

ATTACHMENT C

Ms. Marcia "Martha" Fuqua

Lovettsville, VA 20180

December 19, 2012

REDACTED

SPECIAL AGENT IN CHARGE
C/O MATTHEW S. RASNAKE, UNIT CHIEF
FEDERAL BUREAU OF INVESTIGATION
601 4TH STREET
WASHINGTON, DC 20535

ATTENTION: FORFEITURE PARALEGAL SPECIALIST

Re: Ms. Marcia "Martha" Fuqua's Claim of Ownership and Contest to Forfeiture of
Property: Asset ID Number 13-FBI-000070, Seizure Number 3920130002

Dear Special Agent in Charge, Forfeiture and Seized Property Unit,

By letter dated November 20, 2012, the Federal Bureau of Investigation (hereinafter, "FBI") set forth its Factual and Legal Basis for Seizure pursuant to its October 2, 2012 seizure of my property, which property, referred to hereinafter as the "Renoir Painting," is described in the correspondence as follows:

1879 unsigned painting by Pierre-Auguste Renoir, "Paysage bords de Seine," stock # 24349 with #501 and A.W. written behind the painting.

Asset ID Number: 13-FBI-000070

Seizure Number: 3920130002

For ease of reference, the November 20, 2012, letter is attached hereto as "Exhibit A" and referred to hereinafter as the "Notice." This correspondence is to assert my claim of ownership and contest forfeiture of the property (hereinafter, my "Claim"). Because I, having purchased the Renoir Painting for value, am both an owner and innocent owner of the Renoir Painting, and because I did not participate in, or have knowledge of, any alleged conduct that resulted in the property being subject to forfeiture, I have a valid claim of right and am entitled to the return of the painting.

I. FACTS AND CIRCUMSTANCES

The manner by which I obtained the Renoir Painting has been the subject of recent media attention. For ease of reference, a non-exhaustive but representative compilation of media articles relating to my purchase of the Renoir Painting at a West Virginia flea market is attached hereto as "Exhibit B." For the purposes of this Claim, the facts regarding my acquisition and ownership are summarized as follows:

In late 2009, I attended a flea market near Harpers Ferry, West Virginia. While perusing the wares of a vendor at the flea market, I discovered the Renoir Painting placed in a box amongst several trinkets. Attracted to the frame surrounding the Renoir Painting, I purchased the painting, the frame surrounding the painting, and several unrelated items for \$7.00 US. I paid for the items in cash and I did not receive a receipt. I did not have a pre-existing relationship with the vendor.

I have a layperson's understanding of art. I am not an art dealer or broker, art historian, or art collector, and have no special education, training, or experience which would give me expertise in the field of fine art or in particular, in the identification of authentic French Impressionist works. At the time I purchased the Renoir Painting, I did not believe the painting to be an authentic painting by the renowned French Impressionist artist Pierre-Auguste Renoir.

For approximately two and a half years after purchasing the Renoir Painting, I stored the painting inside of a white garbage bag which I kept in various places in my house, my garage, and my car. In July of 2012, with the intent to discard the painting and reuse the frame, I removed the paper backing behind the painting. Upon revealing the back of the painting, upon showing the back of the painting to my mother, and upon my mother's recommendation to determine the possible origins of the Renoir Painting, I consulted the Potomack Company, a Virginia auction house in the business of brokering and selling antiques, artifacts, and art.

Subsequent to my consultation with the Potomack Company, the company rendered its opinion that the Renoir Painting is an authentic painting by Pierre-Auguste Renoir. The company additionally rendered its opinion that it was unaware of any defects in the painting's title which would prevent the item from sale should I seek to sell the painting at auction. I subsequently decided to sell the Renoir Painting at auction through the Potomack Company, and to promote an auction where the painting was offered for sale. Pursuant to my decision to auction the painting and related promotion, media outlets began publishing articles about the Renoir Painting and related stories. Your agency seized the Renoir Painting before auction.

II. APPLICABLE AUTHORITY

The FBI in its Notice to me cites 18 U.S.C. § 981(a)(1)(c) as its legal basis for seizure. The Civil Asset Forfeiture Reform Act of 2000 (CAFRA), Pub. L. No. 106-185, 114 Stat. 202 (2000), governs civil forfeitures to the United States. *See* 18 U.S.C. § 981. Pursuant to 18

U.S.C. § 981(a)(1)(c), certain property related to “specified unlawful activity” is subject to forfeiture by the government. 18 U.S.C. § 981(a)(1)(c) directs or otherwise makes reference to a myriad of statutes outlining such “specified unlawful activity.” As a threshold matter, it is not clear from the Notice which statute or statutes outlining “specified unlawful activity” under 18 U.S.C. § 981(a)(1)(c) the FBI invokes as its authority to seize the Renoir Painting. I am thus without fair notice as to the FBI’s authority to seize my property and the legal basis for its forfeiture claim. Accordingly, I respectfully request the FBI make its authority plain so that I may adequately and fully address my Claim to the property accordingly.

Notwithstanding the lack of clarity pertaining to the FBI’s legal basis for seizure, I have a firm basis for my Claim of ownership of the Renoir Property under familiar principles of ownership and as an innocent owner within the meaning of 18 U.S.C. § 983(d).

III. ANALYSIS

A. I have a Valid, Good Faith, and Legally Cognizable Interest As Owner

a. Primary title in the Renoir Painting is vested in me.

I purchased the Renoir Painting, being freely offered for sale, for value at a flea market. When I purchased the item, I did so unaware of any defects in the title to the property. Subsequent to my purchase of the painting, I exercised sole dominion over the item as is reflected by my storage of the property, my subsequent actions to begin removing the frame from the property, my hiring of a consultant to appraise the property, my intention to sell the property at auction, and my promotion of an auction at which the painting was to be offered for sale. While certain articles published by media organizations expound possible competing interests to the title of the property, the FBI does not allege, nor am I aware, of any formal claim made by another party to the property or any adjudicatory actions made to resolve title to the property. As such, title is vested in the purchaser of the property for value, and I as the purchaser am the owner of the property.

b. My interest in the Renoir Painting is manifested by my actual and beneficial use of the property.

Subsequent to my purchase of the Renoir Painting, I exercised the exclusive rights afforded to the owner of property in actual uses to control, alter, manipulate, enjoy, and sell that are beneficial to me. Since acquiring the Renoir Painting I have transported the property, stored the property, enjoyed the property, removed the paper backing behind the frame from the property, hired a consultant to evaluate and appraise the property, offered the property for sale at auction, and promoted an auction at which the property was to be offered for sale. Such use of the property being both actual and beneficial to me, my ownership interest in the property is

manifested in my demonstrable control of the property prior to FBI seizure, and I am the owner of the property.

B. I am an Innocent Owner

Applying the facts pertaining to my acquisition of the Renoir Painting, it is clear that I am an “innocent owner” as contemplated by Congress because I am a bona fide purchaser for value under 18 U.S.C. § 983(d)(3)(A)(i) and because I did not know and was reasonably without cause to believe that the Renoir Painting was subject to forfeiture under 18 U.S.C. § 983(d)(3)(A)(ii).

a. I am a bona fide purchaser for value.

When I purchased the Renoir Painting with a box of trinkets at a flea market for \$7.00 US, I gave value in an arm’s length transaction with the expectation that I would receive equivalent value in return. 18 U.S.C. § 983(d)(3)(A)(i); 21 U.S.C. § 853(n)(6)(b). The transaction was an arm’s length transaction because the transaction occurred between a willing buyer and a willing seller with no preexisting relationship in an open market environment. That the Renoir painting is purported to have value significantly more than \$7.00 US is not relevant under the forfeiture provisions because it was my expectation, and presumably under the circumstances, the expectation of the seller, that the Renoir Painting and its frame were worth only a few dollars. Such a transaction makes me a bona fide purchaser. *Id.*

b. I did not know and was reasonably without cause to believe that the property was subject to forfeiture.

At the time I purchased the Renoir Painting, I did not believe the painting to be an authentic painting by the renowned French Impressionist artist Pierre-Auguste Renoir, and thus I did not know and was reasonably without cause to believe that the property was subject to forfeiture. 18 U.S.C. 983(d)(3)(A)(ii). Several factors support my assertion of this belief. First, the nominal price at which the painting was offered for sale. As paintings by Pierre-Auguste Renoir are well known even by laypersons to fetch from thousands of dollars to millions of dollars at auction, and the Renoir Painting was offered for sale at \$7.00, it is reasonable to conclude that neither I, the buyer of the painting, nor the seller, were aware of the painting’s true origin or value.

Second, the manner in which the Renoir Painting was stored and offered for sale. As high-end art created by artists such as Pierre-Auguste Renoir is typically professionally stored and offered for sale at public or private auction, and the Renoir Painting being offered for sale at a flea market being stored in a box amongst several trinkets, I had no reason to believe the painting to be authentic.

Third, I had, at the time of the purchase, merely a layperson's understanding of art. Because I am not an art historian, collector, appraiser, or dealer, I lacked the expertise to identify the Renoir Painting's authenticity, origins, or previous ownership history.

Fourth, the painting is not signed by the artist. While the artist's name "RENOIR" appears on the frame that surrounds the Renoir Painting, and Renoir is a name of renown in the world of art, because the painting was not signed by Pierre-Auguste Renoir I did not believe the painting to have been created by that artist.

Finally, the way I treated the Renoir Painting subsequent to my purchase belies my understanding of its authenticity and value. For approximately two years, I stored the Renoir Painting inside of a white garbage bag which I kept in various places in my house, my garage, and my car. I consulted the Potomack Company only after prodding by my mother. It was subsequent to my consultation with the Potomack Company, and the company rendering its opinion that the Renoir Painting is an authentic painting by Pierre-Auguste Renoir, that I believed the painting to be created by that artist. And it was only subsequent to my decision to sell and the related promotion of an auction that either I, or the Potomack Company for that matter, became aware of any alleged defects in the painting's title which could possibly make the property subject to forfeiture. I firmly dispute any claims to title that any party may allegedly or potentially have.

Because I did not know the Renoir Painting to be an authentic painting by Pierre-Auguste Renoir when I acquired the painting, it follows that I did not know, and could not have reasonably been with cause to know, that the painting was subject to forfeiture during the acquisition. As such, I satisfy the second prong under 18 U.S.C. § 983(d)(3)(A), and I am an innocent owner within the meaning of the act.

IV. CONCLUSION

The FBI in its Notice to me has not set forth the legal basis for its seizure of the Renoir Painting in a manner which would reasonably provide me an opportunity to respond, and thus I request more particularity as to the "specified unlawful activity," as delineated by statute, the FBI purports to attach to the painting. Notwithstanding such defects in notice, I am both the rightful "owner" of the Renoir Painting with a valid, good faith, and legally cognizable interest, and an "innocent owner" as contemplated by 18 U.S.C. § 983(d) and related authority. It is under this Claim of right that I contest the forfeiture of the Renoir Painting.

I declare and certify under penalty of perjury that the foregoing is true and correct.

Respectfully submitted this 19th Day of December, 2012,

Marcia Fuqua
Ms. Marcia "Martha" Fuqua

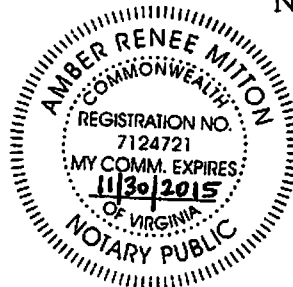
County of Fairfax)
) To Wit:
Commonwealth of Virginia)

Subscribed and sworn before me on this 19th day of December, 2012.

My Commission Expires: 7124721 11/30/2015

My Registration Number is: 7124721

Amber R. Mitton
Notary Public



CC: TWB/JLW

Attachments