

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

TOO MUCH OF A GOOD THING

Much of my early experience with S. Davis & Co., and the antiques business came from running estate sales around Miami. This particular sale, unusually, started out as an appraisal. Nothing memorable except for a landscape painting and a *bubbe-meise* (grandmother's fable) about a missing tray of diamonds. The husband had been a jeweler in New York who, with his wife, retired to Miami Beach. They owned a small two bedroom tract house, typical of middle class Northern retirees, where he predeceased her. When she died, the beneficiaries to the estate put the house up for sale. Their real estate broker lived near by, and was a regular at our antique shop. He referred the heirs to me for an appraisal of the contents of the house with an expectation that I would give him something for the referral. Usually some cheap piece of bric-a-brac would suffice.

When I arrived at the house, much to my chagrin, the real estate broker and beneficiaries were frantically turning it upside down. The long dead husband was said to have brought a tray of diamonds with him from New York to finance his retirement, and hid it somewhere in the house. Now, no one could find it. The wife, who suffered from dementia, was not able to help before she also died. The scene was a madhouse reminiscent of God's Little Acre. In all the confusion, and as an aside, they hired me to do an appraisal for the estate. There must have been other assets that made the estate taxable.

Working around the glazed-eyed searchers I completed the property inspection and took my notes back to the office to write up my appraisal. The highlight of the inventory was a large Hudson River School painting of West Point by Robert Walter Weir. Auction records at the time showed similar paintings selling for about \$5,000, but interest in the Hudson River School was

24 increasing, and it was likely to sell — in the right auction — for more.

25 Before I could complete the appraisal, I got a call from the real estate broker that his
26 clients now wanted to sell the contents of the house and would like an estate sale. This unusual
27 event for me required a changing of roles from appraiser to liquidator. The validity of an
28 appraisal is compromised if the appraiser has an interest in the property being appraised. It
29 would be unethical not to reveal that interest. I completed the report with a written caveat that I
30 was being considered to liquidate the contents of the house, rather than my normal disinterested
31 statement. While I was technically satisfying the code of ethics that I was bound to by stating my
32 interest, the appraisal could no longer be used for an estate tax return.

33 The day of the estate sale a long line of customers waited excitedly for the door to open.
34 Neil Paterno, an affable dentist, was standing in the crowd. His parents were itinerant
35 auctioneers and antique dealers. He would have preferred that business to dentistry. I counted
36 him and his family as friends despite problems with his checks. It was a running joke. His
37 checks almost invariably bounced, only to have him make good on them, usually within a week
38 or two. My mother and I attributed it to a personality quirk and sloppy bookkeeping rather an
39 intent to cheat us, but resolved not to take any large checks from him again.

40 I exited the house to greet our regular customers on line on the overgrown front yard.
41 When I got to Neil he made it clear that he was there for the painting. I let him know that if he
42 bought it, he would have to pay cash. In those days it was rare for me to sell paintings for more
43 than a couple of thousand dollars. I usually sent them for auction at one of the major galleries in
44 New York. A negotiated commission with the owner, and a four percent referral fee from the
45 gallery were good for both the client and me. I did not expect the painting to sell at the estate
46 sale.

47 The sale was a success in part because of the buzz about the hidden tray of diamonds.

48 Neil saw the painting and wanted it. I told him that he could have it for \$5,000, cash. I would
49 not take a check. He went home to research the painting and raise the money. No one else
50 showed any interest in it.

51 Neil came back later in the day with his parents, his research done but no cash. His
52 parents apparently were not going to bankroll him. At the end of the sale I offered the client the
53 option to send the painting to New York for sale at one of the major galleries. The client said
54 they would prefer to sell it in Miami, and be done with the sale, even if it meant taking less. I
55 called Neil back and told him that if he couldn't raise the cash, I would be willing to pay for and
56 hold the painting, and we could for half the cost each be partners in its sale in New York. He
57 said he would let me know. What he didn't tell me was that his parents were interested in the
58 house, I presume with diamond searching rights, and had started a negotiation with the real estate
59 broker.

60 The next morning I got a call from the real estate broker to tell me Neil's parents were
61 buying the house, and as part of the deal the beneficiaries were throwing in the painting. I told
62 him if that were the case I expected my \$1,000 commission on the painting,. Furious with Neil
63 and /or his parents for dealing behind my back and to spite them, I offered to buy the painting
64 myself if the client didn't want me to send it to New York for them. They agreed. Neil's parents
65 still got the house, and I got the painting for a net of \$4,000.

66 On my next trip to New York I stopped in at Christie's and Sotheby's with photos of the
67 painting. Christie's estimated \$5,000 but were not really interested in taking it for a major sale.
68 Sotheby's estimated \$10,000 to \$15,000, and agreed to take it with a reserve of \$5,000. A
69 reserve is the minimum amount that an item will be sold for at an auction. I took the opportunity

70 while in New York to drive up to the Military Academy at West Point, where the artist had been
71 a professor, and see if they had any interest in the painting. They did not have money at the time
72 to buy paintings, but asked for rights of first refusal at the auction. I agreed and decided to send
73 the painting to Sotheby's figuring an announcement of the Military Academy's interest would
74 enhance the value of the painting.

75 Soon after Sotheby's catalog came out I got a call from a lawyer representing the
76 beneficiaries who I did the estate sale for. I explained what had transpired and offered to
77 relinquish my interest in the painting for what I paid for it, half hoping to be relieved of the
78 uncertainty of an auction. In those days about half the lots in a similar auction would not sell.
79 The lawyer never responded. It was clear to me that Neil probably called the lawyer trying to get
80 even. The auction came off much better than anyone expected. The painting sold for \$50,000
81 and what should have been a stroke of good fortune became a nightmare. Two years of legal
82 maneuvering, a jury trial, and an appeal ended with a settlement. I had to pay their lawyer \$5,000
83 for his expenses on a trip to New York to depose the art department at Sotheby's. After my
84 lawyer's expenses all that was left was the taste of ashes. Following up on the history of the
85 painting, I learned it was put up for sale at a subsequent auction but did not meet the reserve. It
86 appears to have finally ended up at the Military Academy. I suppose after a substantial tax write
87 off.

88 I hope Neil and his parents are still searching for the diamonds.