

Art and cultural assets news - winter: Conceptual art - where does the artwork lie?

30 JANUARY 2008

Judith A. Bresler

OF COUNSEL | US

CATEGORY:
ARTICLE

CLIENT TYPES:
ART AND CULTURAL INSTITUTIONS

Those who collect conceptual art take note: at times the art resides in a piece of paper – not in the work itself. The conceptual art movement, which emerged in the 1960's, holds that with art, the idea or concept is paramount and that the art's material form is strictly secondary and largely unnecessary.

Marcel Duchamp, a French artist of the DaDa movement, among other schools of art, was the patron saint of conceptual art. DaDa was an early 20th century philosophical movement rooted in despair over the mass, mechanized and hitherto unprecedented killings of World War I. DaDa, which held that all moral and ethical values were rendered useless by the Great War, preached a kind of anti-art that, at times, was destructive. One example of DaDa art was Duchamp's "readymades." Readymades are generally common objects such as, in Duchamp's case, a bicycle wheel or a urinal, which the artist selects, signs, titles and then places into an art context such as a gallery, an art exhibition, or museum. Although Duchamp was creating his readymades as early as 1913, he was an artist ahead of his time as his work was often rejected by other segments of the art community. It was not until the latter half of the twentieth century that Duchamp's ideas took root in what is known as conceptual art.

Let's address issues involving two distinguished – and frequently collected – conceptual artists: Dan Flavin and Sol LeWitt.

Dan Flavin

As a conceptual artist of the mid-to-late 20th century, the late Dan Flavin's medium of choice, in a nod to the mundane objects of Duchamp's readymades, was the ordinary industrial fluorescent light. From the beginning, this American artist's work fell into two distinct categories: (1) site-specific room installations (often temporary) and (2) smaller scale constructions of lights made in editions of three (the larger ones) or five (the smaller ones). It is this second category of works that is readily sold, maintained and collected.

When Flavin began to make multiples of his works in the 1960's and 1970's, he perfected his certification process. By the 1970's he began issuing certificates which included a diagram of the work, a written description of the work, the notation "this is a certificate only," his signature and stamp. Along with the certificate came a guarantee of "restoration" which is fulfilled even today, after his death. If light bulbs burn out, they are replaced. If a work's hardware is worn out or damaged, the work will be restored – or remade for that matter – provided the purchaser has the certificate. Consider these two scenarios:

Scenario No. 1: A gentleman acquires a small limited edition Flavin light sculpture for his contemporary art collection. After a number of years, he decides to sell it at Christie's. Christie's examines the piece, sees that it is in excellent condition, and is pleased to accept it on consignment pending receipt of the Flavin certificate. Unfortunately, the gentleman, while preserving the art, has lost his certificate. Accordingly, Christie's advises him that his piece is now worthless.

Scenario No. 2: A lady acquires a small limited edition Flavin light sculpture for her contemporary art collection. After a number of years, she has a fire in her apartment and her piece is badly damaged. Her certificate, however, is intact, having been placed in a bank vault. Accordingly, her Flavin is repaired and restored. She is free either to continue enjoying her Flavin or to consign it for sale.

Note that generally the Flavin Estate, adhering to the artist's priorities of protecting the editions and promoting the exercise of care of the pieces, will not restore a Flavin work if any of its hardware is missing. Moreover, the Estate will not issue replacement certificates. Flavin's certification process, given the technical ease with which some of his work can be duplicated, enables his Estate to maintain the integrity of his work. The lesson to be gleaned here as a collector of conceptual art is to hold on to the certificate and keep it in safe custody. It may be possible to restore the art – it is not possible to replace the certificate.

Sol LeWitt

While the legacy of this late American artist spans both the minimalist and conceptual art movements, LeWitt is arguably best known for his Wall Drawings – a term of art encompassing paintings as well as drawings – of which over 1200 have been executed. As with other conceptual artists, LeWitt's work began with an idea. From this idea, he developed both a plan and a set of instructions which are then carried out by teams of

assistants under the supervision of a LeWitt "project manager." To animate his ideas, LeWitt made use of such media as paint, colored pencil, chalk and crayon and he worked with a variety of linear directives as well as an array of geometric forms.

Each of LeWitt's Wall Drawings is identified by a number, for example, Wall Drawing #164. When such an artwork is sold, it is sold not as a finished work but rather as an idea: the buyer receives a certificate of authenticity that includes both a description of the artwork and a diagram. The buyer also receives an accompanying sheet of instructions. Substantial financial resources may be required to realize the work, as it will likely involve the hiring of a team of skilled professionals.

And what if the buyer after a period of time wishes to change residence? In such a case, the buyer is required to paint over the wall but then has the right to have the artwork reinstalled in his new residence by approved LeWitt assistants. If the certificate is ever lost or destroyed, that right is forfeited forever. (It is also, of course, a good idea for the buyer to hold on to the set of instructions for execution of the piece.) If the seller of a residence having a LeWitt Wall Drawing chooses not to reinstall it in his new dwelling, then he can either sell the certificate and instructions to the purchaser of his house, thereby enabling the purchaser to now own a LeWitt as well as the house, or he can paint over the artwork and offer the certificate and instructions for sale elsewhere. Once again – this time for collectors of LeWitt Wall Drawings – this shows that for transactional as well as conceptual purposes, the art is all about the certificate.

Authors

Judith A. Bresler

OF COUNSEL | NEW YORK

Private client and tax

 +1 212 848 9893

 judith.bresler@withersworldwide.com