



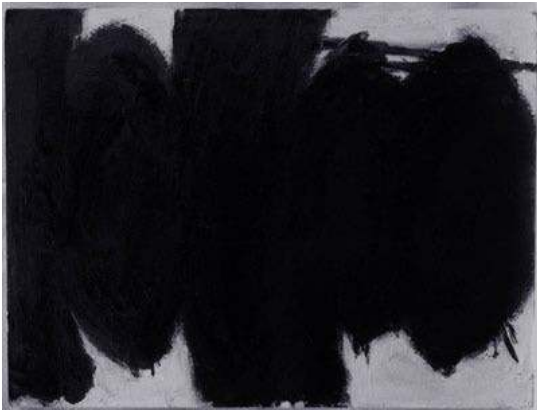
## SOURCING THE RIGHT EXPERT

By Giovana Edid and Federico León de la Vega

There are numerous complications that arise in the process of managing fine art. Without the right expertise, the day-to-day management of a diversified art portfolio can likely face numerous risks related to art investing.<sup>1</sup> Just as investors will involve lawyers and advisers to carry out a due diligence previously to performing significant investments, there is a necessity of similar rigour in art management. This article will expand on the rising value of the art expert in order to avoid the potential pitfalls of expensive litigation and reputational damage.

Seeking an expert opinion on an artwork may seem overwhelming to some and unnecessary to others. Experts involved may include not just the collector, who may have purchased the artwork, or the collection curator, but also the accountant, trust company manager, insurance broker, private banker and other professionals that may be advising the collector on investing, accounting, taxation, estate planning, trust, wealth transfer and financial matters.

As the market grows, with new collectors and advisers alike, it is all the more important to know whom you are dealing with. The level of scrutiny required in selecting an expert will depend on



A Robert Motherwell "Elegy" painting that was on litigation in The Knoedler case.

his reputation and trust. True standing as an expert may only be gained after years of a successful career and favorable advice. Nevertheless, a vintage trade record is not synonymous with being right. The opposite is also true, as even the most renowned experts have committed serious mistakes. After 165 years, The Knoedler Gallery, one of the oldest and most prestigious art galleries in New York closed its doors in November 2011 after facing several lawsuits by various unhappy buyers claiming fraud behind the sale of at least 20 (and perhaps more)

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<sup>1</sup> To learn more about these risks, see: Edid, Giovana, and Federico León de la Vega. "Managing Art Investment Risks." *Artemundi*. 15 July 2015. Web. 23 July 2015. <http://artemundiglobalfund.com/wp-content/uploads/2012/08/Investment-Risks.pdf>.

paintings that appear to be the work of such well-known artists as Willem de Kooning, Franz Kline, Robert Motherwell, Barnett Newman, Jackson Pollock, Mark Rothko and Clyfford Still.<sup>2</sup> “The works allegedly came from a “private collection” which had been inherited from a collector who purchased the works directly from the artists’ studios with the help of an agent. The Knoedler Gallery refused to identify the owner who had demanded secrecy, though it assured that the identity of the “private collector” was known within the gallery.<sup>3</sup> While the impact of the Knoedler scandal will likely still have repercussions on the New York art market for years to come, it highlights that the best art experts and top art advisers, dealers, auction houses, museums and collectors can be duped without exclusion.

Another risk when sourcing the right expert may exist in relying on incorrect conjectures. It is extremely important to check the quality of the opinions given and consider whether it is worth obtaining independent views. More time is perhaps to be spent in acquiring specialized knowledge on fine art investments than in traditional financial investments. There have been several cases where buyers relied on the opinions of auction houses without seeking further expert evidence. Auction houses and dealers include extensive terms and conditions to protect them against negligence claims and to limit refunds. In *Richard Drake vs Thomas Agnew and Sons*, the Texan businessman who was building his own museum to house his art collection lost a high court action against the famous dealer’s firm concerning a “Van Dyck” painting. Unfortunately the millionaire collector had bought a portrait of James Stuart, Duke of Lennox, as a genuine from the dealer and paid £1.5m for it. There was no refund because the judge found that it was Mr Drake's agent, not Agnew's, who persuaded him that it was a genuine Van Dyck. Drake lost every pound of his investment.<sup>4</sup>



Van Dyck's “James Stuart, Duke of Lennox”.

<sup>2</sup> Grant, Daniel. "Reading The Tea Leaves in The Knoedler Mess." *Artnet*. 30 Nov. 2011. Web. 23 June 2015. <http://www.artnet.com/magazine/features/grant/the-knoedler-mess-4-2-12.asp>.

<sup>3</sup> Cahil, John. "An Update on the Knoedler Gallery Lawsuits." *Sotheby's*. 4 May 2014. Web. 23 July 2015. <http://www.sothebys.com/en/news-video/blogs/specials/art-and-law/2014/06/an-update-on-the-knoedler-gallery-lawsuits.html>.

<sup>4</sup> For further information about this case see: Kennedy, Maev. "Texan Collector Fails to Get Money Back for 'Van Dyck'" *The Guardian*. 9 Mar. 2002. Web. 23 July 2015. <http://www.theguardian.com/uk/2002/mar/09/world.maevkennedy>.



Yet another aspect where problems arise in sourcing the right expert involves due diligence not being properly undertaken. One can end up with an artwork that does not belong legally to the potential seller. Checking the Art Loss Register to find out whether an artwork has been stolen or is subject to a claim may not be enough and there may take further historical research to be satisfied with the provenance.<sup>5</sup> In 2014, major headlines worldwide were focused on the discovery of approximately 1,400 artworks that belonged to the dealer Hildebrand Gurlitt and were concealed in the Munich apartment of his son.<sup>6</sup> The Gurlitt case revealed the secret market for Nazi-looted art and highlighted the potential restitution issues that can arise over art lost in the Nazi period.

These cases show that the right expert can make a difference. What should be clear is that, when the stakes are high, there is an even greater need for expert opinions and sourcing the right experts may represent a small price to pay for potential protection against future contingencies, losses or legal claims. Artemundi has working relationships with the world's leading experts in all sectors of the fine art market, offering a one-stop-shop solution for family offices, collectors and their private advisors. A professional art investment manager, Artemundi covers a wide array of expertise required when taking care of art as an asset class.

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<sup>5</sup> The Art Loss Register is the world's largest private online database of lost and stolen art, antiques and collectables. Its range of services includes item registration, search and recovery services to collectors, the art trade, insurers and worldwide law enforcement agencies. <http://www.artloss.com/>

<sup>6</sup> For further information about this case see: Petropoulos, Jonathan. "Inside The Secret Market for Nazi-looted Art." *Art News*. 29 Jan. 2014. Web. 23 July 2015. <http://www.artnews.com/2014/01/29/inside-the-secret-market-for-nazi-looted-art/>

