

## A BRUSH WITH THE LAW

### Street-corner Painter, Cited For Lack Of Business License, Will Have A Day In Court Next Month

By **Roya Camp**  
The Voice

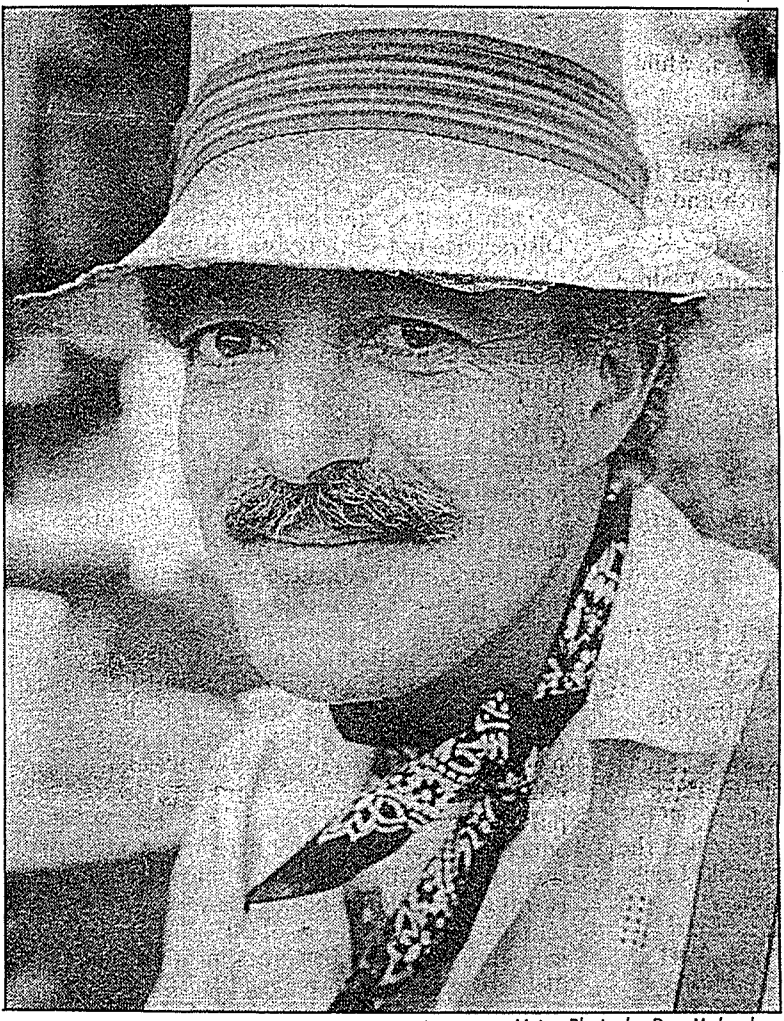
The city's Division of License and Collection, it appears, is unable to compel Shattuck Hotel proprietor Eli Cukierman to pay the \$50,670 in outstanding business license taxes he owes the City of Berkeley (and incidentally, the \$130,348.06 the property owner owes for refuse collection and in transient occupancy fees), but division personnel have rallied to try to nail down a 49-year-old, Moroccan-born painter of street scenes.

Haim Victor Abitbol (his first name means "life" in Hebrew) is in court, fighting a citation issued Nov. 15 by Senior Field Investigator Troy Floyd of the license division.

The city claims Abitbol violated Section 9.04.035 of the Berkeley Municipal Code, which prevents merchants from conducting business without a City of Berkeley business license.

Abitbol and his attorney, Berkeley resident Patrick Kennedy, argue that the street artist was not selling his work on the street, has in fact not sold anything for months, and should not have been cited.

Kennedy, who has been retained by the Carleton Street resident ("I guess you could call it retained," the attorney said, "he gave me one of his paintings"), describes his client as "your basic sidewalk savant" and "a classic Berkeley



*Voice Photo by Don Melandry*

**Moroccan-born painter Haim Victor Abitbol**

persona without the leftist politics."

Abitbol has, over the course of the past two years, become a colorful fixture on the sidewalk fronting the University Art Museum and Cafe Roma, on the corner of College Avenue and Bancroft Way.

He is an energetic painter, rendering from three to four impressionistic oil paintings each day. At last count, Abitbol was working on painting number 185 of the coffeehouse itself (he also paints what he

calls "magnified" scenes of individual tables).

Like his arrival in Berkeley from Rabat, Morocco, by way of France and Israel 23 years ago (the Greyhound bus stopped at the intersection of University and Shattuck avenues, so that is where he got off, he explains), his arrival at the Cafe Roma spot more than one year ago seems to be more the result of happenstance than planning.

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# Painter...

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"I couldn't meet my studio rent lease," Abitbol explained during a recent tea break from his afternoon painting schedule. It is a day of high winds, and the painter, cheerfully attired in fuschia and navy work shirts, a black neckerchief and a blue-and-white striped train conductor's cap, is apologetic for the headache the blustery weather has dealt him.

"I find myself without a studio. I decide to become an outdoor painter. I come up with small equipment and I started to paint abstract, modern art."

For \$19, Abitbol purchased a wheelchair frame, complete with wheels, from the Society of St. Vincent DePaul. He outfitted the frame with a Japanese dishholder, which became a palette holder, and a large wooden rack upon which to hang drying canvases.

"I make shift and I use initiative," he explained.

"It grew up to be my kinetic studio," Abitbol says of the mobile contraption.

The artist, who holds three degrees from a local university and who has studied art in Paris and Jerusalem, said he was told initially by city personnel that no license for outdoor painting was needed. Nevertheless, he said, he signed up on the waiting list to purchase a street vendor license. He said he has been on the list for about two years. Staff members in the Division of License and Collection say the list for the limited number of street vendor licenses is currently between one and two years' waiting time. As of last week, Abitbol's name was the 101st entry on the list.

An increasing interest in the urban environment and the streetscape led him up to the Cafe Roma corner, where he has been dispensing philosophy and generating oil paintings for the past year.

Three months ago, he was first approached by the city, in the form of division chief Lee Hightower.

Hightower, according to Abitbol, told him to leave immediately or he would be cited.

"It's so strange," the artist recalled. "I feel like a child ready to cry. It just hit me so openly. I was almost in a state of tears, trying to recuperate..."

With Kennedy's intercession, things appeared to have worked themselves out. Until mid-November, that is.

"Mr. Floyd came in like a tornado," Abitbol remembers. "He is well-fed and everything... He showed what looked like a badge. He created a motion in his mind that I was soliciting money or something."

"I got cited, like a criminal."

The painter, investigator Floyd said, "had been warned several times.

"He had never applied for a permit," the city employee said.

Abitbol said Floyd never asked him whether he was selling his work, which would seemingly necessitate the acquisition of a business license.

On Dec. 2 in the courtroom of Berkeley/Albany Municipal Court Judge Carol Brosnahan, Abitbol pled not guilty to the charge of conducting business without a business license.

The painter was released on \$42 bail. Trial is set for Jan. 19.

"Striking a blow for artistic freedom, we will go to trial," his attorney says, adding, "it is my hope that by bringing a little extra-judicial pressure to bear, they'll stop bugging him."

Kennedy and Abitbol have also decided to make their case in the court of public opinion.

Kennedy drafted, and Abitbol is distributing for signing, a petition declaring citizen sponsorship of the street corner Impressionist.

"We, the undersigned, wish to voice our support for Mr. Haim Abitbol, Berkeley resident and artist, in his efforts to paint at Cafe Roma," the petition reads. "The city should make every effort to support and encourage him."

The impressionist said a member of the Ross family, which owns the Cafe Roma property and is expected to rename the popular southside meeting place Caffe Strada when it takes over the business in January, had promised him the ownership would provide for him a permanent "studio" on the property if the city persists in its unwelcome attention.

"As you might well know," Abitbol confides, "it is a notion that artists survive out of thin air. It is still very hard to sell things in the United States."



Voice Photo by Don Melandry

The artist at work: "How can I be abolished?"

When people express interest in his work, the painter said, he directs them to his home, where he will discuss business and prices, which range from \$200 to \$350, depending on the size of the work. He does not sell, he repeats emphatically, at the Cafe Roma location.

"I am just about surviving, if that is the right word to use," he said. "I'm not yet discovered."

Abitbol's wife Frances, a San Francisco schoolteacher, "does all the paying, actually."

The artist feels he is performing a valuable function by painting every day on the street corner.

Not only does he contribute to the European flavor of the south-of-campus coffeehouse area, he argues, but he serves as a valuable lesson to UC-Berkeley art students.

"They come, they look at the

reality of an artist and before, that was not true," Abitbol says.

He is optimistic about his day in court.

"My mind tells me they will ask me to continue doing what I'm doing, and not selling," the painter says.

"Since I found this area, it has enhanced my impressionistic style. I've gained a new element in my life, so how can I deny that to myself? This is freedom of expression. How can I be abolished?"

If he had to move away from the street corner, Abitbol says, "I wouldn't know what to paint."

The stress of his brush with the law has taken its toll on his artwork, the painter says.

"And every night, it's reflecting in my heartburn," Abitbol contributes in the thick, Moroccan accent. "I never felt so heartburned. It's so painful."

## FOUR-ALARM FIRE IN ELMWOOD; \$1M DAMAGES



Voice Photo by Andy Whipple

For most of Wednesday morning, the intersection of Ashby and College was filled with firefighting equipment. The four-alarm blaze was reported at 5:30 a.m., according to the Berkeley Fire Department. 60 men worked to control the blaze, which began outside the rear of Young

Stuff, a children's clothing store on Ashby, and spread quickly through an attic area shared by four adjacent businesses including the Elmwood Theatre. Damages exceeded \$1 million. Cause of the fire, according to BFD officials, is "suspicious and under investigation."