

John Fleming:

An Inventory of His Papers in the Manuscript Collection at the Harry Ransom Center

Descriptive Summary

Creator:	Fleming, John Francis, 1910-1987
Title:	John Fleming Papers
Dates:	1947-1968
Extent:	4 boxes (1.67 linear feet)
Abstract:	The materials in the John Fleming Papers (1947-1968) document rare book and manuscript dealer John Fleming's business relationship with book collector Louis H. Silver and Fleming's lawsuit against Silver estate executor Clarence A. Beutel. The Papers include business and administrative records, correspondence, legal documentation, and publicity materials related to the 1968 case <i>John F. Fleming, Incorporated v. Beutel</i> (395 F.2d 21).
Call Number:	Manuscript Collection MS-1417
Language:	English
Access:	Open for research

Administrative Information

Acquisition:	Gift, 1982 (G1310)
Processed by:	Christine George, Stephanie Nestor, and Wendy Hagenmier, 2011
Repository:	Harry Ransom Center, The University of Texas at Austin

Biographical Sketch

John Francis Fleming was born in 1910 and grew up in New York City. He got his start in the book business when he was fifteen as a clerk for the renowned "Napoleon of Books," A. S. W. Rosenbach. Rosenbach was Fleming's patron and mentor. Fleming worked his way up in Rosenbach's company, ascending from clerk to manager to vice president. After Rosenbach's death in 1952, many considered Fleming to be his successor.

Indeed, Fleming dominated the book collecting world, known for both his personal collection and for selling and acquiring books for notable collectors in the United States and Europe. Fleming founded and was the president of the John F. Fleming Rare Book Company (earlier John F. Fleming, Incorporated). One of Fleming's notable clients was Louis H. Silver. Silver was a lawyer in Chicago and the president of Gold Coast Hotels. Over the course of sixteen years, Fleming helped Silver build up his personal library. In June of 1963, Silver was diagnosed with terminal cancer and enlisted Fleming's help in selling his substantial library. Silver had very specific demands for the sale—his library was to be sold en bloc and he should receive no less than \$2.2 million for it. Fleming made contact with several auction houses, but on October 27, 1963 Silver died before any action towards a sale could be completed. Silver's estate, represented by Clarence A. Beutel and Silver's wife Amy, wanted the search for a buyer to continue according to Silver's specifications.

On November 15, 1963, the University of Texas at Austin expressed interest in the collection. Fleming began negotiations with Dr. Harry Ransom, Chancellor of the University of Texas at Austin. Within a month, Ransom had \$2.75 million in cash for the sale. Silver's estate, though, was feeling hesitant about the sale. The first problem was that they did not want to pay Fleming his \$200,000 commission. The second was that they felt pressured to keep the Silver Library in Illinois by selling it to the Newberry Library instead. In the end, that is what the estate chose to do. On May 13, 1964 the Newberry Library bought the Silver Library for \$2.75 million.

Under Illinois law, Fleming, as a property broker, should have earned his commission when he produced a ready, willing, and able buyer. There is no requirement that a sale with that buyer must occur. Since Fleming produced his buyer, he requested his commission. When the Silver estate refused, Fleming filed a lawsuit in Illinois on August 6, 1964. The estate was granted summary judgment and the case was dismissed. The court found that since many of the books were damaged and the University of Texas did not examine the books prior to agreeing to buy them, it would not have actually been willing to commit to the sale. Fleming appealed to the Seventh Circuit Court of Appeals. In *John F. Fleming, Incorporated v. Beutel* (395 F.2d 21), the appellate court remanded the case after finding that the lower court was incorrect in granting summary judgment. The appellate court ruled that when one was dealing with older books, some damage was par for the course, and so the buyer would have been willing to go through with the sale. However, rather than continue the court battle, Fleming settled out of court for \$92,000 on December 17, 1968.

The Newberry Library took possession of the Silver Library, and, against Silver's wishes, discarded one third of the books as surplus and auctioned them. Fleming continued to acquire and sell books and was particularly known as one of the best dealers of antiquarian manuscripts. He died on December 20, 1987.

Sources:

Nicholas A. Basbanes, *A Gentle Madness: Bibliophiles, Bibliomanes, and the Eternal Passion for Books* (New York: H. Holt and Co., 1995).

"John Fleming, A Book Dealer, Dies at Age 77," *New York Times*, 21 December 1987.

Scope and Contents

Ranging in date from 1947 to 1968, the materials in the John Fleming Papers document Fleming's business relationship with book collector Louis H. Silver and Fleming's lawsuit against Silver estate executor Clarence A. Beutel. The majority of the legal documentation relates to the 1968 case, *John F. Fleming, Incorporated v. Beutel* (395 F.2d 21)—Fleming's appeal following an initial summary judgment decision at the district court level.

The Papers are divided into four series: I. Business and Administrative, 1947-1964; II. Correspondence, 1947-1963; III. Legal, 1964-1968; and IV. Publicity and Documentation of Silver Library Sale, 1963-1964. The series are arranged according to size, beginning with the largest. The Business and Administrative series is further separated into sub-series, arranged according to volume of material. Files within the other series are arranged chronologically.

The Papers consist solely of textual materials of several types: correspondence (between Fleming and Silver, between Fleming and Amy Silver, between Fleming and his lawyers, between Fleming and auction houses), inventories of books (checklists of incunabula and special bindings from the Silver Library, Fleming's lists of "Imperfect Books" from Silver's collection, packing case lists from the transfer of Silver's Library to the American National Bank and Trust Co. upon Silver's death), bills (most addressed to Silver), auction house proposals (from Sotheby's, Parke-Bernet, and Marlborough), handwritten notes (from Fleming and Silver), legal records from Fleming's suit (probate records, depositions of Fleming, Harry Ransom, and W. W. Heath, affidavits, documents filed with the courts, exhibits), and newspaper clippings (from the *New York Times*, the *Chicago Tribune*, and many other publications, gathered by a clipping service). The majority of the records are original, though some carbon copies are also present. The files originally followed a chronological arrangement (rather than arrangement by subject or form), with each folder containing a wide variety of document types. This variety is most apparent within the Legal series, where just one folder contains judicial opinions, billing information, and correspondence with Fleming's

lawyer, Sheldon Karon.

Subjects documented in the Papers include (but are not limited to) the business personae of Fleming and Silver and the relationship between the two bibliophiles, legal opinions regarding the awarding of commissions for property sales (specifically books), rare book collecting and rare book collection sales, the history of the Harry Ransom Center during Ransom's tenure as Director, and the persona of Ransom as a curator of archival acquisitions. In addition to Fleming, other figures frequently mentioned in the Papers include: Louis Silver, Amy Silver, Sheldon Karon, Clarence Beutel, Harry Ransom, W. W. Heath, and Lionel Robinson.

Series I., Business and Administrative, 1947-1964, documents financial transactions and correspondence between Fleming and Silver, the contents and value of Silver's Library, and the role of auction houses in Fleming's endeavors to locate a buyer for the Library.

Series II., Correspondence, 1947-1963, includes incoming and copies of outgoing correspondence related to Fleming's business and relationship with the Silver family.

Series III., Legal, 1964-1968, undated, contains legal records detailing the sequence of events in *John F. Fleming, Incorporated v. Beutel* and Fleming's involvement in the proceedings.

Series IV., Publicity and Documentation of Silver Library Sale, 1963-1964, consists of newspaper and magazine clippings from the days following the sale to the Newberry Library and copies and drafts of records Fleming gathered to document his actions regarding Silver's Library.

Related Material

The Grolier Club Library in New York City houses the John F. Fleming, Incorporated Records (1955-1988), which consists of 46 boxes and 2 ledgers. The Newberry Library in Chicago, Illinois, houses Louis H. Silver's library, the sale of which is discussed within these materials

Index Terms

People

Karon, Sheldon

Ransom, Harry Hunt, 1908-1976

Silver, Amy

Silver, Louis H.

Zucker, Harry T.

Organizations

John F. Fleming, Incorporated

Rosenbach Company

Subjects

Bibliography

Book collecting--United States--History--20th century

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Bills, Correspondence and bills from Rosenbach to Silver

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Series IV. Publicity and Documentation of Silver Library Sale, 1963-1964

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