

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-v.-

The painting known as "*Hannibal*" by the artist Jean-Michel Basquiat, from 1982, an acrylic, oil stick and paper collage on canvas, mounted on tied wood, approximately 60 x 60 inches with an appraised value of approximately eight million dollars;

The painting known as "*Modern Painting with Yellow Interweave*" by the artist Roy Lichtenstein, an abstract painting with geometric shapes, including two "half-rings," filled with yellow, with black outlines, and with a black vertical strip dividing the painting in two "halves," signed on the back, with a value of at least approximately one million, five hundred thousand dollars;

The painting known as "*Figures dans une structure*" [Figures in a structure], by the artist Joaquin Torres-Garcia, signed in the upper left corner, dated in the upper right hand corner, and purchased in 2004 for approximately two hundred thirty thousand dollars;

The painting known as "*Composition abstraite*" [Abstract composition] by the artist Serge Poliakoff, painted in 1969, an oil painting on burlap, with abstract geometric shapes in red, blue, yellow and brown, approximately 162 x 135 centimeters, sold at auction in 2004 for more than three hundred seventy-eight thousand dollars;

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ORDER OF FORFEITURE

08 Civ. 1511 (RJS)

The sculpture known as "Roman  
togatus" by an unidentified artist, a  
masculine figure wearing a toga, on a  
circular base, without head or hands,  
with an appraised value of  
approximately one hundred thousand  
dollars;

Defendants-*in-rem*.

WHEREAS, on February 13, 2008, the United States  
commenced a civil action for the forfeiture of the painting known  
as "Hannibal" by the artist Jean-Michel Basquiat (the "Basquiat")  
by the filing of a Verified Complaint;

WHEREAS, on or about May 1, 2008, Broadening-Info  
Enterprises, Inc. ("Broadening") filed a claim asserting an  
interest in the Basquiat;

WHEREAS, notice of the Verified Complaint was published  
in The New York Law Journal for three successive weeks on May 2,  
2008, May 9, 2008, and May 16, 2008, and proof of such  
publication was filed with the Clerk of the Court on June 24,  
2008;

WHEREAS, notice of the Verified Complaint was published  
in The International Herald Tribune for three successive weeks on  
May 8, 2008, May 15, 2008, and May 22, 2008, and proof of such  
publication was filed with the Clerk of this Court on June 24,  
2008;

WHEREAS, on May 23, 2008, the United States filed an

Amended Verified Complaint for the forfeiture of following in addition to the Basquiat: (a) the painting known as "*Modern Painting with Yellow Interweave*" by the artist Roy Lichtenstein, (b) the painting known as "*Figures dans une structure*" [Figures in a structure] by the artist Joaquin Torres-Garcia, and (c) the painting known as "*Composition abstraite*" [Abstract composition] by the artist Serge Poliakoff (collectively, "the Subject Property");

WHEREAS, on October 17, 2008, the United States filed a Second Amended Complaint for the forfeiture of the Basquiat, the Subject Property, and the sculpture known as "*Roman togatus*" by an unidentified artist (the "Roman Togatus");

WHEREAS, notice of the Second Amended Complaint was posted on the official government internet site ([www.forfeiture.gov](http://www.forfeiture.gov)) for at least 30 consecutive days, beginning on October 24, 2008, and proof of such publication was filed with the Clerk of this Court on December 2, 2008;

WHEREAS, on November 14, 2008, Broadening filed a claim asserting an interest in the Roman Togatus;

WHEREAS, notice of the Second Amended Complaint was published in The New York Law Journal for three successive weeks on November 28, 2008, December 5, 2008, and December 12, 2008, and proof of such publication was filed with the Clerk of this Court on April 15, 2009;



WHEREAS, notice of the Second Amended Complaint was published in The International Herald Tribune for three successive weeks on November 20, 2008, November 27, 2008, and December 4, 2008, and proof of such publication was filed with the Clerk of this Court on April 15, 2009;

WHEREAS, on January 22, 2009, Vanio Cesar Aguiar, as Trustee for the Estate of Banco Santos (the "Trustee"), filed a claim for, inter alia, the Basquiat and the Roman Togatus;

WHEREAS, on December 10, 2009, the Trustee and Plaintiff the United States of America entered into a settlement agreement whereby, inter alia, the Trustee withdrew its claim to the Basquiat and the Roman Togatus;

WHEREAS, on May 18, 2010, the Court entered a Memorandum and Order granting the Government's Motion for Summary Judgment against the Basquiat and the Roman Togatus (the "Summary Judgment Order");

WHEREAS, on June 15, 2010, Broadening filed a Notice of Appeal from the Summary Judgment Order (the "Notice of Appeal");

WHEREAS, on August 11, 2010, Broadening withdrew the Notice of Appeal;

WHEREAS, on August 24, 2010, the Government and Broadening filed a joint motion to certify the appeal from the Summary Judgment Order;

WHEREAS, on August 24, 2010, the Court issued an Order

directing the Clerk of the Court to enter judgment in favor of Plaintiff with respect to the Basquiat and the Roman Togatus, in accordance with the Summary Judgment Order;

WHEREAS, on September 20, 2010, the Clerk of the Court filed a judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure (the "Rule 54(b) 20 Judgment") stating that there was no just reason to delay the case and that judgment was entered in favor of the Plaintiff and against Broadening;

WHEREAS, on December 15, 2010, Broadening filed notice of appeal from the Rule 54(b) Judgment;

WHEREAS, on February 17, 2012, the the United States Court of Appeals for the Second Circuit issued a summary order affirming the judgment of the Court in part and remanding to the Court for clarification of whether the Basquiat and the Roman Togatus were "stolen, smuggled, or clandestinely imported or introduced" into the United States in violation of 19 U.S.C. § 1595a(c);

WHEREAS, on or about April 10, 2012, the United States Court of Appeals for the Second Circuit issued the mandate;

WHEREAS, on remand, the Court received additional briefing from the parties and held oral argument on the issue presented on remand;

WHEREAS, on April 25, 2013, the Court issued a Memorandum and Order finding that the Basquiat and the Roman

Togatus were smuggled or clandestinely introduced into the United States, and granting the Government's motion for summary judgment;

WHEREAS, the Government has effected direct notice to any person or any entity that may have a potential interest in the Basquiat and the Roman Togatus;

WHEREAS, no other claims or answers have been filed or made in this action for the Basquiat and the Roman Togatus and no other parties have appeared to contest the action to date, and the requisite time periods have expired;

WHEREAS, the United States and Broadening have agreed that the United States shall not transfer, transport, sell, or otherwise remove from its custody the Basquiat and/or the Roman Togatus pending the Second Circuit's further consideration of Broadening's appeal in this matter, as set forth in *United States v. The Painting Known as "Hannibal," et Al.*, Docket No. 10-5204 (Feb. 17, 2012) (Summary Order);

NOW THEREFORE, on the motion of Preet Bharara, United States Attorney for the Southern District of New York, attorney for the plaintiff United States of America, Jason P. Hernandez of counsel;

1. The Basquiat and the Roman Togatus are forfeited to Plaintiff United States of America.

2. The United States shall not transfer, transport,

sell, or otherwise remove from its custody the Basquiat and/or the Roman Togatus pending the Second Circuit's further consideration of Broadening's appeal in this matter, as set forth in *United States v. The Painting Known as "Hannibal," et Al.*, Docket No. 10-5204 (Feb. 17, 2012) (Summary Order).

3. The parties shall apprise this Court of the Second Circuit's opinion within two weeks of the issuance of that opinion.

Dated: New York, New York  
May 10, 2013

SO ORDERED:

A handwritten signature in dark ink, appearing to read 'R. Sullivan', is written over a horizontal line.

HONORABLE RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF NEW YORK