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Firm Wins Restraining Order for Phillips Against Deadbeat Art Buyer

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June 9, 2017 — Hughes Hubbard won a temporary restraining order for Phillips Auctioneers LLC against a China-based art collector who stiffed the New York-based auction house on the winning bid for a Gerhard Richter painting that fetched \$25.6 million.

On May 30, New York State Supreme Court Judge O. Peter Sherwood issued the order barring the Gagosian Gallery from selling or transferring a painting by the modern master Francis Bacon as part of a novel strategy by HHR to help Phillips collect damages against a defendant outside the jurisdiction. A hearing is scheduled for July 12 on HHR's preliminary injunction request.

The lawsuit revolves around Richter's 1963 "Düsenjäger" painting, which depicts a gray fighter jet, blurred as it speeds across a muted pinkish sky and landscape. In 2016, the defendant, Zhang Chang, negotiated a contract from China with Phillips for a guaranteed bid on the German postmodernist's painting. In return, Zhang received a \$1.5 million commission. After placing the highest bid at the November auction, however, Zhang refused to pay for the painting, leaving Phillips to foot the bill to the consignor.

HHR helped Phillips seek damages under the contract -- which Zhang claimed to be immune from in China -- by attaching Zhang's painting by Francis Bacon, valued at around \$20 million, on loan to the Gagosian Gallery in New York until the end of May.

Judge Sherwood granted the ex parte restraining order two days before the Bacon painting was to leave the jurisdiction, ensuring that it would not be removed and giving Phillips a chance to collect damages from a defendant who claimed to be judgment-proof.

Founded in 1796, Phillips is the world's third largest auctioneer of international contemporary works. The company has auction rooms in New York and London, plus offices in eight other cities.

Dan Weiner, Eric Blumenfeld and Jack Kilgard are representing Phillips in this case.

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