

ADVERTISING STANDARDS COMPLAINTS BOARD

12th Floor, ICL House, The Terrace
PO Box 10-675 Wellington
Telephone (04) 472-7852
Fax (04) 471-1785

94/270

DECISION

Meeting 7 February 1995

Complaint 94/270

Complainant: W H Dalley

Advertisement: Warwick Henderson Gallery

Complaint: A brochure for an exhibition at Warwick Henderson Gallery included photographs of pictures which would be in the exhibition and the date which the exhibition ran.

The Complainant said "This brochure gives a clear impression an exhibition is being held between 3rd October 1994 and 26th November 1994. In this exhibition there will be the paintings outlined.

When I attended the gallery, I was informed that this was not the case. Only a small number of the paintings were on display (15). The remainder were either in storage, out on lend [sic], sold or in Christchurch.

I believe that this advertising is clearly misleading. It is inconveniencing the public".

The relevant provision was Rule 2 of the Advertising Code of Ethics which states (in part):

"Advertisements must not contain any statement or visual presentation which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, or makes false and misleading representation ..."

The advertiser said:

"Mr Dalley visited this gallery to view this exhibition several days after the exhibition and sale opened. It is prudent procedure to contact a gallery on opening day of an exhibition if you are to ensure the paintings of your choice will be still available the next day. It is also normal and common procedure for paintings in a sale and exhibition to go on approval and be sold prior to the exhibition ending. We are a commercial gallery and our job is to sell paintings on behalf of our clients.

Mr Dalley chose not to check if the paintings (a Hoyte and a Gully) were still available after the show opened. Many paintings can sell on the first day, in fact some shows in Auckland are sell outs on the first day. All paintings in this catalogue were available for purchase from this gallery on the first few days - 10 of the paintings were sent to Artex Christchurch for the weekend at Artex Christchurch to promote the catalogue (with catalogues), (Artex 13-16th October). By Wednesday two were sold and two others were taken out on approval - even that left almost 40 paintings. The 10 paintings sent for the Artex weekend arrived back on the 17th of October".

As a preliminary matter the Board ruled that the brochure was an advertisement. Whilst it was received via a mailing list the Board was of the opinion that it was widely circulated and was freely available. The Board noted Decision 92/223 which stated that "...the fact that an advertisement had a restricted circulation did not alter its status."

Regarding Rule 2 the Board was of the opinion that when an exhibition is advertised it is expected that the paintings should be on view or at least on the site. The Board accepted that paintings may be sold, but that the usual practice is for them to remain on display but with some identifying mark to show that they have been sold. The Board also accepted that due to a lack of space some paintings may be stored, but that they were typically left on the premises.

The Board was of the view that in this instance it was not acceptable for the advertiser to advertise an exhibition where a number of the paintings were unavailable for viewing as they had been sent to Christchurch or sold.

Accordingly the Board ruled that the advertisement was misleading and breached Rule 2 of the Advertising Code of Ethics.

Decision: Complaint: Upheld

"NZ COLLECTION"

Consistent with our policy of offering a wide range of top quality New Zealand Art from all periods, we present our new catalogue of New Zealand paintings and sculpture. As the New Zealand Art market develops we welcome the new maturity and sophistication of collectors who are collecting all periods of art either singularly or collectively. This new generation of collectors are ignoring trends or peer pressure to buy "prescribed artworks" and are using their own imagination and resolve to establish art collections of individuality. Some could be described as "pick and mix collections", however they could well prove enduring throughout this new generation of collecting.

As support for New Zealand Artists and the strength of the local market gathers pace we are especially pleased to see an unprecedented growth in the export of New Zealand paintings. Although this is undoubtedly fuelled by the expanding tourist market, many of these visitors are serious art collectors who appreciate the high quality of art available in New Zealand. In the last few months we have sold paintings to collectors from Florida, New York, Connecticut, Israel, Hong Kong and Singapore. These unique and original exports assist our balance of payments in addition to further developing the international market for NZ artworks. Long may this continue.

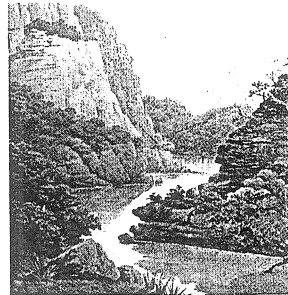
We hope this wide range of quality and eclectic New Zealand Art will satisfy the demands of collectors both new and incumbent. We have sourced works from several private collections throughout New Zealand, some of which are quite unique works such as an outstanding portrait by Rata Lovell Smith, a Doris Lusk landscape, an oil of "Freemans Bay" area by James Turkington, several superb Michael Smither works, and a very fine Patrick Hanley from the "Fire" series.

We are sure you will enjoy viewing this collection of fine artworks which are "Made in New Zealand".

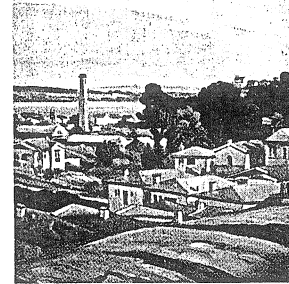
W.A.H. 23.10.1994



Triska Blumenfeld, "Sunflower Field"
Blenheim
1990 Oil on Board 80 x 68 cm



J. C. Hoyte, Milford Sounds
Watercolour 38 x 52 cm c.1880



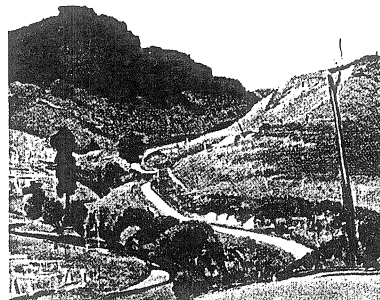
James Turkington,
"Suburban view with Victoria
Park area, Freemans Bay"
Oil on Board 48 x 44 cm c.1940



Doris Lusk, "Clutha River" 1968
Watercolour 64 x 49 cm



Kingsley Baird,
Large Atlanta
Bronze 3/3
63 cm high
1991



John Weeks, "Pio Pio" 1939
Oil on Canvas 50 x 40 cm

"NEW ZEALAND COLLECTION" 94/2

Fine NZ Paintings and Sculpture
1880 to 1990



Rata Lovell Smith — "Portrait of a Young Girl"
Oil on Canvas 44 x 55 cm



John Gully — "Early Morning Taramakau Valley"
Watercolour 1885 33 x 64 cm

**OCTOBER 3rd 1994 —
NOVEMBER 26th 1994**



WARWICK HENDERSON GALLERY

32 Bath St, Parnell, Auckland, New Zealand
Phone/Fax (09) 309 7513

THE CATALOGUE

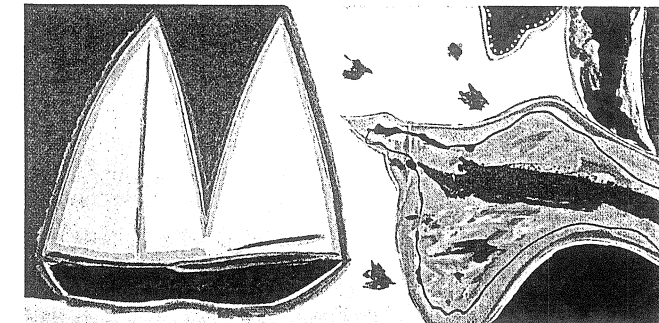
94/270

DATE	ARTIST	TITLE	MEDIUM	PRICE
c1880	J.C. Hoyte	"MILFORD SOUNDS"	Watercolour 38 x 52 cm	\$7,500
c1880	William Matthew Hodgkins	"PEMBROKE PEAK & STERLING FALLS"	Watercolour 16 x 33 cm	\$1,850
c1885	John Gully	"EARLY MORNING TERAMAKAU VALLEY"	Watercolour 35 x 64 cm	\$33,000
c1890	John Gibb	"PIERCY ISLAND – HOLE IN THE ROCK"	Oil on canvas 50 x 75 cm	\$22,000
1898	John Gibb	"PORT CHALMERS"	Oil on canvas 52 x 34 cm	\$14,500
c1900	James F Scott	"NUDE STUDY"	Oil on canvas 20 x 30 cm	\$1,450
c1910	Petrus Van Der Velden	"FARM SCENE"	Oil on board 90 x 62 cm	\$11,500
1910	Beatrice Dobie	"SOULT" LEADING NZ SIRE 1909-1912	Oil on canvas 52 x 41 cm	\$4,500
1911	Walter Wright	"WAIKATO RIVER NEAR TAUPARI"	Oil on canvas 59 x 30	\$12,500
1916	Sydney Lough Thompson	"MARKET SCENE, CONCARNEAU, FRANCE"	Oil on board 34 x 42 cm	\$25,000
1920	Francis McCracken	"STILL LIFE ANENOMES"	Oil on board 44 x 59 cm	\$17,500
1925	Sydney Lough Thompson	"CABLE CAR TUNNELL WELLINGTON"	Oil on board 47 x 39 cm	\$15,000
1935	Marcus King	"MANAJA LANDSCAPE"	Oil on Board 30 x 38 cm	\$1,250
1937	France Hunt	"KING COUNTRY LANDSCAPE"	Oil on canvas 60 x 42 cm	\$2,250
c1938	K W Hassall	"THE RED FENCE"	Oil on board 27 x 27 cm	\$1,395
c1938	Lois White	SKETCH ON GRID FOR "INDUSTRY"	Mixed Media 60 x 49 cm	\$1,500
c1939	Rata Lovell Smith	"PORTRAIT OF A YOUNG GIRL"	Oil on canvas 44 x 55 cm	\$9,500
c1939	John Weeks	"LIMESTONE GORGE"	Oil on board 85 x 62 cm	\$35,000
c1939	John Weeks	"PIO PIO"	Oil on canvas 50 x 40 cm	\$30,000
c1940	James Turkington	"SUBURBAN VIEW WITH VICTORIA PARK, AREA FREEMANS BAY"	Oil on board 48 x 44 cm	\$12,500
1942	Ivy Copeland	"BLITZKREIG"	Oil on board 59 x 45 cm	\$3,250
1945	Dennis Knight Turner	"WEEPING WOMEN"	Oil on canvas 91 x 60 cm	\$3,750
c1945	Sir Toss Woollaston	"PORTRAIT OF RODNEY KENNEDY"	Oil on board 47 x 61 cm	\$14,500
1947	Bessie Christie	"TROPICAL BIRDS"	Embroidery 76 x 56 cm	\$5,500
c1950	John Tole	"WAIOTAPU"	Oil on board 37 x 30 cm	\$2,200
c1950	Peggy Spicer	"ORÁKEI BASIN"	Watercolour 52 x 37 cm	\$1,950
c1950	Kase Jackson	"CUBIST NUDE STUDY"	Oil on board 90 x 138 cm	\$3,500
1950	Helen Brown	"FRANKLIN ROAD, FREEMANS BAY"	Oil on board 62 x 52 cm	\$5,575
1955	Adele Younghusband	"THE SHOPPERS"	Pen and charcoal 48 x 38 cm	\$1,550

DATE	ARTIST	TITLE	MEDIUM	PRICE
1957	Jan Nigro	"THE TEMPTATION OF EVE"	Oil on board 57 x 97 cm	\$14,500
c1957	Dame Louise Henderson	"DIEPPE"	Oil on canvas 77 x 56 cm	\$12,500
c1960	Charles Tole	"ABSTRACT PATTERN"	Oil on board 56 x 46 cm	\$3,250
1965	Robert Ellis	"MOTORWAY SERIES"	Oil on canvas 63 x 76 cm	\$6,000
1967	Michael Smither	"CHRISTINE WITH SARAH & JOSEPH"	Oil on board 130 x 118 cm	\$27,500
1968	Doris Lusk	"CLUTHA RIVER"	Watercolours 64 x 49 cm	\$7,500
1973	Michael Smither	"HARRIET DRINKING"	Oil on board 81 x 74 cm	\$7,500
1974	Philip Trustrum	"SHIPS AND BUILDINGS"	Oil on hardboard 56 x 71 cm	\$4,500
c1976	Dame Louise Henderson	"CONSTITUTION WEEK"	Lithograph 60 x 46 cm	\$950
c1976	Dame Louise Henderson	"RAROTONGAN GIRLS"	Lithograph 60 x 46 cm	\$950
1980	Don Binney	"MATUKU TOKATOKA"	Lithograph 1/15 57 x 76 cm	\$1,950
1983	Ian Scott	"LATTICE 3"	Oil on canvas 92 x 120 cm	\$3,000
1985	Pat Hanley	"PACIFIC FIRE"	Oil on board 119 x 60 cm	\$9,500
1985	Ken Kendall	"AT THE POST"	Bronze 28 x 19 cm	\$2,200
1987	Jenny Dolezal	"ANOTHER NIGHT AT HOME"	Original Lithograph 64 x 55 cm	\$795
1990	Kingsley Baird	"SPIRIT OF VIVIAN STREET"	Bronze, Rimu, Acrylic Paint 165 x 65 cm	\$7,000
1990	Mervyn Williams	"FIREFLY"	Acrylic on paper 46 x 61 cm	\$1,495
1990	Triska Blumenfeld	"SUNFLOWER FIELD, BLENHEIM"	Oil on board 80 x 68 cm	\$2,200
1991	Simon Payton	"AS SAIL BOATS DRIFT LAZILY BY"	Oil on canvas 77 x 77 cm	\$2,500
1991	Annette Isbey	"CLASSICAL PORTRAIT"	Oil on canvas 119 x 179 cm	\$4,750
1991	Keith Patterson	"PAKARI BEACH WITH PADDLE"	Mixed Media 123 x 176 cm	\$15,000
1991	Keith Patterson	"LANDSCAPE"	Mixed Media 51 x 71 cm	\$1,950
1991	Kingsley Baird	"LARGE ATLANTA"	Bronze 3/3 63 cm high	\$5,500
1992	Lois McIvor	"LANDSCAPE"	Oil on canvas 51 x 76 cm	\$3,000
1993	Michael Smither	"POETS BRIDGE 4"	Oil on board 33 x 37 cm	\$3,950
1993	Dean Buchanan	"JAPANESE ACTOR IN KIMONO"	Oil on canvas 123 x 92 cm	\$2,950
1993	Annett Isbey	"PORTRAIT OF A WOMAN"	Oil on canvas 36 x 40 cm	\$1,450
1993	Eion Stevens	"RALLY"	Oil on hardboard 47 x 80 cm	\$1,650
1993	Pat Foster	"MOTHER WITH CHILD"	White Marble 35 cm high	\$1,900



Annette Isbey, "Portrait of a Woman"
Oils on Canvas 200 x 216 cm 1993



Patrick Hanley, "Pacific Fire Series"
Oils on Board 119 x 60 cm 1985



Michael Smither, "Harriet Drinking"
Oil on Board 81 x 74 cm 1973