

TIPS FOR WOULD-BE ART INVESTORS

Knowing the risks when investing in art is important for buyers at all levels, says **Helen Conybear Williams**, a Counsel specializing in international disputes at **Haynes and Boone CDG, LLP**

Finding a piece of artwork or a collectible that you enjoy is only one side of the purchase process as it is important to ensure that the purchase is safe and without risk so that the financial investment you are going to make in the artwork is secure. There may be traps for the unwary.

PROVENANCE

When buying art, it is important to ensure that the object has demonstrable record of ownership, or provenance. Establishing the ownership history can sometimes be problematic especially with historical art and artifacts as documentary evidence is not always available. Are there gaps in the collecting history? Is the title at risk because it might have been stolen or looted? These can be important questions as there are many infamous cases of stolen art and still many claims arising out of Second World War looting.

ATTRIBUTION

Ascribing a work to a named artist can be fraught with difficulties. The art world uses a range of terms to attribute artworks to an artist. These are commonly 'painted by,' 'by the hand of,' 'studio of,' 'circle of,' 'style of,' 'copy of,' which describe by different degrees the certainty that a work is by the artist. It is important to understand what each attribution means, as it goes hand in hand with an artwork's value, unless you are expert enough in such matters to bet against the market.

AUTHENTICITY

Artists often sell through authorized galleries appointed to represent them and other specialist galleries are reputed for their knowledge and experience of



certain painters and genres. However, there are many notorious cases of modern forgeries of old masters as well as highly collectible 20th century artists. Even some of the world's top auction houses have been caught out by very sophisticated art forgeries and faced expensive legal cases as a result. Has the work been authenticated by a recognized expert or by one of the committees that deal with certain artists? If not, can scientific techniques solve previously unanswered questions?

STREET ART

Tempted to buy street art such as a Banksy? Anonymity is a code of the street art scene, so attribution may be especially difficult to establish although these days some of the better-known street artists are represented by authorized galleries. If the street art has been removed from its original location, a provenance check should ensure the transfer of good title from the owner of the property in case the removal was illegal. There have been reported cases where works of famous street artists like Banksy and Stik have been stolen from their original locations and later appeared in auctions or galleries.

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PROTECTING YOURSELF

A purchase of art for investment or the aesthetic pleasure it gives can be an exhilarating experience for a first-time buyer as well as the more experienced collector, but if this unexpectedly turns sour, as the art world has a legacy of oral agreements, resolving disputes may be unpredictable.

It is important to consider having a purchase agreement or a bill of sale with warranties and representations about title to the property and with sufficient guarantees to obtain a refund if a piece is proved to be a forgery. For some investors, maintaining confidentiality when looking to purchase exceptionally high value works may also be an important consideration. Additional vigilance in checking every stage of provenance should be carried out including with available online data bases of items at risk of illegal trafficking to ensure that title is not at risk of claims in future.

Whether you are looking at an old master, a contemporary or emerging artist do your market intelligence. If you are new to buying art don't forget that it is important to buy what you like, because not all art increases in value. ■