

# Blockbuster donation of sculptures turns into bust 'Michelangelos' are worth a fraction of their appraised value , Sotheby's says

BY DAVID BAINES, VANCOUVER SUN JANUARY 23, 2013

In 1998 and 2006, two groups of investors quietly acquired and donated to the Museum of Vancouver 18 sculptures that some authorities believed were created by Michelangelo.

The sculptures - details of legs, arms, shoulders and torsos - are made of clay and stand only 10 to 27 centimetres high. Some were identified as working models for Michelangelo's larger creations, which suggested they were created by the master himself.

According to financial returns filed with Canada Revenue Agency, the museum issued a total of \$31.4 million in tax receipts for non-cash gifts during 1998 and 2006.

The Vancouver Sun has learned that about \$30 million of this amount was on account of the sculptures, based on their appraised values.

Why such blockbuster donations were made to the Vancouver museum is not clear. The sculptures do not fit with the museum's mandate, which is to chronicle Vancouver's history. Also, in the pantheon of national and international museums, the Vancouver museum is a relative pipsqueak.

Curiously, given the size of the donations, they were accompanied by little fanfare. The museum made no official announcement and - except for one brief showing - the sculptures have remained in a safety deposit box, out of public view.

The identity of the investor-donors, and how much they paid for the sculptures, has never been revealed. Neither has the identity of the appraisers, or the appraisals themselves, so there is no way of knowing how the appraisers arrived at their valuations.

Initially, the donation looked like a win-win situation. The museum was the beneficiary of about \$30 million worth of rare sculptures, and investor-donors received tax receipts for that amount.

Those receipts would have generated tax credits equal to the top marginal combined federal and provincial tax rate (currently 43.7 per cent). That means approximately \$13 million flowed into the pockets of the investor-donors, courtesy of Canadian taxpayers.

Also, because the federal government certified the sculptures as Canadian cultural property, the investor-donors did not have to pay any capital gains on the difference between their purchase price and the donated value.

Unfortunately, that win-win calculus has been severely compromised.

Earlier this month, Postmedia correspondent Randy Boswell learned that the Vancouver museum had commissioned Sotheby's auction house in New York to sell half of the collection.

Sotheby's advised the museum that the sculptures were not, after all, the work of Michelangelo, but rather a minor Dutch artist from the same period.

"For decades, the unsigned terracottas were attributed to Michelangelo," Sotheby's stated in a Jan. 7 press release.

"However, extensive research and stylistic comparisons led scholars to determine that these Renaissance models were executed by Northern sculptor Johan Gregor van der Schardt who worked extensively in terracotta and was a follower of Michelangelo."

Sotheby's estimated that, when the first half of the collection goes to auction on Jan. 31, it will fetch only \$200,000 to \$300,000. That implies that the entire collection is worth only about \$500,000.

That's bad news for the museum. It means it will receive only a fraction of the amount it anticipated. But it's worse news for Canadian taxpayers. It means they received little value for the approximately \$13 million in tax credits they provided the investor-donors.

"Obviously the appraisers initially attributed the sculptures in some way to Michelangelo or his studio. Otherwise, I don't think they would have come up with such enormous valuations," Nancy Noble, the museum's chief executive officer, told The Vancouver Sun.

"It's very unfortunate, but I am sure it has happened before. Attributions and valuations change as our ability to test and research changes. I don't think anybody did anything wrong. We followed the proper procedures of the law and the ethics of our business."

There is no evidence of any bad faith or improper conduct. But the transaction was, to say the least, an odd and out-sized gambit for a small and obscure institution like this. If the museum didn't have the ability to effectively print money through the issuance of tax receipts, it would never have been able to participate in such a high-stakes game.

The provenance (history of ownership) of the sculptures dates back to Paul von Praun, a Renaissance-era collector born in 1548. As a contemporary of Michelangelo's, he amassed an

impressive collection of sculptures, drawings and paintings from the greatest artists of the Italian Renaissance.

The collection passed through a number of owners until 1938, when it was broken up at a Christie's auction in London. Thirty-three models were put on the block, and 18 were purchased by Montreal mining promoter Percival Wolfe.

Before he died, Wolfe bequeathed the models to his twin sons, Peter and Paul LeBrooy, who by that time had moved to Vancouver.

Paul LeBrooy spent much of his adult life promoting the models as authentic Michelangelo creations. In 1972 he wrote and published a book called Michelangelo's Models, to coincide with a cross-Canada tour sponsored by the Rothman's tobacco company.

The tour opened at the Vancouver museum, the first and only time the models have been seen in public in Vancouver. In 1978 the sculptures travelled to Seattle, and in 1984 the collection toured South Africa.

In 1994, Oxford University tested four of the models and dated them to the pre-Renaissance era, but exactly who created them has never been definitively established. In his book, LeBrooy quoted several experts who had concluded that at least some of the sculptures had been created by the master himself. Others weren't so sure.

In October 1988, The Vancouver Sun reported that a Liechtenstein-registered company, Bratsch Inc., had filed a lawsuit in B.C. Supreme Court against the twins.

Bratsch - which was owned (or represented) by Vancouver property developer and landlord Giovanni Zen - claimed it had agreed to buy the models for \$14 million US based on Paul LeBrooy's representations that they were the work of Michelangelo and a contemporary sculptor, Benvenuto Cellini.

The company placed a \$175,000 deposit on the purchase, subject to valuation of the models. However, when the closing date arrived, the company insisted it needed more time to authenticate them. Alternatively, it wanted the deposit money returned.

Paul LeBrooy contended that Bratsch had been given "reasonable opportunity" to conduct the valuation and, in fact, had arranged for his own expert from Italy to do so.

Peter LeBrooy - who by this time was estranged from Paul - argued that his brother had entered into the agreement without his consent and, therefore, the contract was void.

Ultimately, the court agreed with Peter. It declared the contract void and ordered Paul to refund the \$175,000 deposit plus interest to the Liechtenstein company.

#### BROTHERS SPLIT COLLECTION

In 1994, the brothers had another falling out and agreed to split the collection. Paul LeBrooy hired an art broker to sell his half of the collection. In 1996, a private investment bank called Corporate House put together a syndicate of 66 investors to buy it.

Corporate House is located on Melville Street in downtown Vancouver. It deals largely in the murky world of offshore finance. According to its website, the firm provides "confidential and personalized assistance to people and businesses that wish to create advantageous financial structures both inside and outside their home countries." It is run by Fred Sharp and his brother, Tom, who quarterbacked the art deal.

It was agreed that the syndicate members would buy the models and donate them to the museum. The museum would apply to the Canadian Cultural Property Export Review Board to certify the models as "cultural property."

This certification process is designed to encourage the transfer of "nationally important" artwork from private hands to designated institutions, such as the museum, where it will presumably be made available to the public.

The benefits of certification are substantial. Not only can the designated institution issue tax receipts to the donors for the full appraised value, the donors will not have to pay capital gains tax on the difference between their purchase price and donation value.

If the property is worth more than \$20,000, it must be valued by two qualified appraisers or a committee of experts, and the appraisals must be approved by the board. By all accounts, it's a rigorous process.

In this case, the museum obtained three appraisals. (They were commissioned by the museum and paid by Corporate House.) According to Noble, "the lowest one was chosen, and it was the lowest by quite a margin."

The deal was completed and tax receipts for the full appraised amount were issued to the syndicate members on a pro-rata basis.

The deal was shrouded in secrecy. The syndicate members were never identified and the amount they paid was never disclosed. Ditto for the appraisers and their appraisals. "Our agreement with the

appraisers makes it clear that these are internal documents to be kept confidential," Noble said in an interview.

However, Canada Revenue Agency requires non-profit organizations to file annual financial returns. In 1998, the museum reported that it issued tax receipts for "non-cash gifts" totalling \$17,847,980. Noble concedes that virtually all of this amount was issued on account of the sculptures. In 1999, Paul died. Four years later, Peter died and his half of the collection passed to his wife Enid.

By all accounts, Enid was willing to sell the models at far less than their fair market value. Once again, Corporate House arranged for a consortium of investors to buy them. How much they paid, we don't know.

The museum applied to certify the sculptures as Canadian cultural property. The original appraisals were refreshed and the board settled on a fair market value.

That figure was not publicly disclosed, but according to the museum's 2006 financial return, it issued \$13,535,930 in tax receipts for "non-cash gifts" during that year. Once again, Noble says virtually all were issued on account of the sculptures.

That raised the total amount of receipts issued for noncash gifts during those two years to \$31,383,910, nearly all on account of the little clay models.

#### MUSEUM LOSING MONEY

That is a formidable amount for an institution that lives a hand-to-mouth existence. In 1996, when the first donation was being arranged, the museum was on the verge of collapse. The city hired a consultant who identified serious management and organizational problems.

The board was reconstituted and the museum was stabilized. However, like most institutions of this type, the museum still lives on the edge. It routinely loses money and depends mainly on government grants for its survival.

During the year ending Dec. 31, 2011 (the date of its last audited statements), the museum's total revenues were \$2.4 million. Of this amount, \$1.8 million came from city, provincial and federal funding sources.

The City of Vancouver was by far the largest contributor, providing \$1.5 million. (This was larger than normal that year because it included money for capital projects. The city's annual operating grant is usually about \$750,000).

The museum's mandate, as articulated in its financial returns, is "to collect, preserve, research and interpret the human and natural history of Vancouver for its citizens and visitors."

So how does a collection of clay models, purportedly created by an Italian Renaissance artist, fit with this mandate?

The answer is, it doesn't, which is why the museum decided to put the first half of the collection up for sale. (Under Canadian tax rules, the museum had to wait at least 10 years from the date of the donation to avoid being taxed on the proceeds.)

#### NOT WORTH MILLIONS

Southey's estimates it will sell at auction for \$200,000 to \$300,000, which implies a value of \$400,000 to \$600,000 for the entire collection. (Noble says the two halves of the collection were valued at about the same amount, in U.S. dollars. When the half was donated, the conversion rate to U.S. dollars was much higher, which explains why a larger tax receipt was issued for the first half, even though the two halves are worth roughly the same.) Noble says the museum never expected to get \$30 million for the collection: "Paul LeB-rooy attempted to attribute the sculptures to Michelangelo, and individual scholars had attributed them to Michelangelo, but to my knowledge, the museum board did not.

"We did not certify them as works by Michelangelo, rather as Renaissance-era models. We thought they would be valued higher, but I don't think we ever thought we would get millions of dollars, nor did we plan for it."

Kathryn Minard, a highly respected art appraiser from Toronto, said she doesn't have any specific knowledge of this matter, but she is very familiar with appraisal techniques and dynamics. She said the re-evaluation is likely due to changing scholarship, not overt error or bad faith.

"The review board is very careful in assessing appraisal reports. High-value objects like this (art associated with Michelangelo) are going to attract a lot of scrutiny. The last thing the board wants is to have a big scandal," she said in an interview.

"Museum curators would have been responsible for writing a rationale for the objects being of outstanding significance and national importance, and they would have provided all the documents and provenances they had at the time. But scholarship changes ..." That's little solace for taxpayers, who will no doubt wonder how and why they paid so much for so little. Len Westerberg, a spokesman for the federal department of heritage, said in an email that the review board "has a mandate to review issues such as this. It is expected they will do so in a timely manner."

"I think that's good," Noble says. "I think the certification process is a good program. It encourages donations to museums. So the more transparency, the better."

By month end, the museum will know exactly what the market thinks Paul LeBrooy's former collection is worth. By that time, Sotheby's will have auctioned off the first half of the collection. The museum plans to sell the other half in 2016 when the 10-year waiting period expires.

#### A TIMELINE OF THE SCULPTURES

1548: Paul von Praun was born. He was a Renaissance-era collector. As a contemporary of Michelangelo's, he amassed an impressive collection of sculptures, drawings and paintings from the greatest artists of the Italian Renaissance.

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