

OLYMPIC GAMES MEMORABILIA 1896–2004

Mail Bid Auction No. 49

Saturday, January 21, 2006

Bids by Phone, Fax, Email and Mail Welcomed

**Ingrid O'Neil
Sports and Olympic Memorabilia**

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TERMS OF SALE
(Please read carefully before bidding.)

The auction will be conducted in accordance with the terms set forth below. Bidding in the sale constitutes acceptance of all terms stated herein.

(1) **BIDDING.** Bids by phone, fax, e-mail and mail will be accepted until 8 p.m. Pacific Standard Time, on Saturday, January 21, 2006. Only e-mail bids will be acknowledged. E-mail bids which have not been acknowledged have not been received. Phone bids must be confirmed in writing upon request. **Bidding will close to new bidders at 8 p.m. Pacific Standard Time. If you have not bid prior to 8 p.m., you may not bid after 8 p.m. You may start buying lots after 8 p.m. that have not received a bid by that time. If you have placed a bid before 8 p.m., you may continue bidding until 11 p.m. Pacific Standard Time.** Auctioneer reserves the right to extend bidding. Lots will be sold to the highest bidder. In the case of tie bids, the first bid received will normally be given preference. Auctioneer has sole discretion to make the determination of the winning bid.

Value estimates are for guidance only. Bids higher than estimate will be reduced to 10% above the second highest bid. Bids under estimate will not be reduced. Bids below 80% of estimate will generally not be accepted. Bids must be for an entire lot. Bids will be accepted by lot number only. Each lot constitutes a separate sale.

(2) **MODIFICATION.** The catalog is incorporated in and deemed a part of these Terms of Sale. Auctioneer has the absolute right to modify the terms of sale at any time. Bidding after notification of modification constitutes acceptance of modification. Auctioneer has the absolute right to conduct the auction as auctioneer may decide, including the right to decline bids for any reason and from any person, to decline challenges to bids or bidding increments and to make the final determination of all disputes by any method auctioneer deems appropriate. No bidder shall have a claim or recourse against auctioneer for loss or damage due to modification, auctioneer mistake, departure from stated terms of sale, method of dispute resolution or result thereof.

(3) **GUARANTY.** **By bidding in the sale, bidder accepts all terms stated herein and personally guarantees timely and complete payment and performance of all obligations stated herein.** Auctioneer is not responsible for bidding errors. Successful bidders are unconditionally bound to perform all obligations hereunder regardless of mistake. Bidding by minors and undisclosed agents is prohibited. Bidding constitutes a representation and warranty that bidder is of legal age and acting on his or her own behalf with full power and authority to make the bid placed and to legally bind bidder to all terms of sale.

(4) **PRICE. Payment in full is due upon receipt of invoice.** A 15% Buyer's Fee will be added to the successful bid price of each lot. Handling, shipping, sales tax for Washington residents, insurance, and all other costs associated with shipping will be added to the invoice. A \$1 handling charge per lot may be added to bulky lots (books, large plates, sculptures, etc.) Washington sales tax will be added to the invoice of Washington residents unless a valid resale number is on file with the auctioneer; however, buyer is solely responsible for and agrees to pay all sales or other applicable tax due by virtue of the sale and shall indemnify and hold auctioneer harmless therefore, including penalties or interest assessed, regardless of whether or not taxes were included on the invoice or correctly calculated by the auctioneer.

(5) **PAYMENT.** Payment must be in U.S. funds payable by check drawn on a U.S. bank or by wire transfer to auctioneer's account, by credit card (Visa, MasterCard, American Express and Discover) or Paypal. Wiring instructions should be requested from auctioneer before funds are wired. A 3% convenience charge (3.5% for overseas purchases) will be added to credit card or Paypal purchases except where prohibited by law. Bidders may be asked for satisfactory credit references or a deposit of funds prior to bidding.

(6) **DEFAULT.** If buyer fails to make payment in full within 30 days of the invoice date or to timely comply with any other term of sale, then, in addition to all other remedies available at law or in equity, auctioneer may, at auctioneer's option: (a) charge 1.5% monthly interest on unpaid amounts; (b) if payment is not received in a timely manner, auctioneer may resell the lot(s) and recover from buyer the difference between the proceeds and buyer's indebtedness in excess of the proceeds, which indebtedness shall include the successful bid price, Buyer's Fee and all other expenses incurred by auctioneer from the date of sale until resale on accounts of such lot(s), including attorney fees, transportation, handling, storage, insurance, collection and resale costs. Proceeds collected in excess of buyer's indebtedness shall belong to auctioneer; (c) pursue collection efforts and/or recover from buyer all costs incurred by auctioneer as a result of buyer's default from date of default, including attorney fees, transportation, handling, storage and insurance costs; and (d) sue for damages. Amounts charged hereunder are immediately due and payable. Buyer waives all requirements of notice, advertisement, bidding rights, rights to proceeds and all other rights with respect to the sale of a lot purchased by buyer except as prohibited by law. Auctioneer's rights and remedies stated in this section and elsewhere in this agreement are cumulative and the exercise of one shall not operate to the exclusion of another.

(7) SHIPMENT. It is buyer's responsibility to contact auctioneer to make shipping arrangements. Failure to timely make shipping arrangements or to accept delivery constitutes default. Lots will be delivered to buyer's address on file with auctioneer, unless otherwise requested, after payment in full and funds have cleared. Lots will be packaged, insured and shipped as auctioneer deems appropriate unless otherwise requested; however, auctioneer may charge additional handling, shipping and insurance fees or decline to package and/or ship any item. Buyer is responsible for packaging and/or shipping any purchased lot(s) at auctioneer's request within 30 days of the request. Risk of loss and title pass at delivery of lot to place of shipment, if shipped by auctioneer, and at time of payment in full at place of pick-up, if shipped by buyer. Custom duties for an overseas buyer are buyer's sole responsibility. Overseas buyers must supply fully detailed shipping instructions prior to shipment. Lots will be shipped overseas at buyer's risk only. Buyer waives all claims against auctioneer for loss or damage as a result of delayed shipment or failure to ship any item. Auctioneer's breach in the delivery of any item shall not give buyer the right to refuse or receive any other shipment.

(8) AS-IS SALE; LIMITED WARRANTY. Catalog descriptions are provided solely for convenience and are not a warranty of any kind. This is not an approval sale. Goods are offered for sale on an "AS IS" basis without warranty of any kind except as expressly provided below. Catalog errors should be brought promptly to auctioneer's attention. In the case of photo error, only the text is valid.

All items sold are guaranteed to the original buyer to be authentic (unless otherwise stated). **AUCTIONEER MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY EXCLUDES ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS WARRANTY IS GIVEN SOLELY TO THE ORIGINAL BUYER AND IS NON-TRANSFERABLE AND NO OTHER PERSON SHALL HAVE ANY RIGHTS UNDER SUCH WARRANTY.**

(9) CLAIMS. The sole basis for a claim against auctioneer is the lack of authenticity of a purchased item. Buyer is solely responsible for determining authenticity without reliance on statements or acts of auctioneer. Authenticity claims must be made in writing and submitted to auctioneer no later than 5 days after delivery of such item. Authenticity claims are not permitted outside of warranty period except as may be permitted by auctioneer. Acceptance of a claim does not constitute an admission. If auctioneer disputes a claim, the final determination of authenticity shall be made by a qualified authenticator selected by buyer and auctioneer. Costs of authentication will be borne by buyer. If a claim is accepted or an item determined to be not authentic, buyer's exclusive remedy is a refund of the successful bid price and Buyer's Fee, payable upon delivery of the item to auctioneer in accordance with the conditions of return set forth below, except as may otherwise be agreed by auctioneer and buyer in writing.

(10) RETURNS. Auctioneer shall not be liable for any item returned without auctioneer's prior written approval. Items must be returned in their original container and in the same condition as sold to buyer in the manner and at the time specified by auctioneer in writing. Late remittance, removal from the original container or return in a condition other than as sold to buyer constitutes just cause for revocation of all return rights, based on warranty or otherwise, and buyer shall no further rights or remedies under this agreement, at law or in equity. Refunds will not be made until items have been received and inspected to auctioneer's satisfaction. Refunds are conditioned upon buyer's execution prior to payment of any documents requested by auctioneer to effect the intent of this paragraph.

(11) BIDDER'S RELEASE. **THE TERM BIDDER AS USED IN THIS RELEASE REFERS TO BIDDERS AND BUYERS ALIKE. EXCEPT AS EXPRESSLY PROVIDED HEREIN, BIDDING IN THE SALE CONSTITUTES AN UNCONDITIONAL RELEASE BY BIDDER OF AUCTIONEER AND AUCTIONEER'S AFFILIATES, SUBSIDIARIES, SUCCESSORS, MEMBERS, MANAGERS, EMPLOYEES AND AGENTS AND THEIR HEIRS, LEGAL REPRESENTATIVES AND ASSIGNS (COLLECTIVELY, "AUCTIONEER'S AFFILIATES"), FROM ALL CLAIMS, DEMANDS, SUITS, ACTIONS, OBLIGATIONS, LIABILITIES, LOSSES AND DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SIMILAR DAMAGES (COLLECTIVELY "CLAIMS"), ARISING OUT OF OR RELATING TO, DIRECTLY OR INDIRECTLY, THE AUCTION, THESE TERMS OF SALE OR MODIFICATION THEREOF, THE BIDDING PROCESS, DENIAL OF BID, TITLE, CONDITION, QUALITY OR DESCRIPTION OF ANY LOT OR AUCTIONEER OR AUCTIONEER'S AFFILIATES' NEGLIGENCE, GROSS NEGLIGENCE, MISTAKE, MISREPRESENTATION, BREACH OF CONTRACT, BREACH OF WARRANTY OR ANY OTHER ACT OR OMISSION WHETHER SOUNDING IN CONTRACT, TORT, IN EQUITY OR OTHERWISE. BIDDER AGREES AND INTENDS THIS RELEASE TO BE EXTENDED TO AND BE EFFECTIVE AS TO ALL CLAIMS WITHOUT RESERVATION, WHETHER ARISING NOW OR IN THE FUTURE AND REGARDLESS OF WHETHER BIDDER LATER OBTAINS KNOWLEDGE WHICH WOULD HAVE MATERIALLY AFFECTED BIDDER'S DECISION TO GIVE THIS RELEASE AND BIDDER KNOWINGLY AND VOLUNTARILY WAIVES ALL RIGHTS AND REMEDIES WHICH MAY OTHERWISE BE CONFERRED ON BIDDER BY LAW.**

(12) CLAIMS. Claims for reasons other than lack of authenticity may, in some instances, be considered by auctioneer, at auctioneer's sole discretion. Any such claim must be submitted to auctioneer in writing within 5 days after delivery of the item, which is the basis of the claim to buyer, but in no event more than 60 days past the close of the auction. Auctioneer may, at auctioneer's option, offer a remedy to buyer but in no event shall buyer have any entitlement or right to any remedy from auctioneer unless stated in a writing signed by auctioneer and buyer.

(13) GOVERNING LAW; MISCELLANEOUS. Actions to enforce or interpret or relating to these Terms of Sale shall be construed in accordance with Washington law, without regard to conflicts of law rules. Exclusive venue shall lie in Vancouver, Washington. These Terms of Sale and all rights hereunder may not be assigned, transferred, or relied upon by third parties. The term "buyer" means the original buyer of goods from auctioneer, not any subsequent owner or person who may acquire an interest therein. If any term of this agreement or application thereof shall be deemed unenforceable, the remainder of this agreement and the application of such term to persons or circumstances other than those to which the term is unenforceable shall remain enforceable to the fullest extent. Time is of the essence in all particulars. Notice is given upon delivery by facsimile, e-mail or telephone or 3 days after placement in the U.S. mail. As used herein, the term "person" includes an individual, sole proprietorship, partnership, joint venture, trust, corporation, limited liability company, association and any other entity. Captions shall not be used to construe the scope or intent of any term. The waiver of breach of any term shall not constitute a waiver of any subsequent breach of the same or any other term. This agreement shall be binding upon and operate to the benefit of the parties and their respective heirs, successors, legal and personal representatives and permitted assigns. **THE TERMS SET FORTH ABOVE CONSTITUTE THE FINAL AND COMPLETE AGREEMENT OF THE PARTIES AND SUPERCEDE ANY AND ALL PRIOR OR CONTEMPORANEOUS COMMUNICATIONS, UNDERSTANDINGS AND REPRESENTATIONS, ORAL OR WRITTEN, AS TO THE SUBJECT MATTER THEREOF.**