

# KNOW HOW BULLETIN

## FROM HOBBY TO ENDURING LEGACY – THE PRACTICALITIES OF BEING AN ART COLLECTOR

MARCH 2012

Georgina Hepburne Scott of Stonehage Art management addresses the complex practicalities of building a serious art collection, from ownership vehicles and due diligence, to conservation, paperwork and value management. In a largely unregulated sector, expert advice often requires expert validation!

The first step to building a serious collection may not be deliberate. Often the initial purchase is on impulse. A painting catches your eye and you realise that you can now afford to buy some of the paintings you really like, rather than just filing round museums and galleries like the rest of us! Having dipped your toe in the water, it is almost inevitable that you start researching your purchase and take a greater interest in the intoxicating world of art and find many contemporaries who have joined the same club, for very similar reasons.

This could be a familiar journey for many successful businessmen/women, but while they quickly develop their taste, learn to distinguish genuinely great works from also-rans, begin to spot market trends and even to develop valuation skills, very few give enough consideration to the practicalities of owning an art collection. These range from initial due diligence to the structures through which the collection might be owned, the succession to the next generation, lending to museums, maintaining a catalogue, transport, storage, insurance and

valuations, all of which require specialist knowledge and skills in those who manage and oversee the collection.

### OWNERSHIP VEHICLES

The moment it becomes apparent that a collection is being assembled, the obvious question is who is going to own it? Will it be in the name of the individual or held through a trust, company or foundation? This decision begs numerous questions, starting with the purpose and objectives of the collection, which are themselves quite likely to change over time. It is often the case that a collection starts with paintings acquired for personal pleasure, but subsequently plans are made to pass the collection to the next generation, or even to make it over to charitable purposes (and if so what charitable purposes?).

Either way it is likely that fiduciary structures will be used. Given the increasing obligations of trustees, it is vital that the wording of the trust deed covers the exact purpose of the trust, to cover

any legal obligation on the trustees to diversify the assets. It is equally vital that the trustee has a good understanding of the art market and practicalities of art management, as their obligations can be complex and demanding. They have a responsibility to see that the collection is expertly managed.

## PURPOSE OF TRUSTS

The settlor may wish to keep the collection for personal use in his or her own lifetime, but must address what the future holds for the collection after he or she dies. This must be thought through - perhaps it is for perpetuity or for the next generation to do with as they please. The purpose may be ultimately philanthropic; options may include a plan to create a museum, or a wing of a gallery; alternatively the collector may prefer the art to be used for educational purposes. These ideas should be discussed with a philanthropic adviser. The collection may be destined for all of these purposes at various stages. Has the next generation been involved and do they know and understand the collection? It is important that the correct people are involved for management of the collection in the years ahead. Clarification of the purpose of a collection helps avoid disputes amongst the next generation.

## DUE DILIGENCE OR PROVENANCE

How do you make sure you are buying exactly what you think you are buying? Through tracing the work back to the artist in an unbroken chain, with proper documentation for each stage. The quality of the evidence will not only ensure you avoid the classic mistake of acquiring paintings looted in World War II, it will significantly affect the value if and when you try to re-sell. Obviously such due diligence requires an expert eye, independent from the auction houses. There are likewise talented forgers who on occasion manage to defraud collectors, art dealers and auction houses alike. Precautions must

be taken to ensure you are fully aware of what you are buying as once you have parted with your cash, there is often no return.

## CATALOGUING AND VALUE MANAGEMENT

The more detailed a catalogue, the more useful it is for reviews, exhibitions and literature as well as sales and insurance claims. Details typically held will include the source, purchase date and price, artist name, title, date, dimensions, medium, provenance, insurance, crate specifications, as well as insurance and market valuations.

Formal valuations are usually provided by the major auction houses, which are generally closest to the market and have the broadest range of expertise. On occasions collectors will prefer independent valuers to avoid flagging their collection to the auction houses. There are discreet experts available for such work. Regular valuations are particularly necessary for top end works subject to market fluctuations. An out of date valuation can leave you with inadequate cover when the market goes up or paying excessive premiums when the market is falling.

In some cases, value management can be proactive, especially in the case of an emerging artist in a fashionable sector. Values can be significantly increased by inclusion in the right exhibitions and the value uplift needs to be assessed against any potential risks or costs. Of course not all exhibitions will add value and some may even have an adverse effect, according to the standing and prestige of the event, venue and other works on show. The condition of an artwork must also be examined. Some works will be too fragile to move or expose to extensive transit and handling. Careful consideration must be given to all factors prior to agreeing to loans.

## STORAGE AND TRANSPORTATION

Value management includes ensuring that the work is always stored in suitable conditions as this is vital to its preservation. Whether it is to be stored in a private home, a storage facility or a museum, are suitable and reliable temperature and humidity controls in place? Is there natural light flooding onto the work? Depending on the medium, these factors could alter the condition of the work and ultimate value. If in storage, should the work be kept in a bespoke, insulated crate or rather, be unpacked and held in a secure vault? Depending on the value and fragility of the work, appropriate crates should be built for transportation, often insulated, varnished and museum-quality. Condition checks must be carried out prior to and post transportation, using a suitable expert.

## CONSERVATION AND RESTORATION

A work should not be tampered with unless the condition is deteriorating to the detriment of the work, in which case specialist conservators should be consulted for their advice. If you are thinking of selling an artwork and believe it could benefit from some restoration, a potential buyer may rather buy the work as it is and use their own preferred restorer to carry out the work. Regular checks should be made on works whose condition is debatable.

## TAXATION AND PAPERWORK

The all important question is “Who knows what?” This is especially relevant when moving artwork across borders, understanding which forms need to be completed and who will read them. Incorrect advice or paperwork could result in very costly penalties. Import and export licences, as well as cultural licences must be completed according to the shipment, stating ownership, destination and value.

Technical issues with tax, legalities and governance must be addressed. Who owns the work? There are significant tax consequences depending on whether it is owned in a personal name, by a trust, foundation or company. Further to this, not only must you think of who owns it, but of who enjoys it. The art may be owned by a trust but is enjoyed by and on the walls of a beneficiary, which could trigger tax issues. However, this may be avoided by having the correct agreements in place. If the work is moving, where is it going? Consideration must be given to whether it is moving across jurisdictions; export and cultural licences may be required; the move may result in import VAT duties. The value of the work is relevant, its current value, also its value when the previous beneficiary/owner died/divorced/moved jurisdictions. A work’s value may vary depending in which market it is sold – the US or Hong Kong, Paris or London. According to the strength of the market, the valuation and insurance should reflect this.

## INSURANCE

Appropriate insurance for art and jewellery is key, using the most relevant insurer and with competitive rates. Insurers must be kept up to date on movement of the works, especially if they are on loan or in transit. If the location of the artwork is due to change, or if a loan is due to take place, nail-to-nail, worldwide coverage should be in place, and terrorism and/or earthquake coverage be considered depending on the venue location. Insurers will not pay out if terms of contract have not been strictly adhered to, so it is vital to ensure the broker is aware of current values, locations, loans, etc. As mentioned above, the currency in which it is insured will depend on the strength of the relevant market, which can result in a collection using separate policies for varying currencies. Artworks should be labeled with the correct ownership details and the insurance policies must be in accordance with these. This simplifies any issues of ownership in case of insurance claims, together with a detailed catalogue.

## CONCLUSION

Owning and managing an art collection is a complex business requiring frequent advice from a variety of different experts. Many of these experts will have their own interests and their own angles and, unlike investment management, the art world is almost entirely unregulated. This is a sobering thought when one considers the immense nature of the assets in question, the maze of mirrors that

is created by potential conflicts of interest and the consequences of “getting the tax wrong”.

The collector therefore needs to know who to ask, precisely what should be required of them, how much they should be paid and how to evaluate their advice – failing which someone is needed who can be totally trusted to do this on his or her behalf. Such independent strategic advice is not easy to find.

## FOR MORE INFORMATION



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Georgina is Head of Stonehage Fleming Art Management, providing fiduciary art management services to some of the world’s finest art collections. She works closely with clients and their Key Advisers across the globe and has a strong relationship with the leading auction houses and art dealers, as well as a broad network of galleries, museums, artists, conservators, logistics companies and insurers. Georgina, together with clients, travels to all major art fairs and art auctions, keeping abreast of developments and trends in the art market.

Georgina joined the Group in 2007 after previously working for Lord Foster at Foster + Partners. She graduated from the University of St Andrews with an MA in Art History. Georgina is a member of PAIAM and participates in panel discussions on the art market with art industry colleagues.

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