

Selling Art - A Brief Guide

Advantages (✓) and potential problems (✗) with different avenues for selling your art.

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PRIVATE SALE BY OWNER

- ✓ Control over terms. Avoid expense and “downside” potential of auction.
- ✓ If piece is not sold, not “burned” as badly as failing to sell at auction.
- ✓ Fewer warranties, usually just warranty of title. Less documentation of sale.
- ✓ Buyers more likely to be collectors, willing to pay “full retail.”
- ✗ Owner must either research market or pay for independent appraisal.
- ✗ Lack of access to buyers.
- ✗ Owner may be tempted to make representations beyond actual expertise or knowledge, which could be enforceable if made recklessly or knowing they are not true.
- ✗ Cost of shipping, insuring and storing work to be viewed by potential buyers

IMPORTANT NOTE: With any avenue of selling the work, the Seller should either have a recent condition report or be prepared to negotiate the terms and expenses of a viewing by the buyer’s expert who will prepare a condition report, or the expense of an auction house preparing a condition report. A seller will not have access to a condition report unless the seller has paid for it, worked out an agreement to share the expense (jointly hiring the expert), or the potential buyer otherwise authorizes release of the condition report to the seller.

SALE THROUGH BROKER

- ✓ A broker is an individual not in the business of selling art, who assists in locating works of art or finding buyers. May provide important independent advice.
- ✓ May have access to important collectors.
- ✓ May be an expert and help authenticate and price the work. This is not the same as an independent appraisal. A professional appraiser should not offer to assist with the sale or purchase of a piece, nor offer to buy a work of art.
- ✗ The agreement between owner and broker is frequently not written, leading to disputes. If no written agreement, also unclear who broker represents.
- ✗ Problems if the potential buyer does not know she is dealing with a broker.
- ✗ Terms of a broker agreement may create conflicts of interest with the owner. For example, an agreement that the broker will retain any amount over a specific price is an incentive for a broker to “overprice” and “overhype” the work.
- ✗ The broker may make representations or promises beyond his authority which are binding on the owner.
- ✗ Cost of shipping, insuring and storing work to be viewed by potential buyers
- ✗ The owner’s broker may not be in contact with the potential buyer, but with another broker. If there is more than one broker involved, each may increase the purchase price as the work is “shopped around.” In some cases, the owner may be approached to buy her own piece. The reputation of a work can be damaged if offered by too many individuals in the “chain.”

Warning Signs: Broker takes a long time to obtain offers or get responses to Owner’s counter-offers. All potential buyers wish to remain anonymous. Broker requests large number of copies of photographs or slides of work. There are many viewings.

GALLERY CONSIGNMENT

- ✓ A gallery should be able to offer assistance with authenticating and valuing piece.
- ✓ May be specialist in a type or style of art, with established customers and a regional or national reputation.
- ✓ A gallery's warranty or certificate of authenticity can enhance the value of a piece.
- ✓ Galleries usually do not pass on cost of doing business to the owner, or charge costs to the owner if the work is not sold.
- ✓ A gallery may be more flexible in resolving disputes with buyers after the sale, try to shield owner from disputes.
- ✗ A gallery may have conflict of interest or lack information on your piece, making an independent valuation useful.
- ✗ If work is on consignment, the consignment agreement should be in writing, and should be reviewed by an attorney. Owner should insist on recording a security interest or otherwise protecting art from dealer's creditors. A good consignment agreement can be very complicated.
- ✗ If work is sold to the gallery or dealer outright, they are buying it as inventory and will only pay "wholesale" price.
- ✗ If there is a dispute as to authenticity after the sale, a gallery's warranty to the buyer may not protect the owner as much as the independent warranty of an auction house.

SELLING AT AUCTION

- ✓ Major auction house has a wide range of "in-house" experts. They can authenticate and value nearly any type of art or object. The "auction estimate" may be offered at no cost, but this is not the same as an independent appraisal. An auction house may prepare a condition report.
- ✓ Sales by auction houses subject to more regulation than dealers in certain states and cities such as New York and New York City.
- ✓ Auctions can attract and reach a wider range of potential buyers and specialized collectors. Even regional auction houses publish catalogs on-line and accept on-line bids.
- ✓ A warranty of authenticity by a national or international auction house can enhance the value of a work and protect the owner if a dispute arises after the sale.
- ✓ Auctions can attract unexpected buying interest, establish a new, higher market value.
- ✗ Auction house controls all terms of consignment, unlikely to negotiate terms unless a piece is extremely valuable.
- ✗ Owner pays for expenses of sale, such as catalog preparation, insurance, shipping both ways, even if piece does not sell. A substantial number of items do not sell at auctions.
- ✗ Owner pays commission if work does sell, may pay service charge if item does not sell.
- ✗ The value of a work of art may be diminished if it does not sell at auction.
- ✗ Buyers at auction may be dealers, who will bid only "wholesale" price.
- ✗ Risk that sale is adversely affected by extraneous factors such as the other pieces being offered that day, the position of a work in the sale, a small number of bidders or the absence one particular collector.

