

The Rosalie Thorne McKenna Foundation Case Study:

Going the Extra Mile to Fulfill the Artist's Dreams

Background

Rosalie Thorne McKenna (1918-2003) was one of the 20th century's greatest photographers, producing iconic images of the literary elite of our times. She photographed Sylvia Plath, Truman Capote, Ezra Pound, Eudora Welty and many other writers and poets, including Dylan Thomas.

In the course of her long career, Rollie McKenna created an archive large enough to fill three rooms. Despite her inherited wealth and stated wish to establish a foundation to preserve her art and provide opportunities for young photographers, her estate plan proved inadequate to carry out her wishes. Two years after her death, her legacy remained neglected and uncataloged in a warehouse outside of Boston.

Daniel W. Jones, Rollie's lifelong friend and artistic collaborator, was deeply troubled by the situation. Not knowing what to do, Daniel contacted Hemenway & Barnes (H&B) for help. When the H&B team of attorneys, estate administrators and philanthropic and art advisors was introduced to the estate, there had been no progress on the establishment of her foundation. Moreover, Daniel was the only person who knew Miss McKenna well enough to ensure that her vision was carried out — and he was in his mid-80s.

Approach

The first step was to probate Miss McKenna's will and have Daniel Jones appointed as executor so that the estate could be properly administered. The team commissioned a full inventory of the archives as well as the photographic works of Miss McKenna's great-grandmother, Harriet Van

Schoonhoven Thorne, so that estate tax returns could be filed in good order and the necessary tax and probate court approvals could be obtained to distribute her assets. Probating her will paved the way for the establishment of the Rosalie Thorne McKenna Foundation, a tax-exempt private foundation, with Daniel Jones and H&B attorneys appointed as co-trustees.

The H&B team worked with Mr. Jones to assign all the artistic and intellectual property as well as the financial assets of the McKenna estate to the foundation. Once the foundation was funded and subject to the IRS distribution rules, the team carefully structured the foundation's distribution plan to satisfy the payout requirements with the artistic property. Doing so retained the foundation's financial assets and allowed them to grow for future grant making.

At that point, the question of what to do with the art became paramount. After extensive research, the team approached the Center for Creative Photography, an internationally recognized archive and research center founded by the photographer Ansel Adams at the University of Arizona. The center's curators visited Boston to review the collection and meet the trustees. The H&B team then visited Tucson to assess the organization's readiness to accept the gift and also the congruence of such an arrangement with Miss McKenna's wishes.

Once the decision was reached to make a permanent grant of her artwork to the center, the team completed a gift agreement for the art and archive. The foundation also contracted with the center to manage copyrights and to administer requests for reproductions on behalf of the McKenna Foundation for a five-year period.

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Further, the team researched possible gift prospects for the Harriet Thorne collection of vintage glass-plate negatives and modern prints. Because both women had lived and worked in Connecticut, the H&B team initiated conversations with the Connecticut Historical Society. Following the team's visit to the historical society to ensure the storage facilities and exhibition space were appropriate, the foundation decided to donate more than 100 photographs by Rollie McKenna and 200 glass-plate negatives and prints by Harriet Thorne. The team took extra care with the copyright agreements covering the works by Harriet Thorne due to the uncertainty surrounding their provenance. The gift complements the historical society's existing collection and will be used in exhibitions, programming and research. With a small cash grant, the historical society digitized the Thorne/McKenna material for its online database, providing worldwide access.

Results

Rollie McKenna's photographs could easily have languished indefinitely — or suffered a worse fate — had it not been for her close friend Daniel Jones, with support from the attorneys and fine art and philanthropy experts at Hemenway & Barnes. Although Rollie McKenna's will clearly stated her intention to preserve her artwork and to establish a charitable foundation, steps to implement her wishes were not taken, and the executor of her will lacked the specialized expertise and capacity to do so.

Daniel Jones and the H&B team successfully implemented Rollie McKenna's wishes. Working together, they established the Rosalie Thorne McKenna Foundation and protected her legacy. Today her works are more accessible and widely recognized than they were in her lifetime. In addition, the gifts to the Connecticut Historical Society and Center for Creative Photography provided cataloguing and other hands-on experience to young people interested in the medium of photography and will allow a new generation to appreciate her work.

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