



STATE BOARD OF EQUALIZATION

February 17, 1972

Dear

This is in reply to your letter of January 5, 1972 regarding the relationship between the artist and your client X-----, the printer, in the creation of certain lithographs.

It is your expressed opinion that the relationship between the parties constitutes a joint venture.

To establish the existence of a joint adventure there must be proof of a community of interest and a sharing of profits and losses. Moreover, each joint adventurer must have an equal right, or the right in some measure to direct the conduct of the others through a fiduciary relation that must exist (28 Cal. Jur. 2d Joint Adventurers §5).

A joint adventure is defined as a special combination of two or more persons without a corporate or partnership designation, formed for the purpose of jointly seeking a profit in a specific venture, and for which purpose they combine their property, money, effects, skill and knowledge. (Supra §4.)

We have reviewed your comprehensive recital of the facts describing the detailed activities of the parties in their performance of the stated objective to create and sell lithograph prints of the artistic endeavor of the artist through the "collaboration" of the artist and the printer. We will not restate the informative but lengthy facts for the purpose of our reply.

We have reviewed the facts presented as they relate to and conform with the above-stated requirements of a joint venture relationship. It is our opinion that under the facts as presented, which is considered to be the "normal" procedure for creating the original prints, the elements necessary to establish a joint venture appear to be present. There is a community of interest, a joint proprietary interest in the object of the undertaking, the creation and sale of prints; the facts disclose a right in some measure to direct or govern the conduct of each party and the sharing of profits and losses. Detailed also by the facts is the combining of the property, efforts, skill and knowledge of the parties for the purpose of jointly seeking a profit.

Accordingly, we concur in your opinion that the relationship between the parties constitutes a joint venture.

The district audit staff will be informed of our conclusion in the matter by copy of this letter.

Very truly yours,

Joseph Manarolla
Tax Counsel

JM:lb

Bc: Los Angeles Dist. – Dist. Admin.
W. Los Angeles – Subdist. Admin.

In answer to question 2 on West Los Angeles' memo of January 17, 1972, we believe that if the same arrangements regarding the sharing of proceeds and losses, the required approval and signature of the artist is present, and there is in fact no sale of the plates to the printer the relationship could be considered as essentially the same.