

486 N. Latham Street
Alexandria, Virginia 22304-2206
October 7, 2007

The Honorable Robert F. McDonnell
Office of the Attorney General
Commonwealth of Virginia
900 East Main Street
Richmond, Virginia 23219

RE: Planned Sale of Four Paintings from the Maier Museum

Dear Attorney General McDonnell:

I received the September 4, 2007, letter from Jacqueline A. Kotvas of your office, in response to my August 30, 2007, letter regarding *Randolph College v. Suntrust Bank*. I now write to you on a related matter, again in my personal capacity.

Recently, the trustees of Randolph College removed four paintings from the on-campus Maier Museum and announced plans to auction them. These paintings are: "Men of the Docks," by George Bellows (valued at \$25 to 35 million); "A Peaceable Kingdom," by Edward Hicks (valued at \$4 to 6 million); "Through the Arroyo," by Ernest Martin Hennings (valued at \$1 to 1.5 million); and "Troubador" by Rufino Tamayo (valued at \$2 to 3 million).

I ask you to file an injunction to stop the sale of the paintings, pending the outcome of the Virginia Supreme Court appeals on the charitable trust case as well as the lower court hearings on the intervention in the Louise Jordan Smith Trust case. Even though the aforementioned four paintings were not purchased directly with funds from the Louise Jordan Smith Trust, the entire Maier collection exists because of Louise Jordan Smith. Every painting in the museum has a direct connection to Louise Jordan Smith. There has long been a clear understanding that the collection was "permanent" because of the life's work of Louise Jordan Smith. The community has a genuine stake in maintaining this world-class collection in Lynchburg. It is only because of the understanding that the collection was to be permanent that many donors gave important works to the Maier Museum.

In your past letter, you stated that your office "has limited... authority" pursuant to common law and statutes, "in matters concerning charitable assets located in the Commonwealth." Is there no authority or devisable means whereby you can gain control over this self-perpetuating board of trustees who have been operating without oversight at a state-chartered institution? If the trustees have acted responsibly in managing the \$153 million endowment, why do they seek to infuse the enormous amount of over \$40 million from the sale of these paintings? Even though the trustees portray the school as in dire financial straits, the endowment apparently increased by \$11 million from last year's cited figure of \$142 million. How is it that a recent purchase of a valuable parcel of real

estate near the campus was possible, if there is such a money shortage? Are we going to exchange art masterpieces for yet another stadium or athletic field for Lynchburg? What is needed is better fiscal management, not the sale of this irreplaceable art. Randolph College already has been sent letters of censure by two art museum associations for violating the prohibition against the sale of collection objects for general operating purposes. Probably all reputable museums will decline to purchase the four paintings at auction, because it would violate their ethical and professional standards. Will you acquiesce in the sale of these important American paintings to a private collection, which could be located as far away as Saudi Arabia or Dubai, so that most of us will never see them again?

The absence of the Bellows work alone will decimate the Maier Museum and, potentially, in turn “the College” because it is the cornerstone of the collection. It was the first work purchased for the permanent art collection of Randolph-Macon Woman’s College (R-MWC), **not** Randolph College, and was acquired with dollars and pennies not only from the students, but from the Lynchburg community. The Hicks work, “A Peaceable Kingdom,” was donated to the Maier Museum, even though its donor was offered princely sums for it. Her friends called her eccentric, or even quixotic, for deciding to give her painting to the museum of her college, R-MWC, in light of the vast sums that she was offered for it. She gave the Hicks because she knew Louise Jordan Smith and expected that her painting would have a permanent and loving home. So much for that, in light of wildly unanticipated recent developments.

According to notes left by teachers at the Maier Museum, “A Peaceable Kingdom” has been much loved and admired by elementary schoolchildren, who may have been making their first visit to any museum when they viewed it. “Through the Arroyo,” by Hennings, inspired several wonderful poems in the 2005 “Image/Word” publication sponsored jointly by the Virginia Commission for the Arts, the Sally Oglesby Disharoon Fund, and the Maier Museum. Of course, no one was even given the chance of a last viewing of the Bellows, Hicks, Hennings, or Tamayo paintings because the works were spirited away without forewarning under cover of a bomb threat concocted by the local police.

Furthermore, thus far, I have seen no evidence that you have even read the large volume of information about the Maier collection that the Intervenors have compiled in their “Motion For Leave to Intervene” in the litigation that Randolph College filed to break the Will and Trust of Louise Jordan Smith. If you have read even half of that information, there is no way that you can stand by idly and let the paintings leave the Maier Museum. In fact, that documentation indicates that, of the \$2,500 purchase price for the Bellows, only \$495 was contributed directly by R-MWC. The remaining \$2,005 was painstakingly collected from students, faculty, alumnae, and members of the Lynchburg community by none other than Louise Jordan Smith herself. Clearly, the community has a greater stake in the Bellows than “the College,” and you should protect that interest by intervening to prevent the sale, at least until the related Virginia Supreme Court cases are resolved.

The Lynchburg community, along with the Commonwealth of Virginia, will be irrevocably wounded if the Maier collection is allowed to be broken in this way. Once you allow this breach of the public trust, the floodgate will be open, and there will be no way to stem the tide. Virginia's public museums will soon be filled with only mediocre works of limited value, because there will always be a financial need that a valuable painting can fill. And, it appears that there will always be people, wealthy foreigners if not our own citizens, who will be willing to buy these great works of art and hoard them in private collections.

Perhaps the saddest thing is that Randolph College has no need of a cash infusion. It simply needs to learn how to manage its ample endowment of \$153 million. At that level, Randolph College's endowment is the fifth largest in Virginia. How is it, then, that this college, despite its comparatively vast resources, cannot do what Sweet Briar College, located just twenty minutes north of Rivermont Avenue, has done? Sweet Briar is having its best year ever. It has turned itself around by rededicating itself to its charitable purpose. Hollins University, another women's college about an hour away in Roanoke, also has had a highly successful year.

In conclusion, I continue to maintain that an investigation is warranted into the trustees' past money management and into Randolph College's true financial state, before these art treasures are sacrificed on the auction block.

Respectfully submitted,

Mary B. White
R-MWC '75
Senior Attorney,
United States Department of Justice,
Executive Office for Immigration Review,
Board of Immigration Appeals
Mbwesq2000@aol.com

cc: Bill Mims, Chief Deputy Attorney General
Stephanie Hamlett, Senior Assistant Attorney General
Don Ferguson, Senior Assistant Attorney General