

Make Sure You're an 'Original'

(Some tips for entering exhibitions)

We all would do well to push ourselves beyond our comfort zones, professionally and artistically. So consider moving into the realm of regional and national art exhibitions.

You might wonder: "Am I ready for this?" So run through this checklist:

- Does your work exhibit clear mastery of the medium?
- Are your works eye-catching?
- Have you developed a "style"?

If you answer yes, then go for it!

Learning about prospective shows

Art magazines and the Internet are useful for finding out about the opportunities to exhibit and compete.

Most of the art magazines list upcoming exhibits in a classified section toward the back that lists contact information, addresses to request a prospectus, web addresses, etc.

There are also lots of online resources to help you find individual organizations that are planning exhibits. Some sites that list organizations include:

- www.artshow.com
- www.watercolor-online.org
- http://www.artistsnetwork.com/article/wcm_societies.asp/

I've found a show. Now what?

Once you've found a likely show and have received or downloaded a prospectus, it's up to you to very carefully read the instructions.

- Find out if you are eligible by virtue of residency or membership.
- Play attention to what the cost is, and how many pieces you can enter.
- Carefully note how the entries should be sent (whether by slide, digital image on CD, online upload, etc.).

There are lots of fine details with the format of the entries that you must follow. If by slide, label the slide exactly as directed. If the entry is a digital file, watch for acceptable file formats (tiff, jpg, etc.) the size of the image in pixels, and how the file should be named (e.g. LastName_Entry#_PaintingTitle.jpg)

- Finally, make sure your work is eligible. A series of technological and creative leaps have pushed the boundaries of watermedia. Carefully note the specific requirements for allowable entries, i.e., are acrylics allowed if applied in "an aqueous manner," is gesso allowed, are opaque watercolors allowed, is the painting support restricted to cotton-rag

or wood-pulp papers, are synthetic supports such as YUPO, Ampersand's Aquabond, or watercolor canvas, etc. allowed? The rules may be very specific, and you must adhere to them if you expect your work to be properly reviewed.

- Finally, please take note of a phrase often used by many organizations: **"Original Art Only."**

AWS and "Original Art"

I want to talk further about that phrase, and discuss some recent developments regarding the definitions of original art and the tightened requirements of many exhibits.

I'll start with the 2008 American Watercolor Society exhibit, and the controversy surrounding that year's Gold Medal winner. The top prize was awarded for the painting, "Impermanence."

A detailed account of the controversy is available on artist Katherine Tyrell's blog "Making a Mark."

The links to the two posts on Tyrell's blog that details the controversy are:

<http://makingamark.blogspot.com/2008/09/art-competitions-and-copyright-aws-gold.html>
and also

<http://makingamark.blogspot.com/2009/03/american-watercolor-society-gold-medal.html>

They are lengthy articles, but they cover the controversy in a comprehensive fashion, and much of my information about this issue comes from these posts in combination with my own memories of reading the AWS statements, etc. at the time of the incident.

To sum up what happened, AWS removed the Gold Medal painting from the 2008 traveling exhibition weeks after the award was given because of a furor that developed on the online stock photo site "Shutterstock." It appeared that the winning painting was directly derived from two photos downloaded from that site.



"Impermanence"



www.shutterstock.com · 2339560



www.shutterstock.com · 1222217

The issue was one of copyright. Even if the artist had purchased the license to download the photos, at no point in the site's license agreement did the photographers surrender copyright of their images.

Stock photo license agreements list permitted and prohibited uses of photos in great detail. The Shutterstock Terms of Service at the time of the controversy included these statements:

- *By this Agreement, Shutterstock grants you a personal, non-exclusive, non-transferable, right to use and reproduce Images in the following ways, subject to the limitations set forth herein and in Part II hereof:*
d) [note: one of 14 listed uses] *As a single hand painted reproduction (not as a printed reproduction) on canvas or other material **to be used as decoration** [my emphasis] and not resold;*

- *In the event that you create a derivative work based on or incorporating one or more Images, all rights in and to such Images shall continue to be owned by Shutterstock or its Submitter(s), subject to your rights to use such Image(s) pursuant to the terms and limitations set forth herein.*
- **YOU MAY NOT:** *Use or display an Image in such a manner that gives the impression that the Image was created by you or a person other than the copyright holder of that Image*

Other stock photo site agreements may use different language, but the parameters are the same for nearly all the licenses: Photographers and the licensing sites hold copyright over the images. Patrons who pay to use the photos may, but for strictly limited uses – ad and website design being the most common. The terms of a license do not allow a user to claim to be creator of the images.

Generally, matters of copyright are growing more muddled with the expansion of digital media, and I believe many artists use online sources for reference photos because they are so readily available. It's quick, it's easy.

BUT, artists need to know about basic copyright principles to understand the limitations placed on creating "derivative works," which are works based on images created by someone else.

Back to the painting in question. At the time, the AWS rules stated:

- *The Annual Exhibition is open to all artists working in water media (watercolor, acrylic, casein, gouache and egg tempera) on paper. No collage, pastels, class work, copies, digital images or prints; original work only.*

By entering the competition the artist agreed to accept AWS rules requiring original art, which were emphasized with this final disclaimer on the society's exhibit acceptance form, requiring a signature:

- "The accompanying artwork is an original; not a copy or likeness of another's work, i.e. painting, drawing or photograph."

Citing that provision, AWS announced that the work did not comply with the stated rules in the prospectus and withdrew the award a few months later.

Here is a copy of AWS's statement following the withdrawal of the award, which can also be found at this link: http://www.americanwatercolorociety.org/a_awards.php?year=2008

The American Watercolor Society, Inc., (AWS) releases the following statement to the AWS membership and the artist community about the withdrawal of 2008 Gold Medal:

The controversy surrounding the American Watercolor Society's 141st International Exhibition Gold Medal winner, "Impermanence," by Canadian artist Sheryl Luxenburg has been the subject of innumerable blogs, websites and chat rooms worldwide for many months.

We sincerely appreciate all those who contacted the society and respect all opinions expressed on this issue. This dialogue has contributed to our understanding of the extent to

which the art community has taken an interest in the outcome of this issue as it affects each artist and the respective art societies.

The American Watercolor Society has been holding an annual juried exhibition of watercolors from artists throughout the world for over 140 years. It was founded to promote watercolor and support painters of the medium. The goal of the AWS has always been to promote original art and it is against this backdrop that the controversy first emerged.

*The American Watercolor Society, like other watercolor societies, has developed its eligibility requirements for entry into the exhibition over the course of many years. Eligibility for entry is as follows. "The Annual Exhibition is open to all artists working in water media (watercolor, acrylic, casein, gouache, and egg tempera) on paper. **No collage, pastels, class work, copies, digital images or prints; original work only.** Maximum frame size is 44" in any direction. Image size limit is no smaller than 10" x 14." All paintings must be sturdily framed and have plastic glazing (Plexiglas).*

*The requirements as contained in the prospectus as well as the acceptance form are quite specific and leave no room for ambiguity. Upon acceptance, the requirements are further emphasized by a disclaimer signed by the artist stating that "**The accompanying artwork is an original; not a copy or likeness of another's work, i.e. painting, drawing or photograph.**"*

Our prospectus clearly informs artists of these eligibility requirements which were designed to maintain high standards and to focus on originality.

By establishing these requirements, the onus rests with the artists to ensure compliance with the rules set forth. Each artist is therefore free to accept or decline these conditions.

When it was determined that Ms. Luxenburg's entry violated our eligibility requirements, the AWS requested that our Gold Medal and prize money be returned. The Medal and prize money were returned, and Ms. Luxenburg has been disqualified from entering any future AWS exhibitions.

Watercolors accepted to our annual exhibitions reflect a wide variety of styles and inventive handling of the medium and attest to the fact that innovation and exploration are not only encouraged, but welcomed by the AWS.

The AWS will continue to count on the integrity of artists entering our exhibition, but in fairness to our own members and the art community in general, we will remain vigilant for any violation of our standards. Any artist who is determined to violate our entry procedure can expect a fair evaluation initially, but if found to have done so; can expect a serious and permanent final resolution.

-- Statement released February 2009

HOPE springs eternal lawsuits

In the run-up to the 2008 presidential election, pop artist Shepard Fairey developed a poster of Barack Obama in red, white and blue, with the word HOPE below the image. It was immensely popular, appeared everywhere during the election, and the original painting is now in the collection at the National Portrait Gallery in Washington D.C.



The Associated Press

Fairey's work is also the subject of a lawsuit filed by The Associated Press in 2009 because Fairey has admitted (after several initial denials) to using a copyrighted AP image as the basis of that portrait.

Fairey argues that the image was modified substantially and the work falls under the "fair use" provisions of copyright law. AP disagrees.

The parties are still at odds, though there are signs as late as August 2010 that a settlement might finally be in the works.

Sticker-shock at BWS

More recently, and closer to West Virginia, was the case of the Baltimore Watercolor Society.

The June 2010 BWS newsletter includes a letter from their president, Chris Dodd, explaining that the top prize in their 2010 Mid-Atlantic Exhibition had been returned after it was determined that the artist had used a stock photo as a reference. The artist also hadn't licensed the photo – it was given to her by a friend.

In the letter Dodd writes: *"Submission of an entry means compliance with the following: the work submitted is original and doesn't infringe upon any copyright.".....Our intended meaning of "original" is that the work is based on the artist's own concept as well as executed by his/her own hand. Whether or not we allow an artist to base his/her painting on another's photo is something the Board will have to decide. How much would he/she have to change it to qualify as his/her own concept? Be assured that there will be much discussion on this issue and clear language will be developed for next year's prospectus."*

BWS went to so far as to place a sticker over the image in the exhibition catalog because the organization was concerned they were violating terms of the stock photo license by printing the image without authorization.

The art of language

As a result of all this confusion, many organizations are tightening language in entry forms in an attempt to make it clear what is and is not acceptable as "Original Art."

For example, here's the current language from the 2010 AWS prospectus:

- *No collage, pastels, class work, digital images, any form of print or reproductions.*
- *Artists' original work only. No copies or likenesses of other artists' work including published source or reference not attributable to the artist.*

Here are some other examples of more specific language I found:

National Watercolor Society

Source material must be original and not derived from any published images.

Baltimore Watercolor Society: (from their website)

http://www.baltimorewatercolorsociety.org/digital_faq.html

What is ORIGINAL work?

Original work is the sole creation of the artist. It must be conceived and created without the direction of an instructor. Photo references should be the property of the creating artist. While artists frequently show work to others for comment and critique (which is acceptable), only your hand on your brush should create the painting.

Watercolor Society of North Carolina

Original work of the artist - no replica of any portion of a published or copyrighted work may be included

Northwest Watercolor Society

Entries must be original works of art, entirely the work of the entrant. Digital images, prints, class work art produced in a workshop or likenesses of other artists' work including photos, or other published source or reference material not attributable to the artist will not be permitted.

How do I avoid these problems?

As for myself, I only use my own photos. I'm not a lawyer, so I don't feel comfortable in sorting out the legal nuances of copyright, though I do try to be aware of the issues. So I avoid all the complications when my paintings are based on images snapped by my own fingers.

Some sites, like the online artist forum Wet Canvas (www.wetcanvas.com), claim to offer photos specifically for painting reference, but I would still be cautious. I would want a written release from the photographer to be sure. Likewise, I would never use a photo from a Flickr site, despite what any so-called Creative Commons license says. I want the concept and execution of any work to be completely my own.

So to sum up, make the leap and try for some larger shows, but be very careful about how you assemble your entry information, and be sure that what you are entering really is original work.