

BE SMART WHEN BUYING ART

BY JOEL S. LEVER

The children are gone, the college tuitions a thing of the past and many empty nesters turn their attention and “suddenly-available” extra resources to a different love – fine art, for either investment purposes, pure pleasure or both.

Fine art has magical powers ... it can decorate your walls and your life, all at the same time.

As a collector myself, as well as an attorney experienced in the legal and business aspects of purchasing, owning, and selling fine art, I know the unique pleasure it can bring.

But I also know if its acquisition isn't handled properly, it can bring something far less welcome... buyers' remorse, or “the insecurity in the purchase.”

The power of fine art is such that it can transform otherwise prudent and sophisticated purchasers into emotional and illogical sorts, frequently with unfortunate consequences.

So how does one avoid that? Simple... art should be purchased with the same set of disciplines as any asset class. If you wouldn't buy a home without legal representation, an assessment of value, an inspection and a title search -

then why do so with investment-quality art?

Here are three areas that hold potential risk for the buyer: the artwork's value, authenticity and ownership.

To properly protect your purchase, enlist expert help before you make your purchase. You need an appraiser or advisor familiar with the particular piece being purchased to value and verify the authenticity and condition of the art and an attorney who practices art law to review a sales transaction. It adds extra steps and some expense, but will protect your purchase, and let you sleep at night.

The first concern is determining the right price for the work. If purchased through auction there will be an “estimated value.” In setting the estimate, motivations of the auction house vary but rarely favor the purchaser. The current owner of the art, known as the consignee, has estimated the value of the artwork and will consign it to the auction house that most closely suggests the “optimistic” price or exceeds it. If you are interested in a particular work, ask an appraiser to appraise it in advance of an auction.

There is also the question of determining if the work is authentic. Even reputable galleries and auction houses can be victims of deception and, in turn, can unknowingly sell fraudulent works of art. Many unsuspecting buyers think they are protected because, as in the case of most of the best-known auction houses, a warranty of authenticity is

offered. But read the fine print. Auction houses generally limit their warranty to only five years. In cases of investment art, it is advisable to research authenticity of ownership even after it is purchased at auction, while the warranty is still in effect. One other thing to consider: the warranty from most auction houses is in effect only while you own the artwork. It does not extend to a new owner if you sell it or gift it to a child.

Although most people know there can be a risk of purchasing a forgery, there is also a risk that the work has a lien against its ownership. Like other high-value assets, investment-grade art can be used as collateral for loans. In cases of bankruptcy, trustees might try to reclaim pieces of art. While homebuyers protect themselves by purchasing title insurance, such insurance is still rare in the art world.

Lastly, be disciplined, particularly at an auction. Buyers can easily get caught up in the excitement of the crowd and the moment. In such a casino-like atmosphere, buyers are prone to spend more than they should.

In the final analysis, it's pretty simple. Acquire fine art with your head, and you can love it with all your heart.

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