

## The Art of Piracy

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Say your industry's biggest image problem used to be the notion that all of your customers were newlyweds and nearly deads hoping to find themselves in a buffet line with Kathie Lee Gifford.

Today, you wish you still had those kinds of PR headaches. The news lately has you on rougher waters than a leaky dory in a midnight squall. If some panicky helmsman isn't making a hard turn that sends passengers tumbling, some honeymooner has gone over the side and his family won't stop talking to the media about it, or the entire ship's population is working a norovirus through its entrails.

Throw in the kind of post 9/11 trepidation that keeps frightened Americans from leaving home, as well as the PR disaster of making serious cabbage by parking a cruise liner in New Orleans after Hurricane Katrina (new industry image: the FEMA of luxury travel) and you can see what travel agents are up against selling a slow boat to the tropics.

### Info

#### Cruises

Still, you don't panic. You are clever. You have business smarts. There are still plenty of ripe retirees for whom gambling, round-the-clock buffets, and the romance of the high seas equals a helluva better time than working the speed button on a slot machine at the Indian casino.

If you can't lure more new folks onto the boat for a spin around the Caribbean, you have to get creative. And how's this for an angle: Take more jack out of the pilgrims already onboard by turning a cruise ship into a money-sucking megamall.

But you don't stop at peddling the usual designer-name tchotchkes dressed up for snob appeal. Buying Lladro or Swarovski or Fossil duty-free has its appeal, but really, these folks get hit up all the time by up-market types trying to convince them that laying down serious money for a shiny keepsake will fulfill their bougie instincts.

No, there's a much better way to tap into the deep materialistic psyche of the ultimate narcissist, the boomer retiree: Show him fine art, and let him set his own price.

### ADVERTISING

Like any good marketing maneuver, this transaction is as much about the set-up as it is the close. A Picasso on an easel here, a Chagall there, maybe a Miró thrown in for good measure, all get the blood

pumping and the endorphins kicking in, but even the bottom-barrel stuff, the repros that are going to net you stupid money, take on the glow of buried treasure as you bait the trap with three essential elements:

The excitement of auction, free champagne, and, most important, the French language.

The tongue of the frogs is a godsend. Almost as if it were made for messing with the minds of smug Americans who figure their dim college memories of the differences between Baroque and Rococo make them plenty well-equipped for the task at hand. But tell them that the portrait they're looking at is a giclée and a bargain at 20 grand, and would they like a refill on that Dom Perignon?

*Merde*, it's game over.

Terrie Kifer and Joyce Sexton boarded a cruise ship for the first time at Fort Lauderdale in the spring of 2002. The two women are friends from Rehoboth Beach, Delaware; Sexton retired after a government career as an air traffic control manager, and Kifer retired after working in the telecom industry and dabbling in real estate. Lately, they'd thought of opening an art gallery together, so a notice in the Princess Cruise Lines ship's daily newsletter about an art auction caught their attention — not to mention the steady inundation of fliers and brochures about the auction in their cabin.

They didn't make a connection between the deeply discounted fare they'd paid (still only months after the ultimate travel industry nightmare, the attacks of 9/11) and the blizzard of art sale ads.

Once underway, Kifer and Sexton explored the onboard offerings — shopping malls, restaurants, and bowling alleys on a liner that seemed to rival the size of a city.

But it was the art auctions that kept them coming back. Wood-paneled and spacious, the Princess galleries showed off the paintings on the walls and on easels. At receptions, champagne flowed as collectors and wannabes engaged with art directors in edgy patter.

The setup was irresistible to Kifer and Sexton, who bit hard. That first trip, they dropped 86 large.

That amount got Princess' attention.

The California-based company invited them to become members of its exclusive Art Connoisseurs Program, which is run by the cruise line's in-house art division. Princess Fine Arts President Mark Bronson, a University of Virginia-educated art dealer, invited the women on several cruises, free of charge.

Kifer and Sexton accepted, initially choosing a ten-day excursion in the Mediterranean. They flew to Barcelona to meet the ship in the summer of 2003.

This time, the full-court press was on. The two women were feted at invitation-only champagne receptions and dinners in the most exclusive onboard restaurants, where they were introduced to some of the artists whose works were up for bid. The ship's captain took them on a VIP tour of the bridge.

They mingled with fellow collectors as well as Princess' art experts, appraisers, and auctioneers — all of whom chatted excitedly about how much less the art connoisseurs would pay at sea than they would on dry land. Princess promised free framing and shipping and said repeatedly that onboard prices were well below those at landbound galleries.

This time, Kifer and Sexton bit even harder, leaving a quarter of a million dollars onboard.

By now, they owned a couple of works by Pablo Picasso, Marc Chagall, and Joan Miró and several pieces by Romain de Tirtoff, who is known in the art world as "Erté," the French pronunciation of his initials.

"I started buying art in Washington, D.C., and Texas... in the early 1980s at auctions and galleries," Sexton says. "I just have always enjoyed art. The only reason a person should buy art is because you love it. You've got to connect with the artist or the piece, and you've got to love it in five or ten years and not say 'This was supposed to make me money.'"

The following summer, Kifer and Sexton flew to Copenhagen for a Baltic cruise, another complimentary art connoisseur trip. At one of the champagne receptions, they met Martiros Manoukian, a Soviet Union-born surrealist painter who immigrated to the United States during the Cold War. They were enchanted.

They immediately connected to Manoukian's *Tranquil Remorse*, a female nude showing a little backside, some side-boob, and a face obscured by a wild mane. It was not at all clear what the unnamed woman was remorseful about.

Was it worth a lot of money? Who the hell knows? It's art.

Princess described *Tranquil Remorse* as a one-of-a-kind original that happened to grace the cover of one of Manoukian's art books. Sexton says the deep shades of blue gave her a sorrowful yet calm feeling. She wanted it.

She wasn't the only one. Kifer and Sexton fought off competition and eventually won out with a bid of \$71,640. Both Bronson and Manoukian congratulated them.

Later, they say, they got a handwritten note from Manoukian reminding them that the painting had come from his private collection. He thanked them again and wished them "peace and happiness."

And peace and happiness is what they had for another year, as their nude kept remorseing on a wall back home. But then, in the summer of 2005, they took another cruise courtesy of Princess, this time for 12 days in the Mediterranean.

And that's when they really learned the meaning of the word remorse.

"It was absolutely unbelievable!" Kifer says. "When we saw the same identical *Tranquil Remorse* that we had bought the year before, we were stunned."

Their fellow collectors noticed too and asked the two women if it was the painting they had bought that was up for sale again.

"Everyone was shocked," Sexton says.

They went straight to Manoukian and Bronson, both present for this sale as well, for an explanation about why their "one-of-a-kind original" was up for sale again.

"We were told — well, it was a lie — by the art director [Bronson] to calm down and that when we got home, we would see that the paintings were different," Sexton says. "In our eyes, they were identical."

Manoukian seemed flabbergasted, they say.

"He said there's been a big mistake," Sexton says. "But at the same time, he seemed to be saying that

artists can do whatever they want. He was saying that the marketing was the problem."

They say Bronson and Manoukian tried to quiet them, telling them their *Tranquil Remorse* was distinctly different from the one on the auction block. Bronson, Kifer says, suggested that the figure portrayed in the painting back in Delaware had a rose clenched in her teeth. (She didn't.)

"They did what they wanted, and they ignored us. And I think they did it out of greed."

Kifer and Sexton watched as the second *Tranquil Remorse* sold for \$20,000 less than the one they'd paid for.

Still, the bubbly was free.

Alan Bamberger, a connoisseur who wrote a book called *The Art of Buying Art*, says he's working on a new edition that will include a chapter addressing cruise line programs.

"It's not how to buy art," he says, then later uses a solid Anglo-Saxon term to describe the Frenchified selling techniques on the glorified barges:

"It's bullshit."

Fort Lauderdale estate liquidator and art dealer David Fernan says the cruise lines use the French language to confuse consumers and add importance to items for sale.

Many times, when he's inspecting an estate and looking for things to buy, he comes across art sold on cruise lines. Inevitably, the asking price is in the thousands of dollars, and Fernan has to break it to the sellers that the true value is closer to \$30.

"I try to tell them it's a poster," he says. "And they say, 'No it's a giclée,'" pronouncing the word zhee-CLAY.

He turns the artwork over and shows a cruise line mark and explains that what they have isn't something done by hand but by mechanical means. Giclée may be the preferred term on a cruise, but the word translates to "fine spray" and describes a process using high-quality digital ink printers to reproduce art. Initially intended for artists to use as a way to proof their work, it's now used to produce commercial prints en masse.

"It sounds good," Bamberger says. "But it's a digital print. It really has nothing to do with the art."

In auction catalogs issued by Park West Gallery, which runs the auctions on several major cruise lines, including Carnival and Royal Caribbean, works are described as "giclée in color on canvas" or "embellished giclée in color on woven paper."

To the untrained eye, a giclée can resemble an original painting.

Technology is advancing the process every day — so much so that Bamberger is having to look harder to discern it. "I'm going to have to upgrade my pocket microscope from 30 power to 100," he says, "because these printers are getting so good."

For about a decade, the major cruise lines — Princess, Carnival, Royal Caribbean, Holland America, and Norwegian — have been selling fine art onboard. On a recent trip, her seven-day honeymoon cruise aboard Royal Caribbean, Fort Lauderdale legal assistant Debbie Priebe says she was constantly hearing

announcements and reminders about art auctions.

"We didn't go into the auction because we could tell it was high-pressure sales, and we weren't going to buy anything," she says. "Most of the art was pretty expensive. They were advertising that they had one-of-a-kind pictures and originals."

Fernan says it's more likely that the only thing on the cruise both real and French was the wine.

After Kifer and Sexton got back from their disastrous Mediterranean sail, they hired an expert to compare the *Tranquil Remorse* they had bought, the one they had just seen sold, and the one that appeared in Manoukian's book.

Each was slightly different. The expert concluded that their painting was one in a series of "oil reproductions where the artist cleverly tries to represent each version of the *Tranquil Remorse* as an original."

"We thought we were getting authentic art — we thought they had everything in order — the certificates of authenticity and appraisals," Sexton says. "The auctioneers said there was nothing they could do because they relied on the cruise line for the marketing information."

Bamberger says there's nothing stopping an artist from painting the same thing over and over. "It has to do with the integrity of the artist," he says. "I don't know what it says to the legal world. There are no rules against painting the same thing again and again."

Kifer and Sexton showed their expert's findings to Princess, and the cruise line offered to buy back their *Tranquil Remorse* for what they paid. But that wasn't good enough for the retired Delaware duo.

They filed suit this August against Princess, Bronson, and Manoukian in Broward County's state court.

"Our appraiser told us: 'You ladies have been raped,'" Kifer says. "He told us we needed to call the police."

"We never want anyone to be put in the position that we were put in," Sexton says. "This is not a cheap piece — \$71,000 something — but the piece should never have been sold again."

Princess spokeswoman Julie Benson declined to comment about the suit, citing company policy against discussing pending litigation. Benson also refused to discuss anything about the art program. Manoukian couldn't be reached for comment.

This isn't the first time the cruise line has faced legal action over its art program.

Two artists sued the cruise line earlier this year after finding out that thousands of Princess passengers bought unauthorized prints the cruise line had bought in bulk from Kristine Eubanks, a convicted felon.

California artist Charlene Mitchell, who is known for her landscapes, nature scenes, portraits, and animal-in-action scenes, found out about Eubanks' fakes after a passenger who'd bought one of the phonies — complete with her forged signature — contacted her to commission a portrait of his fiancée because he liked the print so much.

Mitchell couldn't believe so many forged copies of her work had been sold. "I certainly didn't sign 1,100 prints," she says.

She sued both Eubanks and Princess in January, eventually attracting the attention of the Federal Bureau of Investigation, which had also begun looking into Eubanks after being contacted by one of Eubanks' former employees. In September, the FBI made its investigation into Eubanks' dealings public and called on victims to come forward. Mitchell says she's the FBI's star witness.

San Francisco lawyer Brooke Oliver, outside counsel to Princess, won't comment on the federal investigation, though she denied that FBI agents reviewed any of Princess' records.

And Oliver says Princess is a victim.

"I'm surprised that Ms. Mitchell is going after Princess," Oliver says. "It's disappointing. Princess has been victimized by the folks who created the unauthorized copies."

Had Princess checked into Eubanks' background, however, the cruise line would have seen that she was on probation after an arrest on charges of forgery, fraud, and grand theft. She was convicted in June 2005 in Los Angeles and given three years' probation. According to court documents, Eubanks used her dead business partner's American Express to run up more than \$100,000.

But the cruise line had no reason to learn any of that, Oliver claims. "Princess doesn't have any obligation to do due diligence," she tells *New Times*. And she adds that the sales of unauthorized copies of Mitchell's works actually benefit Mitchell by giving her a wider audience.

Mitchell disagrees and has sued Princess for copyright infringement, fraud, breach of fiduciary duties, conversion, and unjust enrichment. That case is still pending in California.

"Princess is so twisted it thinks that mass distribution of unauthorized, forged copies of artists' works on their ships helps artists," says Mitchell's lawyer, Robert Lauson.

Meanwhile, in October, a judge revoked Eubanks' probation on the credit card fraud conviction, and she is back in prison. Lauson says he expects a federal grand jury to issue a new indictment leveling charges against Eubanks for the prints she sold Princess.

There is a company that treats artists better, Mitchell says. It's the Michigan-based Park West Gallery, which claims to have the largest collection of art in the world.

Its Park West at Sea division manages the arts programs on the other major cruise lines. Princess is the only one with an in-house art sales program.

Mitchell says Park West meets with artists or their estates before selling their work, at least in part to verify the goods.

But Park West is fighting its own legal battle with former Carnival Cruise Line passengers.

In 2001, a group of passengers filed a class action lawsuit against Park West and Carnival Cruise Lines alleging, among other wrongdoings, driving up prices by using phantom bidders.

The case is still pending, but a judge dismissed Carnival from the litigation a few years ago. Park West at Sea, however, continues to manage Carnival's fine arts program.

Kifer and Sexton say they were told that the Princess art program is the company's top moneymaker.

According to an economic impact study done by the International Council of Cruise Lines, onboard revenues of the cruise industry are higher than the money made on ticket sales. Money made from art, alcohol, and other onboard retail sales have boosted the industry's gross revenues at the same time that fares have been declining. (Ticket prices have steadily declined for the past ten years, in part because of an economy of scale as the boats have grown larger.)

No wonder, then, that cruise lines strictly prohibit passengers from bringing anything in the way of alcohol, soda, or bottled water onboard with them.

Florida, meanwhile, is the epicenter of the cruise industry — more than half of the people who take cruises departing from the United States leave from Port Everglades, Miami, Port Canaveral, Tampa, or Jacksonville. And the lion's share of the civil litigation occurs in Florida, particularly in Miami-Dade and Broward counties, where 4.8 million of the 8.6 million passengers boarding cruise ships in the United States departed from last year.

Generally, a U.S. citizen is protected by American laws while in international waters. But that simple idea is not so easily executed.

At a March congressional subcommittee hearing on cruise safety, Kifer and Sexton's attorney, Brett Rivkind, told congressmen what law enforcement, judges, and lawyers have known for years.

"An American citizen cannot feel comfortable on a foreign cruise ship that is sailing to ports outside of the United States... and cannot be assured that the FBI will have jurisdiction or in fact exercise jurisdiction," he said.

"Cruising can be a great vacation if you like it," says Rivkind, who has 23 years' experience with maritime law — four of those spent defending the cruise lines. "We just tell people to be aware of potential problems, not to let their guard down simply because they're on a cruise ship, that things happen on ships."

Hundreds of passengers and employees sue the cruise lines every week for a variety of reasons, ranging from poor medical care to failing to adequately deal with sexual assaults. Not surprisingly, the companies vigorously defend themselves, usually by arguing a lack of jurisdiction first.

On July 18, more than 200 people sustained injuries when Princess' 3,100-passenger Crown Princess listed about 15 degrees just off the Port Canaveral Coast in, by all accounts, calm seas. The captain righted the ship in less than a minute but not in time to stop people from falling or from being hit by things flying through the air. Nearly 100 passengers were taken to the hospital. In February, another cruise liner in Princess' 15-ship fleet had a similar accident after leaving Galveston, Texas. That time, 30 passengers were injured. A Princess spokeswoman said both incidents were caused by human error.

Still, the industry is making more money in part because of how much dough passengers spend after boarding. Terry Dale, president of the Cruise Lines International Association, reports that global cruise line revenues jumped 13.8 percent in 2005, to \$19.2 billion. The rate per passenger went up 7.3 percent, while the returns from daily passenger spending increased 4.7 percent. And fine art programs continue to drain bottles of champagne. Princess cruises goes right on promoting their own sales, excitedly promising four auctions a day while at sea.

Rivkind, meanwhile, says Kifer and Sexton have now agreed to put their lawsuit on hold until after a meeting Princess has requested them to attend.

"We hope the meeting will be fruitful," Rivkind says.

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