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Artist admits he used key AP photo for 'HOPE' poster

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Enlarge By Damian Dovarganes, AP

Los Angeles street artist Shepard Fairey poses in January for a picture with his "Hope" artwork used to promote the Obama campaign.

NEW YORK (AP) — Artist Shepard Fairey, who recently admitted concealing a key mistake in a lawsuit over his use of an Associated Press photo in his famous Barack Obama "HOPE" poster, said Saturday that the error should not be viewed as "premeditated and sinister."

Fairey was at the Warhol Museum in Pittsburgh on Saturday night for the opening of an exhibit of his works — including the 4-foot-by-8-foot Obama poster. He drew a chuckle from the crowd during a question and answer session when he said, "I am learning from my mistakes, if everybody's been keeping up with the news."

On Friday night, Fairey's attorneys — led by Anthony Falzone, executive director of the Fair Use Project at Stanford University — said they intend to withdraw from the case and said the artist had misled them by fabricating information and destroying other material.

Fairey admitted that he didn't use the Associated Press' photo of Obama seated next to actor George Clooney he originally said his work was based on — which he claimed would have been covered under "fair use," the legal claim that copyrighted work can be used without having to pay for it.

BACKGROUND: AP, artist feud over famous Obama posters

Instead he used a picture the news organization has claimed was his source — a solo picture of the future president seemingly closer to the iconic red, white and blue image of Obama, underlined with the caption "HOPE." Fairey said that he tried to cover up his error by submitting false images and deleting others.

The distinction is critical because fair use can sometimes be determined by how much of an original image or work was altered in the creation of a new work. If Fairey didn't need to significantly alter the image he used — in this case the solo shot of Obama — then his claim could have been undermined. Fair use cases also may consider the market value of the copyrighted material and the intended use of the newly created work.

Laurence Pulgram, an intellectual property lawyer who represented Napster in a copyright fight with the rock band Metallica, said Saturday that Fairey's case was in trouble.

"This was a brain-dead move by Mr. Fairey, and it could be the turning point. His lawyers will still be able to argue that he made a 'fair use' under copyright law, but it's a whole lot less likely that the court or jury will think that what he did was actually 'fair' if he has lied and tried to mislead the entire world about what use he made," Pulgram said.

Fairey said Saturday that it was wrong to portray the error in his initial claim "as if it was very, very premeditated and sinister."

He said the "HOPE" poster was "a piece of grassroots activism done exactly the same way as my other posters."

Fairey described his craft as manipulating existing images and said barring such work is like "saying you can't use those words anymore, they've already been used. How would we talk to each other?"

Srinandan R. Kasi, AP vice president and general counsel, said Fairey's admission struck "at the heart" of Fairey's defense that he was protected by fair use.

"Shepard Fairey has now been forced to admit that he sued the AP under false pretenses by lying about which AP photograph he used," Kasi said. "Mr. Fairey has also now admitted to the AP that he fabricated and attempted to destroy other evidence in an effort to bolster his fair use case and cover up his previous lies

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truthtrooper (37 friends, [send message](#)) wrote: 10/18/2009 10:02:30 AM

OB-1 (56 friends, [send message](#)) wrote: 9h 20m ago
And this is news how?

=====
Just another corrupt person linked to obama

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RJones (13 friends, [send message](#)) wrote: 10/18/2009 9:07:28 AM

hoss2 (47 friends, [send message](#)) wrote: 14h 2m ago
Just what exactly are these horrible things Obama has done to warrant such scorn, antagonism and hatred by the Republicans, except to have won the election and they didn't? Could it be because he hasn't mended Bush's broken mess overnight? Is that it? Or is it because he's Black. Somebody tell me, whatt else COULD it be? I'm just curious, ya know?
=====

You're so jaded. You put a long dissertation together just so you could state the third from the last statement above and it's getting old.

The campaign promises that were broken are many. Pork in bills "bi-partisan leadership". Yeah, right. The most massive spending bills in the history of this country that will put multiple generations in debt.

Here's a tip. Read rthe news about what's going on.

+++++

You never answered my question. How have YOU or anybody else been hurt by Obama? You claim he lied.

You think he lied because after only 9 months he hasn't fixed everything Bush messed up and we're still not living in the land of milk and honey? And because we're not walking on golden paved streets yet, he is a terrible, terrible president?

Sounds to me like you're the one who's jaded about what one mortal man can or cannot do overnight.

Me, I have a little patience and will give this man time to turn things around and can only see the country getting better in the long run.

But if you, and those like you, truly believe there is some "superman" out there who can magically fix everything in a couple of months, don't keep that wonderful news to yourself, please share it with us.

But last time I heard, the man elected to the highest office in the land was given at least FOUR full years to right things. Not just a couple of months.

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hoek (20 friends, [send message](#)) wrote: 10/18/2009 7:48:26 AM
The low number of comments on this ironic story is also ironic.

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jjcctt (12 friends, [send message](#)) wrote: 10/18/2009 7:30:21 AM
OB-1 (56 friends, [send message](#)) wrote: 9h 20m ago
And this is news how?

You're right, another USA TODAY capitulation to the intellectual elite.

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Dog (584 friends, [send message](#)) wrote: 10/18/2009 6:42:50 AM
plainnuts (24 friends, [send message](#)) wrote: 7h 12m ago
So much for Mr Fairey.

=====

The poster was a fairey tale.

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NowThis (64 friends, [send message](#)) wrote: 10/18/2009 5:33:22 AM
AngryGenX (0 friends, [send message](#)) wrote: 8h 16m ago
The super smart are out again, first of all if anyone voted for Obama based on a poster that is pathetic.

~~~~~

I really don't think anyone votes for someone because a poster was cool. The closest we have is people wanting to vote for Palin because she's cuter than a bugs ear, you betcha.

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joe\_oly (0 friends, [send message](#)) wrote: 10/18/2009 3:35:49 AM  
I certainly don't feel cheated or betrayed .. always thought is was a cool poster!

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Chicken\_Little (61 friends, [send message](#)) wrote: 10/17/2009 11:49:48 PM  
AngryGenX (0 friends, [send message](#)) wrote: 2h 33m ago  
The super smart are out again, first of all if anyone voted for Obama based on a poster that is pathetic.

No matter what you whine about he is the president for the next 3 1/3 years and if the economy improves a little bit he will get another 4 years from the republican base that matters.

DEAL WITH IT!!!!!!!!!!!!!! HA HA HA HA LMAO!!!!!!!!!!!!!!!!!!!!!!!!!!!!!! I THINK I HEAR SOUR GRAPES, HA HA HA HA!!!!!!!!!!!!!!  
+++++

this administration is an embarassment deal with it, worst president ever

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