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## Advice from an Art Expert: Avoiding Pitfalls of Buying Fine Art

Rachael Cozad – August 15, 2017

Buying high-end fine art requires knowledge, sound judgment, and a certain amount of finesse. If you don't know what you're doing, you can lose or your investment—or worse.

Like all markets, the art market goes up and down; and buyers looking to make an investment need to be aware of the trends. Currently, the market for contemporary artwork (roughly defined as art created after 1970) is red-hot and full of both opportunities and pitfalls. The market for modern art, American art, and European art is also robust, especially for certain artists and movements within those categories.

But purchasing art involves much more than concerns about price. Today's art-related lawsuits revolve around a broad range of issues, including authenticity, ownership, theft, damage, valuation, taxes, and issues of provenance and repatriation. Repatriation is the demand that owners return works of art or cultural heritage, usually looted, and sometimes ancient art to their country of origin or former rightful owners. For example, Hobby Lobby has just agreed to return a \$3 million-plus collection of 3,000-year-old Mesopotamian antiquities, which the company purchased, unknowingly, from ISIS! *United States v. Approximately Four Hundred Fifty Cuneiform Tablets*, No. 17-03980 (E.D.N.Y. 2017) (Dkt. 3-3). In recent years, the insurance industry has even developed art title insurance in response to this risk.

To ensure peace of mind, I always recommend that people buy what they love—but do a little homework first. This article contains tips to help those interested in delving into the world of purchasing art.

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## Where to Buy

Most artists (especially those that are deceased) have both a primary market and a secondary market. A primary market is one in which the work of art is sold for the first time. A secondary market is one in which the work of art is sold or changes hands for the second or any subsequent time. It is prudent to review both markets for a given artist in order to understand the artist's pricing structure and thereby validate a price before you pay the artist's work.

Seasoned collectors may be able to do this for themselves to some degree. Research tools include art databases, usually available for a fee, such as Artnet.com, ArtPrice.com, Askart.com, Terapeak.com (for eBay), and LiveAuctioneers.com, among many others.

Comparing markets is not always easy for the beginning collector, and nuances abound, so call a professional appraiser when you want a neutral third-party expert opinion on a price—an expert can research an asking price for you before you buy.

The good news is that today's collectors have many options as good artwork is available at a wide range of price points from various sources, including both brick-and-mortar galleries, auctions (including the online variety), private art dealers, art fairs, and the occasional entrepreneurial individual looking to make his or her own sale by cutting out the intermediary.

### Art fairs offer an opportunity for those who can handle the pressure.

Art fairs have been booming over the past 10 to 15 years, and many gallerists and dealers currently do the majority of their business on the sales floor at their booths in a convention center.

These art fairs can be a fruitful opportunity for you to increase your collection *if* (i) you are a seasoned collector who knows what you want, (ii) you have the ability to make quick decisions, and, hopefully, (iii) you do not routinely suffer from so-called buyer's remorse. For many collectors, however, there is a sense of pressure and competition in this format. If you prefer to take your time and do your research before buying, these fairs may be a good place to browse and learn, but not to buy.

Notable and reputable high-end art fairs include *Art Basel*, *Art Basel-Miami Beach*, *The Armory Show*, *Documenta*, *Frieze*, and many others.

**Private dealers can act as advisers.** If you want to buy and/or sell privately, this is often a good route to take. Dealers should provide detailed biographies on themselves



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and their education and expertise, including membership in professional and scholarly organizations, in order to demonstrate their knowledge in a particular field. It is of paramount importance that the dealer and client share mutual respect and a high level of interpersonal trust.

Working with a private dealer has distinct advantages as many also act as a personal adviser, available to assist in locating specific types of items. Most (but not all—as each person works somewhat differently) will help collectors navigate the general art world and have a wide network of contacts in a variety of associated fields such as art insurance agents, attorneys, appraisers, and estate planners.

**High-end auctions warrant diligence.** *Caveat emptor* has long been a principle associated with buying anything at auction, but when it comes to high-value artwork, the novice needs to be particularly diligent. The pitfalls of buying at auction are numerous, and buyers should do a number of things to protect themselves and ensure quality in their purchases. An art adviser or appraiser can assist in navigating the auction system.

Items should always be inspected in person to fully understand the physical condition of the object, to review signatures, and to ensure that the property is indeed as the auction catalog presents it. Obviously, works of art can be different in person than they appear in a photograph.

The auction houses generally take a fee, or premium, from both seller and buyer, and the buyer's premiums can often be quite pricey at the higher end. This is important to remember because your winning bid is only the "hammer price—your buyer's premium will add anywhere from 10 percent to 25 percent to your winning bid. There may also be other fees associated, so be sure to read the fine print (literally in the back of the auction catalog) or ask a representative to address your specific questions.

Be sure to ask in advance for a condition report on the item you are planning to bid on because this can reveal previous repairs or weaknesses affiliated with the physical condition of the work.

At higher-end auctions, provenance is usually listed in the auction catalogs, but not always. Be sure to ask about provenance if this is even a little unclear.

**Local auctions and estate sales usually feature reasonable prices.** These types of sales are often good

places to buy both originals and multiples at the lower end of the price spectrum. Original paintings by lesser-known artists and students and out-of-trend items can often be found for reasonable prices. Here, buyers are looking to acquire out of pleasure rather than for investment.

A buyer's premium will usually be added at any auction; but at an estate or tag sale, the price is usually marked—and often negotiable. However, be aware that sales are generally final.

As with the higher-end venues, ask if you have a question about condition or provenance—good vendors should be willing to tell you what they know, but many times information is scarce.

### What to Expect

Property should be presented with a clear understanding of what the item is and where it came from. For example, a wall label or informational sheet accompanying a large-scale handmade silkscreen by the contemporary artist Chuck Close might read as follows:

Chuck Close (American, b. 1940)	<i>(name of the artist, nationality, date(s) birth –death)</i>
<i>Self-Portrait, 2000</i>	<i>(title of the work and date of its creation)</i>
Color silkscreen, 63/80	<i>(media, specific number in any edition)</i>
65 ½ x 54 inches	<i>(physical dimensions)</i>
signed and dated, lower right	<i>(notation of artist's signature)</i>
Provenance: Private collection	<i>(a detailed history from the date of creation forward)</i>

In addition to provenance information, a work of art with age and history should come with bibliographical information in the form of an *Exhibition History*. This will note where the piece has been publicly exhibited and when, including the exhibition title and reference to any accompanying publications or catalogues or scholars involved. Bibliographical information should also list where the work has been discussed or pictured in a book or periodical.

If the artist is very established and notable, there is often a definitive reference book called a *Catalogue Raisonné*, which is a complete listing of every work of art created by, and attributed to,

the artist. At the highest ends of the markets, a work of art must be included in the artist's *Catalogue Raisonné* to be accepted as authentic. If such a publication does not yet exist but is in progress, a letter from the scholar of record will serve as a stand-in.

Dealers should also have available for prospective buyers a complete CV or biography of the artist. Any CV should include the following:

- The artist's full name, nationality, and year of birth (and death, if applicable). The only exception to this might be in the case of a living artist when the year of birth may not be critical for identification purposes.
- The artist's credentials, including where the artist was formally trained or studied; degrees obtained, such as a B.A. and M.A. or M.B.A.; and a list of exhibitions, awards, notable lifetime events, important stylistic associations, and public collections to which the artist's work belongs.

### **What to Avoid**

Buying fine art is an art in itself. However, purchasers can maximize that talent by being aware of a number of warning signs.

**Avoid the lure of a "deal."** Sales of art should be based on quality rather than value. As in most situations, if the purchase seems too good to be true, it probably is. There are few reasons why art should be "on sale" or marked down in some way. Exceptions to the general rule are situations when an artist's work is selling rapidly, must be commissioned, or is otherwise graced with a factor of rarity.

Discounts, on the other hand, are entirely possible, and most dealers will offer something when asked.

**Avoid ready-made appraisals.** Avoid any dealers or arrangements promising instant return on investment or sales offers that are already accompanied by "appraisals." The Uniform Standards of Professional Appraisal Practice (USPAP) no longer recognizes appraisals offered by the seller of a work of art.

**Avoid mistaking marketing materials for informational materials.** Avoid artwork accompanied by marketing materials, as opposed to informational materials. Informational materials include factual biographical material on the artist and the object and its process of creation. Marketing materials include nonfactual, subjective descriptions of the artist, object, and process. When glamour head shots of the artist and his or her large flourishing signature take center stage, this is evidence of more "sizzle than steak." Featuring the artist over the art is particularly troubling when looking at the work of living artists. Heavy marketing efforts featuring the artist are a sign of an overly aggressive

primary market, likely not supported by a secondary market for resale of the item.

### **Avoid common mistakes in the limited-edition**

**market.** The term *limited edition* should be applied to editions that are truly created in small numbers and that are truly handmade. While the term can be subjective, *limited edition* should be assigned only to items made in an edition of 100 or less. The final product should also be handmade rather than machine made. Some artists work with master printmakers to make prints because the craft is highly complex, and that is acceptable. But avoid objects made in mass quantities and then finished (embellished) by another artist.

When buying limited editions or multiples (i.e., prints, photographs, bronze casts, etc.), avoid overly stratified pricing structures. When a small, handmade limited edition is selling quickly, buyers should expect prices to rise in response. However, buyers must be aware of gimmicks. For example, different price points should not be assigned for artist's signatures "infused with 23-karat gold" or to canvases painted upside down in front of a large audience. These stunts are frequently used to lure buyers just starting to collect. They do not help the long-term value of their purchase.

### **Avoid authorized editions if you're in the market for**

**fine art.** Recognize artists who have a market history of muddled attributions and mixed quality. (Note: This may be not be the fault of the artists themselves.) These artists include Marc Chagall, Salvador Dalí, Henri Matisse, Joan Miro, Pablo Picasso, Rembrandt van Rijn, and others. While these artists are major European masters, what is frequently for sale by these artists at galleries located in tourist towns, on cruise ships, and at auctions are not handmade or original artworks; instead, they are later editions, sometimes posthumously produced with the consent of a family member now in control of an artist's estate. These are often referred to as *authorized editions* and have little relationship to what was produced by the artists' own hands during their lifetime.

## **Conclusion**

Collecting fine art can be extremely rewarding in many ways. It plays a role in personal growth, and it can be a good investment down the road for your family.

A little education and a trusted adviser can help you avoid overpaying or buying something with unwelcome baggage attached

to it. A good resource to find art appraisers (and appraisers who are also advisers) is the [Appraisers Association of America](#), established in 1949, which has a membership of over 700 independent appraisers in 100 different areas of specialization.

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