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Pastor Is Convicted of Trying to Sell Counterfeit Art

By JAMES C. McKINLEY Jr. APRIL 8, 2014



The front and back of a counterfeit Damien Hirst spin painting.
Photo Credit Manhattan District Attorney's Office, via Associated Press

A Florida pastor who dabbles in art dealing was convicted on Tuesday of trying to sell five fake Damien Hirst paintings to an undercover police officer.

A jury in State Supreme Court in Manhattan took five hours to reach a decision, finding the pastor, Kevin Sutherland, guilty of second-degree attempted grand larceny. He faces as much as seven years in prison when sentenced on May 19, although Justice Bonnie G. Wittner has the discretion to allow him to receive only probation.

The case against Mr. Sutherland grew out of a larger investigation by the Manhattan district attorney's office of a forger in Laguna Beach, Calif., who has admitted to churning out dozens of counterfeit Hirst works and selling them on eBay to buyers around the world and providing fake documents saying the works were genuine.

The forger, Vincent Lopreto, was arrested on a New York warrant in October 2013 along with his gallery partner, Ronald Bell. In January, Mr. Lopreto, who had already served time in California for art fraud, pleaded guilty to identity theft and fraud and agreed to testify against Mr. Sutherland in return for a lighter sentence.



Kevin Sutherland is facing as much as seven years in prison.
Foto Credit John Marshall Mantel for The New York Times

The trial illuminated the dangers awaiting amateur art dealers like Mr. Sutherland, who sold several of Mr. Lopreto's forgeries. One of Britain's most successful artists, Mr. Hirst is perhaps best known for his conceptual works, including sharks and other animals preserved in tanks of formaldehyde, and diamond-encrusted human skulls, but his minimalist polka dot paintings named after drugs, and his abstract round "spin" paintings are relatively easy to copy. They are often produced by his assistants.

As the verdict was read, Mr. Sutherland, a broad, graying man with a square jaw who looks as though he might have played football in his youth, clasped his hands together and put his forehead to them, as if praying.

Mr. Sutherland's lawyer, Sam Talkin, said he was disappointed in the verdict, adding that they would "look into all of our options as far as an appeal."

The key question facing jurors was whether, as prosecutors contended, Mr. Sutherland knew one of the paintings he sold was fake and hid that knowledge from an undercover officer who bought it in February 2013, a week after Sotheby's auction house had rejected it as inauthentic.

Mr. Sutherland, who took the stand on Friday, told the jury he got into the art market in 2010, at first trading "cowboy art" on eBay. In August 2010, he bought a set of what he believed were dot prints by Mr. Hirst from a California lawyer named Byron Grace and resold them in Florida at a \$7,000 profit.

Unfortunately for Mr. Sutherland, 46, Byron Grace turned out to be Mr. Lopreto. Over the next four months, Mr. Lopreto sold Mr. Sutherland three more dot prints — titled "Valium," "Opium" and "LSD" — and two round spin paintings.

In December 2012, Mr. Sutherland, a pastor at the nondenominational Mosaic Miami Church, offered one of the spin paintings to Sotheby's in New York for a March sale. An auction house official told him it might fetch as much as \$100,000. "I thought I was very fortunate," Mr. Sutherland said.

The deal fell apart on Jan. 31, 2013. Meghan McDonald, a modern art specialist at Sotheby's, informed Mr. Sutherland that the auction house had asked Mr. Hirst's studio in London, Science Ltd., to authenticate the painting and "it was not approved."

Mr. Sutherland maintained on the stand that Ms. McDonald was vague in an email and a subsequent telephone call, never stating that the painting was a forgery. She testified that she told Mr. Sutherland "there was a problem with the work" and urged him to contact Science Ltd. for details.

At that point, Mr. Hirst's assistants had already alerted the Manhattan district attorney's office of their concerns about the painting. Two days before Sotheby's called off the sale, an undercover detective, Michael Dorto, sent an email to Mr. Sutherland, asking if he had any of Mr. Hirst's work for sale.

The same day that Mr. Sutherland heard Sotheby's would not sell the spin painting, he contacted the detective, who posed as a New York dealer named Mike Conti, and offered him the two spin works and three prints, according to evidence at the trial. During the course of several recorded phone calls, they eventually settled on \$185,000 for the lot, with Mr. Sutherland saying he "could not warranty anything" beyond the authentication letters Mr. Lopreto had given him.

Speaking about the spin painting Sotheby's had rejected, the detective asked Mr. Sutherland if there were any "issues" regarding authenticity. "Everything's good," Mr. Sutherland said. "I have no issues that I know of."

Rachel Hochhauser, an assistant district attorney, argued in her summation that Mr. Sutherland chose not to ask Science Ltd. to look at the painting or to take it to another expert; instead, Mr. Sutherland opted to sell it quickly and not to tell the buyer about Sotheby's decision.

“He had honest paths to walk,” Ms. Hochhauser said. “He had choices he could have made that would have brought him to a very, very different place.”

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