidding was obtained at the auction, there would be greater assurance that market prices were obtained for the paintings. The other two were disposed of by other means and therefore an evaluation of their worth prior to disposition would have been of greater importance.

Inasmuch as the valuation of paintings is a matter over which sizable differences are possible, we believe that more than one valuation should be obtained before a selling price is established to provide greater certainty that the valuation is representative of a painting's market value. This seems particularly appropriate where the disposition of a European painting in the National Collection is concerned because, as we were advised, the staff is oriented toward American art and has less knowledge of the value of paintings by European artists and might have to place more reliance on the value judgments.

After we pointed out the need for establishing a procedure for valuing art works to be sold or exchanged, the Secretary of the Smithsonian advised the Director of the National Collection that at least one professional, independent appraisal of any work of art which the Director proposed to sell

or exchange should be obtained if the work was likely to be worth more than \$1,000; and, if the work was likely to be worth more than \$50,000, two such appraisals should be obtained. The Secretary also suggested that the Director might solicit the views of the National Collection of Fine Arts Commission on the method to be followed in valuing art works.

We believe that, because of the difficulties and the many judgmental factors involved in establishing the market value of art work, the Director should follow the suggestion of the Secretary and consult the National Collection of Fine Arts Commission on this question. Of particular concern, in our opinion, is the number of appraisers whose views should be obtained in valuing an art work. In this respect, the Art Dealers Association of America, which makes appraisals of art works but limits its appraisals to situations involving donations to museums, provides for one appraisal but requires that the appraisal be the combined judgment of more than one of its member dealers. We believe that the National Collection should consider the opinion of more than one art expert in appraising the value of art works to be sold or exchanged.

ACCOUNTABILITY OVER ART WORKS
TO BE IMPROVED

During our inquiry into the extent to which art works belonging to the National Collection had been sold, we examined into the system used to maintain accountability over the art works in the National Collection. We believe that better recordkeeping techniques are needed to enable the Smithsonian to maintain adequate accountability for the art works in the National Collection.

The National Collection is the custodian of over 13,000 American and foreign paintings, prints, drawings, watercolors, sculptures, miniatures, and decorative art objects. The National Collection maintains records of the location of each work of art. To test the accuracy of these records, we selected 113 of the 213 foreign paintings in the National Collection including paintings which the National Collection's staff had considered for disposal and the remaining paintings from the Johnson gift and Langhorne bequest.

For the following reasons, we had difficulty finding 51 of the 113 paintings from the information contained in the National Collection's records.

<u>Problem</u>	Number of paintings <u>involved</u>
Painting was not in the location shown on the records	36
Location was not adequately de- scribed in the records	11
Location of the painting was not recorded	<u>4</u>
	<u>51</u>

We subsequently located 46 of the 51 paintings. After completion of our audit work at the site, the staff of the National Collection located the other five paintings. The staff told us that the difficulty in locating the paintings resulted