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New Allegations Against Knoedler Gallery Claim It Sold Yet Another Fake Rothko

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NEW YORK — On Tuesday, the now-defunct Knoedler Gallery was slapped with a lawsuit for selling an allegedly fake modernist masterwork — again. On January 29, the Martin Hilti Family Trust filed suit in U.S. District Court against the blue-chip gallery, its parent corporation 8-31 Holdings, its former director Ann Freedman, its chairman Michael Hammer, and two business associates, Long Island-based dealer Glafira Rosales and her partner, Jose Carlos Bergantinos Diaz.

The new suit claims that the gallery sold an oil painting allegedly by Mark Rothko, “Untitled” (1956), to a trust operated by the Hilti family, all the while knowing it was a fake.

This is the fourth lawsuit collectors have filed against Knoedler Gallery in 13 months over questionable modernist paintings that passed through its doors. One suit, brought by London-based hedge fund manager Pierre Legrange, was settled in October for an undisclosed sum. Legrange bought a Jackson Pollock drip painting from the gallery in 2007 for \$17 million and later claimed that forensic analysis proved it was a fake.



The suit claims that Michael Hilti purchased the Rothko painting on behalf of his Lichtenstein-based family trust in November 2002 for \$5.5 million. According to court papers, the painting is part of a trove of works Knoedler sourced from Long Island dealer Glafira Rosales, who is currently under FBI investigation for trafficking forged paintings.

Knoedler allegedly purchased the questionable Rothko from Rosales in January 2002 for \$750,000. (The suit somewhat cheekily claims that is “a suspiciously low price for a ‘Rothko.’”) When Freedman offered it to Hilti that fall, she concealed the fact that the gallery owned the work “to avoid questions they knew they could not credibly answer, such as when Knoedler bought the work, from whom, for how much, and under what circumstances,” according to the claim.

Instead, the suit continues, the gallery told Hilti that the painting came from the immediate heirs of a private collection in Switzerland. Rosales told Freedman there were few records of the original purchase because that the collectors usually paid for their paintings in cash.

Both the Hilti Trust’s Rothko and another Rothko canvas that is currently the subject of litigation were heralded as “rediscovered paintings” in an article by Oliver Wick, then curator of the Beyeler Foundation. The Hilti Trust claims forensic analysis proves its Rothko is a fake: A red pigment developed in the 1960s is present despite the fact that the work is dated 1956.

Legrange’s Pollock also makes a guest appearance in this latest suit as well. The plaintiff alleges Ann Freedman offered the same painting to Michael Hilti at Art Basel in 2004 before she eventually sold it to Legrange. (Interestingly, the price she offered Hilti — \$8 million to \$9 million — is substantially lower than the \$17 million Legrange eventually paid.)



The lawsuit claims the defendants are in violation of the Racketeer Influenced and Corrupt Organizations Act, a federal law that allows extended penalties for ongoing criminal organizations. Charles D. Schmerler, a partner at Fulbright & Jaworski L.L.P. and a lawyer for Hammer and Knoedler, told ARTINFO in a statement: "The Hilti complaint rehashes the same baseless claims contained in the prior lawsuits. Given the attention this matter has received, it is not unexpected to see copycat suits filed. We plan to aggressively litigate this case and expect to see Knoedler and Mr. Hammer fully vindicated."

"These are serious claims," William Charron, a partner at Pryor Cashman LLP representing the Hilti Trust, said in an e-mail. "We understand that the defendants have described similar lawsuits in the past as 'copycat' actions. We think it is precisely the point that our client is not alone in bringing these kinds of claims."

In a statement, former Knoedler director Ann Freedman said, "These paintings were exhibited in museums around the world and heralded as masterworks. This particular Rothko was featured at the Beyeler Foundation in 2002. The personal vendettas and professional jealousy behind the attacks on the works and on my reputation should be obvious."

Though the twists and turns of the Knoedler affair have been covered closely by the press, it looks like some involved are hoping to keep the particulars under wraps moving forward. The Hilti trust's suit comes just over a week after collector Michael Howard, who is suing Knoedler over an allegedly fake de Kooning painting he purchased from the gallery, entered into a confidentiality agreement with many of the same defendants, according to public court records. Knoedler Gallery abruptly closed its doors last December, but Ann Freedman continues to operate her own gallery on the Upper East Side.