

LAW OFFICES OF
ROBERT L. MUSE
1320 19TH STREET, N.W., SUITE M-2
WASHINGTON, D.C. 20036
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ROBERT L. MUSE (DC)
DIRECT DIAL: 202-887-4955

TELEPHONE: 202-887-4990
FACSIMILE: 202-861-6912
E-MAIL: MUSERL@YAHOO.COM

Mr. Rob Sequin
President
Havana Journal, Inc.
P.O.Box 1525
South Dennis, MA 02660

Re: The Importation and Sale of Cuban Works of Art

Dear Mr. Sequin:

You have asked for a legal opinion on the U.S. laws and regulations that govern the purchase, importation and resale of Cuban works of art. The statutory basis for the exemption given artworks under the U.S. embargo on Cuba is Congressman Howard Berman's *Free Trade in Ideas Act*.

The relevant regulations are found at 31 C.F.R. §515.206 and §515.332 of what are commonly defined as the Cuban Asset Control Regulations.

The U.S. embargo on Cuba broadly prohibits the purchase or importation of any Cuban product. However, §515.206 explicitly exempts from the embargo what it terms "informational materials." §515.332 defines informational materials to include artworks. The definition of artworks includes paintings, sculpture and any other form of fine art.

A purchaser should keep in mind that the Cuban art must be fully created when acquired. That is, a U.S. citizen may not commission a work of Cuban art. Otherwise he or she is free to pay

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for an object and import it into the U.S. for commercial purposes (i.e. for resale), or any other purpose such as its exhibition (paid or unpaid) or simply for private enjoyment.

One caveat: Afro-Cuban culture does not make the European fine art/functionality distinction. A Yoruba carved drum, for example, is often considered a work of art by its Cuban creators and users. Unfortunately, the U.S. Customs Service view is that if something is functional (e.g. a musical instrument or a piece of furniture) rather than decorative, it does not qualify as artwork.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robert L. Muse', written in a cursive style.

Robert L. Muse