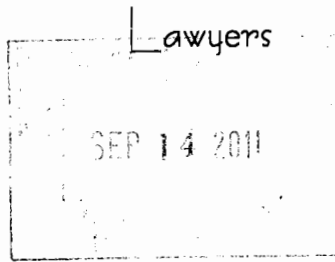


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September 13, 2011

**BY HAND**

Hon. Denise Cote  
 United States District Court  
 Southern District of New York  
 500 Pearl Street, Room 1040  
 New York, NY 10007

9/16/2011

Re: Safflane, et al. v. Gagosian et al., 11-cv-1679 (DLC) ("Safflane action");  
The Metropolitan Museum, et. al. v. Safflane et. al., 11-cv-3143 (DLC) ("Met action")

Dear Judge Cote:

The redactions in Gagosian's ("GG") deceptively created category three were unlawfully made and must be disclosed because, as set forth below, the redactions are responsive information directly and fully relevant to GG's central defense that it acted as an agent for a disclosed principal. GG's counsel has misled this office and the Court. We have conferred ad nauseam on the issue of GG's redactions dating back to July 11 (Ex. 6). It is apparent from the arguments set forth below that GG's counsel seeks to shield her personal involvement and that of her law firm whose signatures appear on key evidentiary documents relating to trial issues.

GG's document production contains an invoice from Charles Cowles ("CC") for the Tansey painting "Innocent Eye Test" and Roy Lichtenstein's "Girl in Mirror," 1964 (Ex. 1 GG105). Not only did CC place both paintings on the same invoice without a price attributed to either one for a gross price of \$3,000,000.00 (Ex. 1 GG 105), but GG's counsel called it a "package deal" (Ex. 2 p. 7; Ex. 3 p. 3). GG included in its category three, and thereby redacted, all references to the Lichtenstein painting (Ex. 1 GG105, GG107; and GG112-GG114), notwithstanding that the Tansey and the Lichtenstein transactions are directly related. The negotiations and pricing of the Tansey painting were unequivocally and directly affected by the Lichtenstein painting negotiations.

The Court's Order in this matter is dated July 7, 2011 (Ex. B). But, on July 13, 2011, in the midst of Charles Cowles' ("CC") deposition, JC's counsel produced extraordinarily relevant documents which fully contradict GG's purported category three information, including a settlement agreement (Ex. 2 - without exhibits) dated August 31, 2010 between (Met action plaintiff) Jan Cowles ("JC") by Lester Marks and Charles Cowles ("CC").

Ex. 2 and Exhibit 6 thereto (Ex. 3), produced by an adverse party, confirms that the sale of the Tansey and Lichtenstein paintings were a "package deal." Section V.(E) of the settlement agreement (Ex. 2 page 7) provides that JC's (transactional) counsel Proskauer is advised that GG, through its lawyer Ralph Lerner, Esq. (of Withers Bergman LLP), represented to Proskauer that the

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Lichtenstein painting and the Tansey painting were offered to GG by CC as a "package deal." Exhibit 6 to the settlement agreement (Ex. 3), contains a letter dated August 13, 2010 from JC's counsel to GG's counsel at Withers stating on page three that GG's counsel stated that the "Lichtenstein was sold as part of a package deal" by CC (Ex. 3 p. 3). CC's invoice to GG (Ex. 1 GG105) in which no separate, individual price is indicated for the Tansey or the Lichtenstein painting, confirms the "package deal" aspect of the transaction. Accordingly, the same facts will apply to the sale of the both paintings. GG's actions concerning the Lichtenstein painting, which it bought on its own account, directly bears on GG's actions and legal status with respect to the Tansey transaction and is a pivotal issue for trial. The settlement agreement (Ex. 2 pp. 7 and 8) clearly provides that both the Lichtenstein and Tansey paintings were sold without JC's permission.

The last page of Exhibit 6 (Ex. 3) to the settlement agreement contains a letter from Ms. Bart in response to the August 13, 2010 letter in which Ms. Bart does not deny that the transactions are a "package deal." Ms. Bart is directly involved in this matter as a witness. GG and its counsel maintain wholly inconsistent positions, characterizing the transactions to Proskauer as a "package deal" and then simultaneously characterizing the transactions to this Court and this office as unrelated.

GG's counsel—playing a redaction shell-game—has misled this office and the Court because there are documents in their purported category three in which they admit to JC's counsel that the Tansey and Lichtenstein transactions are a "package deal." The Corrected Second Amended Complaint alleges in detail (Ex. 4 pars. 67-69) how the Lichtenstein and Tansey transactions were a combined transaction.

GG's counsel, left on their own in a discovery honor system, have obviously violated it and cannot be trusted to determine what is "non-responsive" or has "nothing to do with the matters alleged in this action." GG's counsel must also answer why it did not produce in this action documents such as Exhibit 3 (produced by JC's counsel) which are clearly responsive to demands 5, 7, 11 and 13 in Plaintiffs' First Notice to Produce Documents dated June 21, 2011 (Ex. 5 p. 6). Exhibits 2 and 3 were produced by JC's counsel in unredacted form and the same standard should apply to GG's production of documents.

Due to the significance of GG's redactions and its counsel's self appointed status of arbiter in deciding what is and what is not relevant, plaintiffs respectfully request that all redacted documents be shown to the Court and that all documents related to the sale of the Lichtenstein painting "Girl in Mirror" be produced. We are prepared to argue this orally in Court.

*Gagosian shall produce unredacted copies of invoices and official business records, such as Gb 105, 112, and 113 to outside counsel, as described in the Protective Order #3a.*  
Enclosures

cc: To all counsel via e-mail with enclosures

*Denise Cote*  
Sept. 14, 2011

Respectfully submitted,

*Aaron Richard Golub*  
NSG

Aaron Richard Golub