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## INSURING ART By Ingrid Sapona

*If the last time you thought about art insurance – or maybe the only time – was when you watched The Thomas Crown Affair, then it's time you focus on it again. This Trends Paper discusses insurance issues related to art owned by individuals. It does not cover issues related to insuring corporate-owned art, or insurance issues related to art dealers, art galleries, museums, or exhibitions.*

*The reasons people collect art is as diverse as the types of art collected. Love of art and artists is certainly a significant motivating factor for many collectors, but so is the investment value of art. "In times of financial uncertainty, more people have looked at art as an asset class that they'd like to be in because the art market is not subject to extreme fluctuations and hence tends to be less volatile. As a result, an art collector can diversify an investment portfolio, with a stable source of liquidity, whilst the collector also has beautiful objects to admire," says Ann-Louise Seago, Vice-President and Senior Fine Art Underwriter at AXA ART in Canada. Proof of the investment value of art can be found in the fact that banks accept art as loan collateral.<sup>1</sup>*

### When to Consider Insuring Art

Without getting into the philosophical question of "what is art" or whether particular objects are art – when talking about insuring art, the first issue to consider is what types of objects are we talking about. For purposes of this paper, the definition of art is quite broad: it includes jewelry, china, ceramics, vintage cars, musical instruments, paintings, drawings, photographs, textiles, sculptures, rare stamps, coins, books and manuscripts, sports memorabilia, antiques, and so on. Basically anything that can be bought or sold at auction<sup>2</sup> including, according to Seago, emerging collectibles such as a collection of Transformer action figures (yes, the toys your kids probably play with).<sup>3</sup>

So, if a person owns items that fall into this broad category, the next question is whether they should have insurance coverage for it. The answer to that question is not solely dependent on the value or the type of art a person owns, says Melanie Wilcox, Assistant Vice-President and Chubb Canadian Zone Marketing Manager. Wilcox says, "Collectors are passionate about their artwork, and in most cases, want to protect it from any harm."

Seago notes there are three traditional reasons people insure their collections: to protect their investment, if the items have a sentimental value, and if the items have cultural heritage value.

<sup>1</sup> <http://www.aristitle.com/content.php?6>

<sup>2</sup> For those interested in the myriad of things people collect, Seago suggests going to the websites of major auction houses like Christie's and Sotheby's and checking out their specialist department web pages.

<sup>3</sup> Seago notes that when we're talking about collections of toys – like Transformers – we're not talking about those your kids have played with. The kinds that are parts of collections are kept in pristine condition in original boxes and in an environment that is conducive to their safe keeping.

### **Coverage under Homeowners vs. Specialty Insurance**

Art can be covered under a homeowners' policy as contents or individual items can be listed in a separate rider to the policy. Alternatively, art can be insured under a separate, specialty policy. Obviously the choice is up to the individual, but it is important that the insured makes an informed choice. Many people believe, for example, that so long as they insure their contents under their homeowners policy to a high amount, their art is sufficiently covered. What they don't consider is that there is often a per-item limit for valuables included in contents – and the limits can be quite low (for example \$2,000). And, aside from any per-item payout limit, Wilcox points out that insureds can underestimate the total value of their contents, and once art is included as part of the total contents value, the contents policy limit may not provide sufficient coverage.

As well, people often are not aware that the perils covered under a typical homeowners policy do not cover all the risks related to artwork. "As with any insurance, the first place to start is to consider the perils covered," says Chubb's Wilcox. "Art owners should look for broad form coverage. While the types of perils a typical homeowners policy covers – things like fire and theft – are important, there are perils unique to art that homeowners policies don't typically cover. For example, at Chubb, breakage of fragile articles is excluded from our contents policy, but it is covered under our Valuable Articles Policy, which provides broader coverage for fine art, jewellery, collectibles, stamps, coins, books, furs, cameras, antiques and wine," she says.

Seago agrees, noting, "Accidental damage is by far the biggest risk with art, which is why the insured should look for policy wording that provides you with coverage on an 'All Risks of Physical Loss or Damage' basis – subject, of course, to limited exclusions. You simply won't get that broad coverage in a homeowners policy."

### **Unique Nature of Art Requires Special Coverage**

In weighing whether to rely on a homeowners policy or take out separate art insurance, taking into account the limitations of the homeowners policy is only half the analysis. Someone who owns art should consider features of an art insurance policy that are specifically tailored to the risks inherent in owning art (like coverage for breakage) and the activities of art collectors.

As noted, for maximum protection, broad form coverage is important. Because there are so many different types of art and collectables, Seago stresses that it's important that the insured understand exactly what types of objects are covered by a policy. "Often people have different types of art in their collection so, rather than specify different genres, clients should look for coverage wording like: 'objects of art of every nature and description'. That gives them much greater coverage and peace of mind, as well as leeway, should they own or buy different types of artwork."

### **Art Often Gets Moved Around**

A good example of a unique aspect of art collecting that art insurance policies are designed to accommodate is the fact that pieces of art are often moved. "Art is meant to travel," says Seago. Collectors often move pieces between homes that they own or to and from off-site storage, or they may send pieces off to museums and galleries for shows and exhibitions, or to auction houses, and so on. Art insurers understand this and so art insurance policies allow for this by providing world-wide coverage

And, given the fact that art is subject to being moved, collectors should look for coverage that Seago describes as nail-to-nail, hook-to-hook, and wall-to-wall. This means that the art is covered from the moment it is taken off the hook on one wall to the moment it is affixed to a nail or hook on another wall, including while in transit.

### **Other Policy Features of Interest to Collectors**

Another unique characteristic of art owners is that they buy and sell quite regularly and, thanks to on-line auctions and the like, such activities can take place at all hours. As such, they should look for policies that provide coverage for acquisitions the moment they make a purchase. Chubb, for example, offers Newly Acquired coverage, which means that if an existing Valuable Articles policyholder acquires a new item and they have an existing schedule of fine arts insured with Chubb, coverage is automatically offered for the new item for up to 90 days and for up to 25% of the existing scheduled value even before the insured reports the acquisition to the company.

AXA ART policies have a similar “newly acquired” clause. As well, an additional coverage is available for artwork that could be the property of others but that is in the insured’s care, custody, and control. This additional coverage, which increases the limits of insurance, covers property that is of the same type of work that the insured owns and is for up to 25% of the policy limit.

Because some collectors commission works of art from artists directly, Chubb’s Valuable Articles Policy offers works in progress coverage, which covers losses to commissioned works damaged by covered perils before the work has been completed.

Recognizing that it’s extremely important for collectors to keep detailed inventory records, including information that can help substantiate provenance and value, AXA ART, for example, offers additional coverage (which increases the policy’s limits of insurance) for things like the cost of preparing an inventory in the event of a covered loss up to \$10,000 for any one loss. As well, it covers the actual cash value of losses related to the collector’s art reference library, including books, catalogues, and computer media up to an annual limit of \$50,000. And, though loss due to, or resulting from, repair, restoration or retouching is normally specifically excluded under its policies, AXA ART does make available coverage enhancement that covers up to \$10,000 for repairs and restorations so long as the insured seeks preapproval prior to the work being done.

Another benefit to using a specialty insurer is that they have experts on staff who can advise on a myriad of concerns: everything from advice regarding storing art, to finding qualified shippers, appraisers, and dealers, as well as advice on collection management, such as information and advice on temperature, humidity, and light control. Specialty art insurers see preserving and protecting art as part of their mandate, not to mention the fact that their efforts help reduce possible loss.

### **Types of Coverage: Blanket, Scheduled, or a Combination**

There are three ways coverage under a separate art or valuable collection policy can be written: all items can be separately itemized (or scheduled), you can have blanket coverage for the collection, or a combination of scheduling and blanket coverage. Which type of coverage applies will depend on the circumstances and the insurer, but there are general considerations that clients should be made aware of.

Itemized coverage requires the insured to separately list each item. While doing this can be time consuming, the benefit is that scheduling allows the insured to determine the value of each item. Indeed, many art collectors are so passionate about their art that they don’t find the prospect of itemizing onerous; for them, keeping track of what they own is part of the pleasure of collecting.

Blanket coverage is often used when someone has many pieces whose individual values might be relatively small, but whose combined value represents a substantial investment. With this coverage items are not separately listed, nor must they be separately appraised. The trade-off is that, regardless of the total amount of the blanket coverage, there is usually a per-item

maximum that the policy will pay. AXA ART, for example, rarely offers blanket only policies because values and details of the collection are not kept up-to-date and the result is that the insured is not kept fully indemnified in the event of a loss.

Policies that combine scheduling of particular items and blanket coverage offers collectors flexibility because they are completely covered for all pieces they choose to separately list, but their less expensive pieces are also protected under the blanket coverage, to the extent of the maximum per-item limit.

### **Loss settlement options**

Various loss settlement options are available under art insurance policies. For example, Chubb's Valuable Articles policy is based on an agreed value settlement. When clients agree to insure their fine art for a specified amount, they know exactly what the item is insured for. According to Wilcox, the agreed value can be revisited at any time if values need to be adjusted and Chubb requires appraisals only when a fine art item is \$250,000 or higher in value. Chubb's agreed value policy also provides 150% market value settlement coverage should the client choose to replace the item as a result of a covered loss.

One of the concerns with agreed value is that it does not take into account changes in the market. In a rising market, agreed value amounts could leave the collector at a disadvantage in the event of a loss. Though the potential down-side of the agreed value option are clear, according to Seago, "a surprising number of Canadian collectors insure for agreed value. Their rationale is basically, 'this is what I paid for the piece, and so if something happens, this is how much I want for it'."

AXA ART, for example, offers three loss settlement options:

- Agreed value
- Current Market Value up to 150%, with no requirement that the object be replaced, and
- Current Market Value with no percent cap.

In deciding which coverage to choose and comparing costs, clients should not assume that the rate applied depends on the loss settlement type. "All things being equal, our rates do not change depending on which loss settlement we provide, from a value perspective the rates we apply take into account the total value of the collection compared to the limit of insurance being requested. We match the premium to the limit, and so if we're insuring based on agreed value versus current market value, our exposure is different and the premium will reflect that," says Seago.

### **Appraisals and Appraisers**

Like any asset, the value of art fluctuates. But, unlike assets that are fungible and widely traded (like shares of public companies), artwork is unique and so establishing the value requires special knowledge and expertise. Appraisers are the specialists that help establish the value of art and collectables.

Art owners and insurers use appraisals to determine the appropriate amount of coverage and to establish the insurance value. Therefore, to ensure proper coverage, owners should make sure they engage qualified appraisers and that they have their pieces re-appraised periodically.

How often art should be reappraised depends on a few factors, the primary being how rapidly the value of that particular type of art is changing. The market for certain genres is fairly stable, with minimal fluctuation over five or even 10 year periods, while the market for some types of art (or artists) moves quite a lot. As well, the insurer may require updated appraisals at specific intervals or for certain objects. Most agree that at a minimum, appraisals should be done every three to five years.

“Under our Valuable Articles policy we don’t require appraisals for every scheduled piece, though we do require them for pieces valued at over \$250,000. However, we encourage clients to stay up-to-date with fine art values by maintaining current appraisals on file and through regularly checking their schedule values,” says Chubb’s Wilcox.

Because appraisals are so important when it comes to valuing art, using a qualified appraiser is of paramount importance. “The sad truth is that anyone can hold themselves out as an appraiser,” says Seago. “So when hiring one, it’s important to make sure they’re qualified and that they’re a specialist in the type of art being appraised. There are a number of different professional appraisers’ organizations that set standards and test and certify members: the International Society of Appraisers, the American Society of Appraisers, and the Appraisers Association of America. As well, you should make sure the appraiser writes the appraisal subject to the Uniform Standards of Professional Appraisal Practice, the USPAP. As art insurance specialists, we are familiar with different appraisers and can make recommendations regarding them.”

It is also very important that you tell the appraiser the purpose for the appraisal. For insurance purposes you want an appraisal for replacement value, not fair market value. (Fair market value appraisals are appropriate for other purposes, such as valuing art for estate or tax purposes.)

Chubb recommends that you ask for the appraiser’s CV and for references, which you should check.<sup>4</sup> If you have not used the appraiser before, consider asking for a sample appraisal to ensure it conforms to the USPAP. The appraisal report should contain the following, at a minimum, according to Chubb:

1. A statement of the purpose for the appraisal (for example, that the appraisal is for insurance purposes);
2. A sworn statement of the appraiser’s objectivity;
3. A full description and identification of the item(s) being appraised;
4. A firm statement of value – not a range or estimate;
5. The condition of the object(s) and the provenance;
6. Discussion about how the appraiser arrived at the value and supporting documentation; and
7. The appraiser’s signature

Also ask about the appraiser’s fee structure. Doing so avoids unpleasant surprises, but more importantly, you want to be sure the fee is not based on the appraised value. The fee should be based on an hourly or daily rate; it is considered unethical for an appraiser to base his or her fee on the value of the appraised item.<sup>5</sup> The appraiser should always be independent, which is why you should be wary of appraisals from art dealers and auction houses, as they could have a vested interest in the value.

### **Cost of Coverage**

Like all insurance, the cost is dependent on a variety of factors underwriters weigh. In the case of works of art, factors like the conditions under which items are displayed or stored, the nature and type of security and alarm systems in place, whether the owner lends pieces, and so on, all come into play. But, on balance, art insurance is surprisingly affordable. “A lot of people are surprised when they find out how much coverage they get for as little as a \$500 premium,” says Seago. “We don’t have a minimum amount we’ll insure but we do have a minimum premium of \$500 – but that can get you coverage of as much as \$350,000, assuming there are no issues with prior claims, the art isn’t in a particularly fragile state, and so on.”

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<sup>4</sup> [https://www.chubb.com/personal/tipsAndTools\\_Valuables.jsp#HiringAppraiser](https://www.chubb.com/personal/tipsAndTools_Valuables.jsp#HiringAppraiser)

<sup>5</sup> Id.

## Provenance and Title

Provenance is basically the history of ownership of a work of art.<sup>6</sup> Provenance should document all the names and dates of ownership of all previous owners, the details about the means by which the work was transferred each time it changed hands (for example, by private sale, auction, inheritance, etc.) and where the work was located at all times. Ideally, it also provides authentication, though people intent on creating forgeries of art will normally also falsify information aimed at establishing the provenance of the piece.

Potential purchasers should always inquire about a piece's provenance and should take steps to verify the information provided. For example, art exhibition and sale catalogues can be used to confirm information in a record of provenance, as well as dealers' marks and other inscriptions.<sup>7</sup> However, buyers should keep in mind that having rightful ownership is not settled by provenance alone.

Though challenges to ownership used to be quite rare, they have become more common and some high-profile disputes have certainly drawn attention to the fact that an owner's title can be challenged. The dispute regarding Egon Schiele's *Portrait of Wally* is an excellent example of such a dispute. In the late 1990s, an Austrian museum lent the painting to the Metropolitan Museum of Art for an exhibition. While in New York, the Austrian museum's ownership was challenged on the basis that the piece was, in effect, "stolen" during WWII from a Jewish art dealer who was forced to sell it to a Nazi art collector. The Austrian museum argued that it acquired the painting in good faith from the legitimate owner after the war. The 13 year legal battle<sup>8</sup> resulted in the Austrian museum paying U.S. \$19 million restitution to the Jewish art dealer's estate.

Nazi-looted art is not the only basis for challenges to title. Challenges can be founded on claims brought by countries that may deem the work cultural heritage, and there can be liens and encumbrances against the work. Indeed, according to Aris<sup>9</sup>, the only company that underwrites title insurance for fine art and collectables, about 75% of all title claims against art are liens and encumbrances for things like family and estate disputes, creditor's claims, and back taxes.<sup>10</sup>

Challenges to a collector's ownership are not covered under art insurance because such challenges are legal disputes, not physical losses. However, another specialty insurance product is available: art title protection insurance.<sup>11</sup> This insurance is intended as a way to manage ownership risk. Such policies generally pay the value of the work if it is surrendered, as well as the cost to defend against a claim.<sup>12</sup> Art title insurance does not, however, insure authenticity of the work or attribution of it to a particular artist.

Art title insurance is a one-time premium and it covers the property for the period the insured (and his or her heirs) owns the piece.<sup>13</sup> The cost is usually from about 1%-3% of the value of the insured work.<sup>14</sup>

<sup>6</sup> [http://www.ifar.org/provenance\\_guide.php](http://www.ifar.org/provenance_guide.php)

<sup>7</sup> Id.

<sup>8</sup> <http://www.theartnewspaper.com/articles/What-makes-the-Portrait-of-Wally-case-so-significant/26309>

<sup>9</sup> <http://www.aristitle.com/>

<sup>10</sup> [https://www.argolimited.com/media/3H606963B53D/docs/en\\_US/1427dc2749815b42d9e9ec0db6bc74b81d74e998/80WJUT3AI3PB/ARIS\\_Individual\\_Collectors\\_-\\_Product\\_Booklet.pdf](https://www.argolimited.com/media/3H606963B53D/docs/en_US/1427dc2749815b42d9e9ec0db6bc74b81d74e998/80WJUT3AI3PB/ARIS_Individual_Collectors_-_Product_Booklet.pdf)

<sup>11</sup> <http://www.aristitle.com/content.php?6>

<sup>12</sup> Id.

<sup>13</sup> [https://www.argolimited.com/media/3H606963B53D/docs/en\\_US/1427dc2749815b42d9e9ec0db6bc74b81d74e998/80WJUT3AI3PB/ARIS\\_Individual\\_Collectors\\_-\\_Product\\_Booklet.pdf](https://www.argolimited.com/media/3H606963B53D/docs/en_US/1427dc2749815b42d9e9ec0db6bc74b81d74e998/80WJUT3AI3PB/ARIS_Individual_Collectors_-_Product_Booklet.pdf)

<sup>14</sup> Id.

## Cataloguing Your Collection

Both for insurance and estate purposes, it's important to keep good records of the art you own. The more you know about your art, the more you appreciate it and the more likely you are to end up with the right insurance coverage. As well, paying attention to current conditions and trends in the art market can help you decide when to buy or when to sell.

Here is a checklist<sup>15</sup> of information art owners should maintain for each piece in their collection:

- Name of the artist/maker
- Date of birth/death of the artist/maker
- Title of the work
- Description of the subject matter
- Dimensions and materials/mediums used
- Description of how it is displayed (for example, if framed or mounted, what is the frame made of and who made it; how is it mounted, etc.)
- Condition of the artwork
- Distinguishing features/markings/inscriptions – note things like dealer's or collector's markings
- Date of purchase
- Their receipt
- Most recent appraisal report, as well as reports from earlier appraisals
- Certificates of authenticity
- Any paperwork provided by the seller
- Provenance
- Exhibition history
- Whether the work has been referred to in any catalogues, news stories, etc.
- Where the work is physically located (for example, on display in the owners principal residence, secondary home or cottage, in storage, on consignment to an auction house, on loan, etc.)
- Photos of the work from various angles/perspectives

It is also a good idea to keep a digital back-up of all catalogued information.

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<sup>15</sup> This information comes largely from AXA ART Collection Management Series; Collection Management: First Steps, by Vivian Ebersman, <http://www.axa-art.ca/artprotect/caring-for-collections/collection-management-checklist.html> and from WellsFargo Conversations Magazine: Documenting Your Artwork, Recording an artwork's history doubles the fun and helps protect your collection, by Rosemary Carstens, [https://conversations.wfmagazines.com/enjoy\\_life/fine\\_art\\_collecting/article/documenting\\_your\\_artwork/](https://conversations.wfmagazines.com/enjoy_life/fine_art_collecting/article/documenting_your_artwork/)

**Conclusion**

More and more people are buying art for pleasure and as investments. Insurance brokers should be in the habit of asking new and existing clients whose homeowners policy is up for renewal whether they have any artwork or collectables that they care about and should consider insuring. Many people end up with quite a lot of artwork before they realize just how large their collection is – and how large their exposure is if the art is not adequately insured. So, this really is a conversation you should have with clients every year.

If you find out a client has artwork or collectables, find out more about it: ask what type of art it is, what they think the value is, where they keep it, and so on. Discuss the type of protection afforded under a homeowners policy and the type of protection they would get under a separate valuable collection policy. Ask if they've ever thought about separately insuring the art and if not, why not. Chances are they never considered it because they have underestimated the amount they have invested in art, or they assume art insurance is only meant for the folks who own works by well-known artists like Kriehoff or member of the Group of Seven, or they think such insurance is prohibitively expensive. Brokers can help such clients by providing them with information that can help them make an informed decision about whether – and how – to insure their art.

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The CIP Society represents nearly 15,000 graduates of the Insurance Institute's Fellowship and Chartered Insurance Professional Programs. As the professionals' division of the Insurance Institute of Canada, the Society offers continuing professional development, information services, networking opportunities and recognition and promotion of the designations. This [ Emerging Trends and Issues ] paper has been developed to meet the informational needs of the Society's members. This paper and additional resource links are available in the 'Hot Topics' library of the CIP Society site at: [www.insuranceinstitute.ca/cipsociety](http://www.insuranceinstitute.ca/cipsociety)