

YET ANOTHER PARK WEST GALLERY/PARK WEST AT SEA CRUISE SHIP ART AUCTION RIP-OFF AND CUSTOMER SERVICES REFUSAL TO HELP

Robert and Debra English (above, aboard the *Miracle*) tell how they were sold fraudulently overpriced art by Park West at Sea on their honeymoon aboard the Carnival cruise ship *Miracle* in July 2006. They were sent different pieces from the ones they were shown on the ship. They got no satisfaction or help of any kind from Park West's customer services – just a runaround.

(This is the next in the series of case studies of reported fraudulent misrepresentation and deceptive trade practices at art auctions conducted at sea on cruise ships.)

Passengers

Robert and Debra English of Rio Rancho, New Mexico.

Cruise line and ship and details of the cruise

Carnival ship *Miracle* in July 2006, on a cruise with family from New York and Maryland for a small family reunion.

Park West Auctioneer

Maverick Commins was Park West's art director on board [perhaps Park West avoids calling them "auctioneers" as the majority are not licensed auctioneers and know very little or nothing about art – *Editor*.]

What was bought?

The expensive items Robert and Debra English bought were four Peter Max prints:

Tip Toe Floating on Blends 2006

Sailboat East on Blends

Two Hearts on Blends

Two Hearts on Blends

Unbelievably, Robert and Debra were shipped two slight variations of the same print, supposedly part of a suite, which is not what they were shown on the ship.

(That's what we received. I thought when we looked at them on the ship they were different, but when I actually looked at the invoice they were the same. I had called them on it when they sent them, but they said

"That's what's on the invoice!"

I told them that's not what we looked at, though. It was a losing battle.)

These four prints were each sold for \$2,675 plus a “buyer’s premium” of \$401.25 each, shipping and handling of \$55 each, the mysterious “In-Transit Handling” fee of \$30.21 and an appraisal fee of \$15 to cover the printing of the worthless template-based appraisal signed by Park West Gallery owner, Albert Scaglione, which gives an entirely false value for all of the pieces.

They also bought another two posters, one of them animation art and the other by Emile Bellet, and paid shipping and handling and inflated framing prices on some freebies which Park West threw in.

The total for all of this was \$14,067.10, all paid for with the Park West Collector’s Card from GE Money.



Certificate of Authenticity

According to the terms of the guarantee on the verso of this certificate, we guarantee the authorship of the following work of art:

Registration No. 160090.0075

Max, Deter

Two Hearts on Blends

Harmony and Love Suite

2006

13" x 17"

Mixed media painting with acrylic and color lithography on paper. Signed in acrylic. A unique variation.

This work is part of a two piece suite consisting of harmony and love mixed with Deter Max iconography.

ALBERT SCAGLIONE
Director



29469 Northwestern • Southfield, Michigan 48034 • (800) 521-9654 • Fax (248) 354-0387

Details of the Purchase

We “tagged” some artwork during the show, a cel [hand drawn animation] of Yankee Bugs Bunny. We then went to their office on board to pay. They were busy, even though we had an appointment, so we looked around at various artworks. The Peter Max caught our eyes. We discussed, at length, the art. I inquired about a discount, considering we were purchasing four pieces (two suites). The auctioneer told us what we were being charged was already a discounted fee. When we asked if we could think about the purchase, we were told we had to make a decision that evening, so we scheduled an appointment for that evening. When we had discussed the purchase, we were told that the artwork was already valued at more than we were paying. We were told the artwork we were purchasing would continue to increase in value while Peter Max was alive and the value would increase significantly after he was dead. We said that was great because it would leave a small inheritance for our sons and their families. Looking back it was a sale that we were pushed into making because we were told about these other pieces that were “just sold” to some other folks for \$30,000+ and are now worth twice that. The “we won’t be able to hold this art forever” pitch also came into play. We thought we were going to receive the artwork we looked at onboard. It wasn’t until the art arrived and we had to return it that we found out (from the people at Park West) we would be receiving a different print and that the artwork we purchased was not the same as we looked at aboard the Miracle.

I asked if, when we arrived at home, we had the art appraised and if it turned out to be less, could we send it back. The response was “of course.” When asked about appraising the pieces at a later date, we were told Park West would send us an appraisal whenever we asked for one, or, if we chose, we could have it appraised by someone of our choosing, at Park West’s expense. At this point we felt confident with the sale and purchase price. To sweeten the deal, we were given some free artwork (which we had framed by Park West at considerable cost to us).

Were you able to do due diligence on board before buying? Did you try? Was there any problem with that?

No, we didn’t do any due diligence, as we never expected to be taken by anyone aboard a cruise ship.

How did you pay for the art? Have you paid off the credit cards?

We applied for and received a credit account with Park West. Terms were 13 months same as cash; we paid it off during the 13th month.

Have you received the art? Any problem with the shipping or delivery?

We received the art as promised. However, we had to return several pieces of the received artwork several times due to damage to the frame, prints not squared in frame, or other issues.

What led you to suspect that there might be something wrong?

My brother and sister-in-law also purchased art from Park West aboard the Miracle. They called the Salvador Dali Art Studio and found out their print was not hand-signed by the artist, that it had been forged. My brother called me and I started investigating the Peter Max artwork.

What research have you done in the pieces you bought? What did you find?

Have searched the Internet for the two suites we purchased and were unable to find them. We looked at Park West Gallery website – nothing found, anywhere on the web, even on Peter Max’s website.

Robert and Debra English are now members of Fine Art Registry® who was able to supply the following information, based on figures received from reliable, anonymous sources within Park West:

The cost to Park West of the exact pieces they sold to Robert and Debra English for \$3,021 each was between \$280 and \$490 each. This is a mark-up of about 1000%. We also looked into recent auction records of Peter Max prints at askart.com and artprice.com. A report of the findings follows:



A Peter Max update. This is the latest auction update (April 2008).

1. PETER MAX PRINTS

As of April 2008, www.Artprice.com has estimated values for Peter Max, as follows:

\$157 (100 Euro) invested in 1997 in a work of Peter MAX has an average value of \$206 (131 Euro) in November 2007.

48% of Peter Max work that is sold at auction are graphic works or prints.

Finally, I researched all the prints that have been sold at auction for Peter Max from 1992 to present. I found the following interesting:

A total of 163 lots have been sold since 1992.

Concentrating on the last three years auction records for Peter Max graphic works (2005 to 2008) there were only 25 prints sold (with reported records) and all of them selling between \$125 and \$1100. The prices of the 25 pieces sold totaled: \$12,369.00, divided by the number of prints sold gives us an average of: **\$494.76**, per print

PETER MAX ORIGINALS

One has to keep in mind too that the highest price an original Max work ever commanded at auction (according to askart.com) was \$12,545.00 in 2007 (which likely includes a buyer's premium of at least 20 percent). There are many Max paintings that also went up for auction, but remained unsold. Most all the auction houses selling Peter Max prints are the lower tier houses—not Sotheby's and Christie's.

For Original Max works (paintings, mixed media, etc.), here's what askart.com reflects for average values:

Average Price of Sold Artwork by Medium for **Peter Max:**

3 lots (unspecified) -- \$1450.00

Acrylic (23 lots) -- \$2809

Collage (1 lot sold) -- \$225

Ink (2 lots sold) -- \$533

Mixed Media (21 lots sold) -- \$976

Oil (9 lots sold) -- \$4961

Watercolor (2 lots sold) -- \$460

TOTAL SALES FOR THE LAST THREE YEARS (ORIGINAL WORKS ONLY)

2006 -- \$31,327

2007 -- \$61,108

2008 -- \$20,459

There have only been 61 auction lots that have come on the auction block for Peter Max and only 81% of those sold.

The information provided simply confirmed the independent research already conducted by Robert and Debra English.

What dealings have you had with Park West customer services or executives since then? Have you asked for a refund? Have you asked for documentation of the provenance (history of origin and ownership) of your pieces? If you have dealt with Park West customer services or others, how were you treated? How did they handle your complaint?

We asked for a refund. One employee told us we were eligible for a refund, less the buyer's premium. That employee went on vacation and the file was turned over to another employee who stated, "They would not give us any type of refund, only an exchange of artwork from Park West of equal value." We are very disillusioned with Park West and would never even consider an exchange with them. Initially, when we dealt with Mary Gordon, we were treated very well. When our file was transferred to Mary Courson, however, the "gloves came off" and while she was polite to begin with, her attitude soon changed when she found out that we were only interested in a refund. She tried to out-talk me during our conversations, not wanting to give me an opportunity to express myself. She kept telling me to go to the Max website and compare, do more research. I told her I had and couldn't find our pieces anywhere.

Following is some of the correspondence:

From: "Mary Gordon" mgordon@parkwestgallery.com

Date: August 13, 2008 10:43:28 AM PDT

To: rtered@aol.com

Subject: Park West artwork

Dear Mr. English,

Per our conversation on Aug 12th, I have taken the liberty of giving your contact information to Gene Luntz, Agent to Peter Max. Park West Gallery is the oldest and largest dealer for Max.

In the event after speaking with Mr. Luntz, you are still not comfortable with your purchase Park West is willing to facilitate an exchange for any of the hundreds of other artists we proudly represent.

Please feel free to contact me with any other concerns or questions.

Sincerely,
Mary Gordon

Aug 15, 2008

(e-mail from Robert English)

Mary called me back this a.m. She said she had fallen and banged her nose on her desk, bloodied it pretty good.

After exchanging niceties we got down to business. She asked if Luntz had called me, he hadn't. I told her I really wasn't interested in anything he had to say because of his long-term association w/Park West, he couldn't very well provide me with an unbiased opinion. I told her we only wanted a full refund. She then told me she's going to turn the file over to another Mary, she was going on an extended vacation. I said fine. I asked why the e-mail she had sent to me did not contain the info she said she was sending, i.e., the 40/40 plan. She said she'd be happy to write the agreement and send it to me, she also reminded me that I would not get the buyer's premium back. I told her we weren't interested in that, we wanted a full refund. She said it was not going to happen, I said that was okay, I'll do what I have to do to ensure that it did, using whatever means was available, e.g., media, internet, you folks, etc. She said that was fine. We hung up after that.

RTE

Letter to Mary Gordon from Robert English

Ms. Gordon,

Thank you for the return phone call on Friday, August 15, 2008. I was sorry to hear of your accident and injury and I hope you recover from it soon.

I was somewhat disappointed in the e-mail I received from you in that it did not cover the options we had discussed.

I also thought you would be interested in knowing I never did receive the second e-mail you

referred to during our conversation. As far as speaking to Mr. Luntz is concerned, if he and your company have been working closely together for many years, as you mentioned, then I am afraid I would not be able to accept his opinion as unbiased, as he definitely has a stake in continuing to do business with your company.

I have researched the Peter Max prints we purchased onboard the Carnival MIRACLE cruise ship and found that we, my wife and I, were the victims of fraudulent misrepresentation and deceptive trade practices. The fact that your company allows these so-called "Auctioneers" to represent Park West is deplorable and should be stopped. The hard sell and out-and-out lies we experienced are despicable traits for any reputable company. Fortunately for us there are laws which protect us. At this time we want to take advantage of these protective laws and request a full and immediate refund. As I explained to you over the phone, we are willing to give Park West an opportunity to rectify this injustice. However, if Park West opts to disregard our request we have no alternative other than to take whatever measures necessary to see that we do receive a full and complete refund for the Peter Max Artwork purchased aboard the cruise ship. I am sure that Carnival's management, federal and state governments, media (press, magazines, television, web-sites, etc.) would all be very interested in what we have to say. Additionally, I have become aware of a company which would agree to assist us in our efforts and publish a full story regarding this issue.

To be perfectly clear, we are requesting a full refund and will not accept anything less. There are to be **NO** Buyer's Premium's or restocking fees assessed and the shipping and handling for the return of the Max artwork will be borne by Park West.

I have attached a file which shows the true value, not the "Auctioneer's" inflated money making value, of Peter Max's artwork.

Sincerely,

Robert English

From: "Mary Courson" mgordon@parkwestgallery.com

Date: September 5, 2008 10:21:04 AM PDT

To: rtered@aol.com

Subject: 40/40/40

Dear Mr. English:

In honor of our 40 years in business, Park West has instituted a new policy called 40/40/40. This policy is as follows:

We stand behind every work of art in our collection, just as we have since our establishment 40 years ago. Our commitment to our 1.2 million loyal customers is to ensure that any art purchased through Park West® is a lasting source of joy. If for any reason you are not satisfied, we will exchange any work you purchased at the auction for another work of your choice, or provide you with a refund.

40 Years: Since our founding 40 years ago, Park West® has guaranteed the quality and authenticity of every work in our collection.

40 Months: Clients can exchange any work purchased for any other work in the Park West® collection of the same or greater price up to 40 months after the date of the invoice. You will be credited with the amount you paid for the work you purchased (including buyer's premium and excluding shipping and handling), with the only charges being shipping and handling and any price difference when the exchange is for a work of a greater price. Exchanges must be made directly with Park West® by phoning 1-877-440-0630 and are not allowed at auctions. When making exchanges, our experienced staff will provide personal attention and access to one of the world's largest art collections for your collecting enjoyment.

40 Days: Clients can obtain a refund within 40 days after receipt of the art work. Your refund will cover the full

purchase price (less the buyer's premium, not to exceed one thousand dollars per piece) and any shipping costs if applicable.

Park West® is the world's largest art dealer and our mission is to connect people around the world to superb artists and the joys of the art world. We want the connection you have with our art to bring joy for years to come – satisfaction guaranteed.

Even though you purchased artwork over 2 years ago at a time when your invoice stated ALL SALES ARE FINAL, I am happy to extend the offer to you as outlined above. I apologize that you are not happy with your purchases but I have worked very hard on your behalf so that you may take advantage of our new program. Please call me so that I can immediately begin the exchange process for you. Otherwise we will consider this matter closed.

Respectfully,

Mary

Mary Courson, Client Services, Park West Gallery
29469 Northwestern Highway, Southfield, MI 48034
800-521-9654 ext 1842 | 248-204-6842 | 248-350-9346 fax

[As you can see from the above, Park West has redefined customer service. We have been advised by an ex Park West auctioneer that the entire policy was never to give refunds, just to give people who wanted their money back a complete runaround. The 40-40-40 breakthrough is a whole new concept in customer dissatisfaction devised by Park West to try to fool all of the people all of the time...

The Englishes complained to the Better Business Bureau about the fraud. Park West answered the Better Business Bureau with the following:

PARK WEST[®]

G • A • L • L • E • R • Y

September 18, 2008

Ms. Carmel Weems
Trade Practice Consultant
Better Business Bureau of Detroit & Eastern Michigan
30555 Southfield Road, Suite 200
Southfield, MI 48076

Re: BBB Case ID# 6959648 – Robert T. English

Dear Ms. Weems:

Park West is in receipt of your letter dated September 13, 2008 and we appreciate the opportunity to respond. Mr. Robert English sailed aboard the Carnival "Miracle" in July 2006 and purchased artwork at auctions conducted by Park West.

Mr. English recently contacted Park West with concerns about the value of the artwork. Park West appraisals are prepared for insurance purposes and represent replacement value. They are the identical prices that would be charged to the retail buyer if purchasing from our gallery walls, which is the environment in which one would need to replace the work of art insured. The appraisals are prepared carefully and diligently and our staff uses market-recognized tools, including reviews by a network of accredited independent appraisers who adhere to the Uniform Standards of Professional Appraisal Practices to appraise our artwork. As Park West has been conducting business and selling our artwork for nearly 40 years, we have the most reliable and appropriate knowledge of the replacement values for our works sold.

Park West has an outstanding reputation because it makes every reasonable effort to resolve any and all client concerns. We are confident in what we sell and the value we deliver. With that in mind, as a courtesy, Park West offered to exchange Mr. English's artwork for alternative pieces more to his liking.

Mr. English's signed invoice states "All sales are final". He has presented no substantiation of the claims made in his letter. Further, the artwork has been removed from circulation specifically for Mr. English's order, processed in our framing facility and has been in his possession for 2 years. There is no basis for a refund.

Enclosed for your records please find a copy of Mr. English's signed invoice. If I can be of any further assistance please do not hesitate to contact me.

Sincerely,



Jennifer Tashman
Park West Gallery

Following is the English's rejection to the Better Business Bureau of the offer made by Park West.

Better Business Bureau:

I have reviewed the offer made by the business in reference to complaint ID 6959648, and have determined that this proposed action would not resolve my complaint. For your reference, details of why I am rejecting this offer appear below:

[You must provide details of why you are not satisfied with this resolution. Please type details here:]

As previously mentioned, I have become aware of the value of similar artwork by this particular artist and it is extremely lower than the "very low" auction price given us by Park West. I feel my wife and I were pushed by the auctioneer into buying our artwork. In a separate attempt to resolve this issue with Park West, I have provided them with recent sales figures and the low sales prices of similar works by Peter Max (see attachment). It looks as though the art we purchased is valued today at less than half what we paid two years ago. This is remarkable in that the auctioneer stated that it was worth "far more than we were paying for it and would continue to appreciate over the years."

Apparently, we are not alone in the way we were shammed by Park West. My research also indicates they have numerous class action lawsuits against them for their art sales aboard cruise ships. For this reason, I do not feel they can be trusted and, therefore, refuse any type of "exchange of equal value." Whose equal value, theirs or the real world?

Regards,

Robert English

What led you to contact Fine Art Registry®? How do you feel you have been treated by Fine Art Registry?

I was reading some information on artwork and Park West that I acquired online and came across a link to Fine Art Registry. So far, I have been treated very well. Any questions or comments I have had are always answered promptly and with professionalism.

Who else have you contacted about your purchases? What did they tell you?

We have contacted Carnival's Guest Relations department

and spoke to supervisor Laura Adams. She stated that the cruise line was not liable for Park West's sales and there was nothing they could do to help me. She said she documented the complaint and would send it to the appropriate department. When asked about other complaints against Park West, she said there were many.

What are your plans with regard to this situation?

To pursue this through the media, applicable government agencies, Fine Art Registry, etc. and take legal action including participation in class action suits if we do not get a satisfactory resolution from Park West.

Any advice you have to other people in your situation?

To would-be buyers of art at on-board art auctions?

Do not buy anything onboard a ship that you wouldn't buy at home. Buyer beware of deals that sound too good to be true, they usually are!

As a Navy Veteran of Grenada and Beirut, I am extremely disappointed in the way our government turns a blind eye to big business; the way they are allowed to scam the public for a profit. To be treated by a major corporation the way we were and still are is a sad commentary on fair trade. It makes me wonder why I put my life on the line - I thought it was to protect the citizens of our great country, not the corporations who steal from its people.

Fine Art Registry will follow the progress of Robert and Debra English in their attempt to right the rip-off by Park West auctioneer Maverick Commins and the subsequent refusal on the part of Mary Gordon, Mary Courson and Jennifer Tashman at Park West to right the reported fraudulent misrepresentation on the part of their salesperson. Their story will also be made known to local and national media who are investigating Park West and their sales and customer service practices.

We will follow up on this case study as events unfold. ✍️