

**Failure to Communicate Regarding  
Andy Warhol Art Collection  
Breach of Confidentiality**

During the 1980's, 25 years before the Trust was created, Schwartz acquired from his friend, Andy Warhol, 4 original paintings on canvas, 8 limited prints, and a number of signed books and magazines. It was all worth millions. Since Mr. Warhol's death, the value was escalating rapidly. Fleisher earlier advised Schwartz that he could safely and legally transfer those items to Schwartz's nephew and have the paintings stored at Sotheby in New York. It was no longer Schwartz's property, so it could not be subject to seizure.

It was a highly confidential matter, but at the final Sentencing Hearing, in open court, without cause or consent of Schwartz, counsel unnecessarily broke very confidential information and improperly volunteered on the record that Schwartz had stored his Warhol art work at Sotheby's in New York.

The Trustee and the government were then informed of the art work, that counsel admitted belonged to Schwartz. Counsel also revealed where the art work was located. While Schwartz was at Prison Camp, Sotheby's was subpoenaed. The art work was seized from Sotheby's and from Schwartz's nephew, without Fleisher's objection.

Schwartz became aware that the government was seizing the art work and would be selling it. Fleisher did not object to the ownership, seizure or sale. Fleisher was supposed to contest the government's claim on the art, but he did not try.

Even if the seizure was to be deemed valid, it was the wrong time and the wrong way to sell them. Schwartz knew the value of Warhol's art. Owners were not selling them because a single painting could sell for about \$1,000,000 in five years. Schwartz called and wrote to Fleisher numerous emphatic letters directing him to contact the government's attorney to discuss the value of the art, but Fleisher ignored the needed requests.

Schwartz told Fleisher to ask the government to hold up any sale while the price was quickly escalating. Fleisher said he would communicate the information, but he did not. He also did not inform Schwartz that he would not communicate the information.

Schwartz had a direct interest in obtaining the highest price. If the seizure was proper, the government and Schwartz would both benefit to hold off on sales. Later auctions at Sotheby's would obtain a higher value to satisfy any ordered restitution or even provide a refund to Schwartz.

Fleisher was ethically bound to use money in Schwartz's IOLTA to pay for an expert art appraiser rather than keep it. Schwartz identified Mike Lowe, who was familiar with the art work and was willing to help establish value. He would even sell them. Fleisher would not contact Mr. Lowe. Fleisher did not want to part with the money in the IOLTA to pay an expert. He did not call Mr. Lowe, who was waiting for his call. Fleisher made no contact with the government or with Mr. Lowe.

The government quickly sold all the art cheap, for just \$1,006,375.00 total, only a small fraction of its worth. It was worth much more at the time and it could have been five to ten times the amount if the expert was hired to value or sell the work at the right time. Fleisher did not try to learn how the art work was sold.

When Schwartz asked Fleisher why he had not responded to him or act as he was instructed, he said, in his opinion, "Sometimes art goes down in price."

The enormous loss of the Warhol art was heartbreaking because it was a loving gift from Warhol, and the loss was devastatingly expensive. It was all because of Fleisher's severe lack of diligence in violation of **RULE 1.3: DILIGENCE, A lawyer shall act with reasonable diligence and promptness in representing a client.**