PRIVATE CLIENT
GLOBAL ELITE

THE MONTH

SEPTEMBER 2022

ART AND LUXURY ASSETS

The Month is a monthly magazine with key takeaways and content driven by our Private Client Global Elite community.

We welcome ideas and contributions from members of our Global Elite Membership group. If you are interested to contribute please contact **Francesca Ffiske** (fffiske@alm.com)

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NOTE FROM THE EDITOR

Welcome to this month's edition of The Month, which will focus on Art and Luxury Assets.

This edition is great fun. We begin with a bit of an overview on luxury assets from Simon Graham at Lancaster Guernsey in **"Luxury - the state of having or enjoying desirable and expensive things".**

Gilead Cooper KC from Wilberforce Chambers then gives us insight into the litigious side of art and luxury assets in his piece **Art and Arbitration.**

We then turn to Willem-Joost de Gier from art advisory firm Cadell+Co, who gives us more information on the taxation side of art in his article '**Turning Off the Auto-Pilot.**

We then have a short in-the-spotlight interview with Michael Giraud of Standard Bank.

We then learn more about the bewildering world of NFTs with Chris Haywood of Charles Russell Speechlys who teaches us about how the wine market is evolving in **NFTs: minting the world's most expensive Champagne and safeguarding its investment.**

On a more musical note, David Wallace Wilson of Schellenberg Wittmer then delves into the world of **Rare Violins**.

Finally, Jonathan Morris of John Lamb Hill Oldridge gives us insight into **Keeping Art and Luxury Items in the Family.**

Thank you so much to everyone who has contributed to this edition, we hope you enjoy it.

Francesca Ffiske
Global Director, Private Client Global Elite

2022

3-4 October, Château Saint-Martin, Nice
Private Client Exchange France
Chaired by Beatrice Puoti (Burges Salmon) and Jérôme Barré (Yard Avocats)

7-8 November, Capella, Sentosa
Private Client Exchange Asia
Chaired by Nicholas Jacob (Forsters) and Vikna Rajah QC (Rajah & Tann Singapore)

17-19 November, Villa d'Este, Lake Como
International Private Client Forum
Chaired by Basil Zirinis (Sullivan & Cromwell) and Clare Maurice (Maurice Turnor Gardner)

30 November - 2 December, La Mamounia, Marrakech
Trusts & Estates Litigation Forum. International
Chaired by Tina Wüstemann (Bär & Karrer), Dakis Hagen KC (Serle Court) and Nicholas Holland (McDermott Will & Emery)

26 January 2023, London
Private Client Global Elite Celebratory Dinner

12-14 February, Banyan Tree Mayakoba, Mexico
Private Client Forum Americas

23-24 February 2023, Switzerland
Private Client Exchange Switzerland
Chaired by Tina Wüstemann (Bär & Karrer) and Werner Jahnel (LALIVE)

9 March 2023, London
International Women's Day Luncheon

The full Private Client Global Elite 2023 calendar will be in launched in October. Registration for our events will be available to members soon.

PRIVATE CLIENT FORUM AMERICAS 2023

REGISTRATION NOW OPEN ONLINE

OUR PRIVATE CLIENT FORUM AMERICAS WILL RETURN TO BANYAN TREE ON 12-14 FEBRUARY 2023

"Overall, one of the best conferences for content and quality that I have attended. "

"I can wholeheartedly say that the forum has been one of the highlights of my professional career to date and it will be an experience that I will cherish for years to come."

“LUXURY - THE STATE OF HAVING OR ENJOYING DESIRABLE AND EXPENSIVE THINGS”

Simon Graham, Lancaster Guernsey

In a world of increasing private wealth and sophisticated family structuring, the ownership of luxury assets such as superyachts, artwork, aircrafts, jewellery, or classic cars is becoming more common.
For some clients these assets are owned purely as a lifestyle choice; who wouldn’t want to cruise the Mediterranean in a superyacht or enjoy the convenience of a private plane? However, some clients see the long-term investment opportunities available in certain luxury asset classes and hold these assets to combine their passion with an element of diversification in part of their investment portfolios. It is important that luxury assets are managed with the correct ownership rationale in mind, ensuring for example that the plane is available whenever needed whilst also bringing in revenue through chartering when not required for personal use.

Therefore, careful consideration needs to be given to the structure in which the asset will be held, and this will be driven by the client’s objectives; asset protection, succession planning, tax efficiency. The design of the structure needs to take account of the client’s ongoing requirements and wishes as often, these conflict with the long-term objective of the structure.

An example of this would be where a client wishes to place an art collection into a trust to ensure the collection is kept together for the next generation but also wishes for the collection to be available for the enjoyment of the family or, indeed, to be lent to museums or galleries. Care must be taken in drafting the over-riding trust documentation to ensure that the objectives are not undermined, for example, by extensive use of reserved powers.

It is essential that a fiduciary and corporate services provider continues to build intimate relationships with international advisors and specialists to ensure that the most appropriate team is put together for each specific case and client. As an independent business this is something we pride ourselves on.

Whilst we have experience of dealing with all luxury asset types, we have chosen to focus on two particular types below – superyachts and artwork.

Superyachts

A superyacht is often associated with high-net-worth individuals and, in our experience, more frequently acquired for personal use, rather than its investment potential. However, the purchase or sale of a superyacht, including the supporting finance, is often complex given the level of due diligence involved and difficulties around values, whilst the ongoing management can be onerous from an administrative perspective.

We have been involved with a number of bespoke holding structures for clients often involving trust and holding companies, in isolation from the client's other affairs, in order to keep security and lending arrangements separate. There are a number of important management services to consider:

- Reviewing build contracts
- Ongoing management of building contractors
- Sourcing external finance
- Vessel registration
- Liaison with professional lawyers and advisors
- Corporate administration of the structure
- Facilitation of chartering
- Oversight of payroll services
- Mitigation of environmental impact

Artwork

Artwork has been a popular client passion and investment for many years. Whilst, as an investment it may not yield income in comparison to the charter of a superyacht or private aircraft, the capital appreciation can be significant, and the enjoyment during ownership is priceless. Most noticeably it is often seen to form part of a family's personality or identity, which must be preserved for future generations, long after the client's death. However, this is a specialist area with associated risks and complications; a quick "goggle" of the accusations made against art dealer, Yves Bouvier, provides a flavour of the potential scale of money and risks involved.

Long-term succession planning requires the appropriate tax-efficient structuring of ownership to ensure the asset is safeguarded for such future generations. Effective planning and custodianship will ultimately avoid loss of the asset through taxation, theft or even fraud.

The safeguarding of such an asset is relevant whether the artwork is held personally at the family home or alternatively forms part of a portfolio of artwork lent out to a gallery. If the latter, then careful consideration should be given in drafting the appropriate loan documentation to ensure this covers vital issues such as security, insurance, and reproduction rights.

The purchase or sale of artwork also requires due consideration, particularly in respect of an agreed valuation, whilst the ongoing management of the asset requires a "safe pair of hands", taking into consideration bespoke services such as the following:

- Obtaining and managing insurance
- Obtaining suitable valuations
- Accounting and reporting
- Identifying markets trends
- Sourcing external finance

As with all high net worth planning, clients get to "sleep easy" in the comfort that competent advice has been received from experienced professionals. As an independent fiduciary and corporate services provider, we are in a position to provide exactly that, ensuring the service is tailored to the precise needs of each particular client and asset held. ■

ART AND ARBITRATION

Gilead Cooper KC, Wilberforce Chambers

When I was young, I wanted to be rich and famous. I would still like to be rich. But fame is no longer alluring, and I cannot help noticing how much the very wealthy are prepared to pay for their privacy. This observation is nowhere more true than in the world of Art Law. Art attracts the press, and disputed art makes headlines. Whether the issue is the authenticity of a work (was "Salvator Mundi" painted by Leonardo?) or restitution (for example, Klimpt's "Woman in Gold", which was immortalised in a movie and is now on display in the Neue Gallery in New York), cases involving works of art are often in the newspapers. Yet so far as collectors are concerned, all publicity is nearly always bad publicity. They often prefer to bid anonymously at auctions, and many deals are struck privately. Furthermore, the market value of a work of art can be adversely affected by the merely allegation that it is not authentic, or that there is a question-mark over the owner's title, even if a hostile claim is unsuccessful in the courts: the market understands that the decision is only "on the balance of probabilities".

It is not surprising, therefore, that many cases involving works of art are litigated through arbitration or mediation rather than in the courts, which have become increasing reluctant to hold hearings in private or even to issue judgments in anonymised form: see MN v OP [2019] EWCA Civ 679.

As well as offering privacy, alternative dispute resolution enables the parties to choose someone with expert specialist knowledge of the art market and Art Law to act as arbitrator or mediator. In Accidia Foundation v Simon C. Dickinson Limited [2010] EWHC 3058 (Ch), the defendant dealer had been refused permission to call expert evidence on "common international art market practice". Vos J nevertheless decided that there was no custom or practice whereby art dealers agreed with principals or their agents for a return price on the basis that the dealer might sell the piece at any price without informing the principal or his agent of that ultimate price or of the level of commission the dealer thereby received after passing on only the return price. This result may have been perfectly correct, but the parties might understandably have preferred the question to have been decided by someone with inside knowledge of the art market.

That is not to say that an arbitrator may not also benefit from expert evidence on market practice. In a recent case (in which I acted as arbitrator) the dispute centred on what inferences could properly be drawn from the way in which the provenance of a painting had been described in the sale catalogue of a leading gallery. As well as presenting arguments based on the terms and conditions of the sale, the parties also relied on expert evidence as to whether there was a standard practice under which the gallery should have included its own ownership in the provenance list.

To meet the demand for arbitration on issues of Art Law, a specialist international court, the Court of Arbitration for Art ("CAfA") was set up in the Netherlands in 2018, under a joint initiative of the Netherlands Arbitration Institute and the Foundation Authentication in Art: https://www.cafa.world/cafa/. Its aims are "to promote arbitration and mediation and other lawful means to prevent, reduce and resolve disputes that arise in the wider art community." The CAfA offers lists of specialist arbitrators, arbitrators, and experts, as well as standard form arbitration clauses and Rules for arbitration or mediation.

Of course, there is no need to go through an arbitration body specialising in Art Law; the ICC or the LCIA might be just as convenient, and the parties are always free to choose an ad hoc arrangement of their own design. ■

ART AND TAX

Turning the Auto-Pilot Off

Willem-Joost de Gier, Cadell + Co

Offering art to the state in lieu of tax is standard practice in many countries. Especially in the UK where Acceptance in Lieu is a key tool for managing inheritance tax liabilities. The major auction houses have built specialist tax departments which enjoy very long-standing relationships with key law firms.

It's a familiar routine: a partner calls their usual expert who puts together a proposal and navigates the in-lieu process to completion. Tax mitigated, professional advice taken and auction house advisory fees earned. Another job done.

A perfectly reasonable assumption throughout is that major auction houses are much the same and so it's preferable to deal with someone you know. A Cadell case may make one revisit this assumption.

A very diligent lawyer acting as executor of a significant estate switched off the auto-pilot and asked us a very simple but effective question: "We have received this proposal from the tax department at Auction House A - is this a good deal and can you write a report to confirm this?" Our response to such a request is always the same: "Yes of course, as long as we can examine all the options first via a competitive tender process."

The reason we insist on looking at all options is that time and again we have shown the seemingly reasonable assumption that a single major auction house has all the insight and incentives required to maximise outcomes is almost invariably false. Not unexpectedly, our proposal was met with some hefty lobbying from Auction House A but eventually the Executors agreed to proceed. So how did the case unfold?

The work in question was an American Abstract Expressionist painting by a globally famous artist. The team at Auction House A dealing with this matter was based in London, their in-lieu valuation was c.$10m.

By this artist's standards, this was not a major work and was from a series that until very recently was not overly sought after. The market for this artist, not surprisingly, is in the US not London. We therefore engaged directly with the New York teams of all the major auction houses to deliver the competitive tender process. They immediately indicated that although historical transactions might confirm the in-lieu valuation, the current market for a work from this series was in fact exceptionally strong.

Auction House B offered to market the work privately at $16.5m with a fall-back auction guarantee (in the event no private buyer could be found at this level) of $12.6m. The US team at Auction House A countered their London colleagues and came back with a private sale target price of $18m and a fall-back guarantee of $14m.

The work finally sold privately for $17.1m –$7m more than if the process had been left on auto pilot.

The above case is not an outlier, it is actually routine.

The art market is imperfect, unregulated and riddled with often very subtle conflicts of interest which can be extremely costly to buyers and sellers who routinely rely on who they know rather than taking completely impartial advice.

Here are some recent examples:

- Art Work 1: Initial Sale Valuation $12m, Final sale price $25m
- Art Work 2: Initial Sale Valuation $5m, Final sale price $21m
- Art Work 3: Initial Sale Valuation $7m, Final sale price $16m

In the art market one cannot be too curious and sceptical - asking the right questions can yield remarkable outcomes on which durable client relationships are built. The first step is to switch off the autopilot. ■

IN THE SPOTLIGHT: MICHAEL GIRAUD
STANDARD BANK

How did you get into the private client sector?
Purely by coincidence, I wanted to work in marketing! I moved to Jersey with my girlfriend after university and when I applied for jobs, I was advised my options were pretty much restricted to working in the trust, accounting or banking industry. I had no desire of working for a bank or an accounting firm and so I joined a trust company. Ironically, I am now a qualified accountant running a trust company which is owned by a bank!

Who had the biggest influence on your career?
Professionally, I would have to say the directors I first worked for when I joined the trust industry, Tony Pitcher and Paul Bourke. They taught me to be a resolute but pragmatic trustee and to not be afraid to say no and push back when the situation called for it - trustees need to make decisions and they may not always be popular. They also helped me truly appreciate the very important role that a trustee plays in a family's estate and succession plan.

What is your proudest professional moment (s)?
Probably passing my accountancy exams within two years - at the time it felt like it allowed me to prove myself to my peers and vindicated the faith my seniors had shown in me. Another coming of age moment was my first solo client meeting, at this point I knew I was trusted and a valued member of the team.

What was your worst day at work?
One day which springs to mind is when I was quite junior and I had an irate Frenchman screaming down the phone to me for about 90 minutes (in French) demanding that I give him his money (with many expletives!). He was not a beneficiary.

What advice would you give a trainee?
Be patient and don't expect too much too soon, it's important to learn the basics first before you start making the big decisions. Experience counts for a lot and its only as you get older that you realise this. I would also advise people to not be shy to raise or query matters, we all have a voice and bring different experiences, points of view, skills and understandings to the table.

What do you think will be the most significant trend in your practice over the next 12 months?
Lots of people across different industries are talking about ESG. The performance of ESG minded portfolios is better than ever before and these managers now also have a proven track record. I can see more funds being allocated to these portfolios over the next 12 months. I also expect that trustees will receive increased queries in relation to digital assets so we need to try and find a way to deal with them as they could quite viably be included by increased numbers of portfolio managers to diversify a portfolio.

What is the most unusual or shocking request you've ever had from a client?
It was not a client but someone once wanted to settled US$100m in cash onto a trust - on behalf of another person. Its fair to say matters did not progress and that I was absolutely shocked that someone would consider even attempting such planning in what was the mid-2000s. Suffice to say, I had a long conversation with my compliance team after the meeting ....

What is the book you'd recommend to everyone?
Shoe Dog, Phil Knight

What song will never fail to get you on the dance floor?
Take you pick from Paradise City by Gn'R, Laid by James, Smells Like Teen Spirit by Nirvana.

NFTS

MINTING THE WORLD'S MOST EXPENSIVE CHAMPAGNE AND SAFEGUARDING ITS INVESTMENT

Chris Haywood, Charles Russell Speechlys

The value of wine as it was:
In 2018, a single bottle of Domaine de la Romanée-Conti's Romanée-Conti sold for $558,000 at auction in Sotheby's New York. Its vintage was 1945, which was something of a miracle year for both Pinot in Burgundy and for DRC. The bottle belonged to the collection of a local legend Robert Drouhin, who for many years ran Joseph Drouhin, one of the largest businesses in Burgundy.

Secondary market figures like these were a rarity at the time. But it made sense in the context of what was a perfect confluence of a rare and proven vintage, from a top tier producer, delivered to bidders with flawless provenance. At the time, the wine world was broadly agreed on what was needed to produce a record breaker: history, quality (in the bottle), provenance.

Champagne markets of old followed played largely by the same rules. In 2008, for example, two bottles of Dom Perignon's first rosé vintage (1959) were sold by Acker for just under $85,000 for the pair. Only 306 were produced by the House that year. The vintage pre-dated chemical farming and the somewhat bizarre practice of burying Parisian trash in the vineyards of Champagne. In other words, yet another perfectly understandable blockbuster.

The value of wine, as it is?
One might be excused, given all of the above, for thinking that the newly crowned "world's most expensive wine" must be a shipwrecked Falernian vintage (a favourite of the Romans), or perhaps an even rarer DRC release.

In fact the honour belongs to a 2017 magnum of Champagne: Avenue Foch's Magnum 2.5. The only bottle in existence sold on the primary market for c.$2.5m as an NFT (OpenSea link here). Technically, it is in fact the world's most expensive option to buy a wine. The owners do not necessarily have to do this and the NFT can be traded multiple time before anyone claims the bottle. We may see this figure increase; we may see it decrease.

Avenue Foch is not a well-known name in the wine world. It only came into existence this year, delivered to us by the creative forces behind Gout de Diamants, which is now the world's second most expensive bottle of wine at a paltry $1.2m. Brand figurehead, "luxury industry authority" Shammi Sinh, is neither a vineyard owner, nor a winemaker. Presumably then, the wine itself is sourced from a producer that makes appropriately expensive stuff?

Well, not exactly. Fortune reports that the juice in the bottle is made by Allouchery Bailly. This house was founded in the 50s and is based in Écueil – which unusually for a region specialising in Meunier (50% of all plantings in the Petite Montagne), is well known for its Pinot Noir plantings. It produces cuvée called Métronome in magnum format, which is blended in roughly the same proportions as

Magnum 2.5. 2017 was a reasonable vintage, but nothing special. In any event, if Magnum 2.5 is based on the same blend, then it is not a pure vintage release as it contains c.30% reserve wine (wine set aside to be added to blends to ensure consistency of house style over the years). How much would something like this sell for in the shops? Métronome retails at €85 or so including tax.

NFT factor
The impressive mark up can only be explained by how Magnum 2.5 was packaged and sold. Brand premium and significant decorative uplifts are a relatively recent development in record breaking Champagne markets (although, perhaps not in premium consumer markets at the $80-200 price point).

Armand De Brignac (famously owned by Jay Z), for example, draws criticism from conservative wine circles for deploying gold bottles as a means of conveying luxury to its customers (see Lyle Fass, quoted in Forbes calling it "the biggest rip-off in the history of wine"). Mr Sinh's own Gout de Diamants deployed the same strategy and lathered its packaging precious metals and crystals (Swarovski, not diamonds as the name suggests).

In the case of Magnum 2.5 the packaging is more nuanced, and this may explain the clear water between it and the sub $1m Armand de Brignac releases, and even Gout de Diamant. The bottle displays a unique artwork (packaged as part of the NFT) by the artist behind the Bored Ape Yacht Club.

BAYC NFTs are often valued in the millions. Currently the most expensive is #8817, at c.USD $3,408,000. Part of their value derives from the artwork that each NFT represents, part of it derives from being part of an exclusive an active club, which the NFT grants the owner access to. Interestingly here, Magnum 2.5 does not appear to give the purchasers access to the benefits of BAYC membership, which might suggest a reduction in value. However, the uniqueness of a physical artwork by this particular artist, represented by an NFT seems to have been enough for its two purchasers - Giovanni and Pierre Buno.

An NFT attached to a physical perishable like this presents significant investment and contractual risk to the Buno brothers. There is very little detail on OpenSea around the contracting mechanisms involved in the deal. The fact that Magnum 2.5 is an NFT option rather than the bottle per se does not wipe the need for the same degree of thoroughness to be applied to any future transactions involving any other equivalent wine acquisition. Failing this, there is a good chance that the bottle will either present an unpalatable risk to future buyers, or (worse perhaps) maderise/become tired/perish/get damaged. At this point, any discussions around whether or not Magnum 2.5 is worth $2.5m become a little redundant. The investment needs to be safeguarded.

Safeguarding the investment
Companies are bought and sold for less than this amount of money. Companies are less fragile and more of a measurable quantity in terms of value than bottles of Champagne. To properly ensure that an NFT option for a bottle such as this is a reasonable investment it seems like common sense to run through the following checklist, as a bare minimum:

- Due diligence on the NFT and the wine: investigate the vintage, historic pricing performance, farming, and winery practices of the producer should give some steer as to the likely quality of the wine itself. If the value of the artwork fluctuates, the value of the wine may at least hold. It is also worth investigating the NFT for any material smart contracting terms, details of previous owners and their connections with previous sellers (as a means of gauging whether or not fair value has been historically paid). It goes without saying that your wallet will need to be able to accommodate the NFT that you are acquiring.
- Storage: the seller should agree to store the wine at a location with appropriate security, temperature, humidity, and UV conditions – at the very least until such a time as the option is exercised by the buyer. Any subsequent purchaser of the option should also expect this.
- Warranties as to quality and indemnities: buying any wine involves a degree of risk and whilst it may be impossible to secure warranties to the effect that there are no flaws in the wine (anything with a cork in it bears some TCA risk), warranties in relation to its storage, transportation, handling, origin, tax status, title, and legal compliance with any applicable laws and regulations should be agreeable.

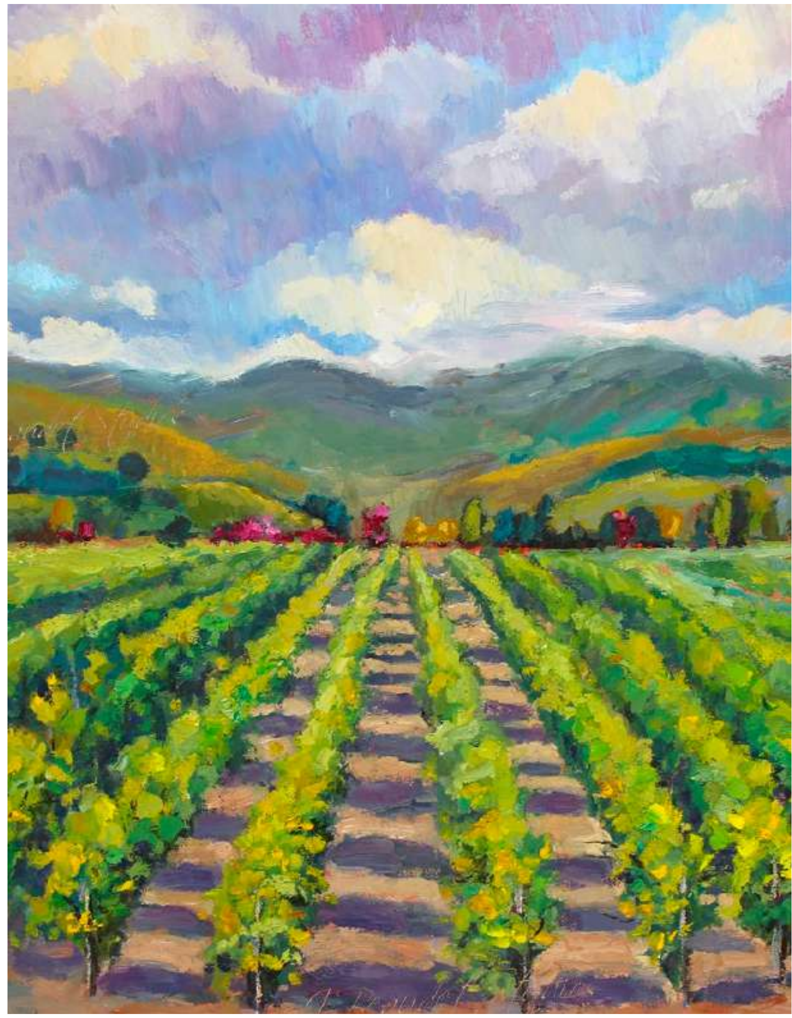
- Delivery: if the option is exercised, it is important that the parties are clear as to whose responsibility it is to deliver the wine, cover off any duties that may be payable (especially if it is leaving bond or crossing borders), select the delivery agent, and allocate damage risk. The goods are fragile, they require specialist handling, and serious consideration needs to be given to this process in advance.

- Notifications: Avenue Foch states "To claim the 1 of 1 physical bottle the current owner of the NFT must email contact@champagneavenuefoch.com", but what happens if they do not renew their domain? What happens if they do not monitor their email address? The brand has only been in existence for a few months and the option NFT may trade hands for decades. Is there any guarantee that whoever exercises the option will be able to get hold of the business in order to claim their Champagne?

- Insurance: in the event that anything above goes wrong, the new owner of the option/wine will want to know that there is a properly valued insurance figure that will become payable. Valuation is likely to be a point of contention with brokers. NFTs are not well understood, and in cases like these there may be a significant discrepancy between the valuation of the wine, and the price paid for it.

There are of course many other issues to consider when dealing in vintage wines and this list is intended as food for thought rather than chapter and verse.

It is never too late to undertake proper due diligence into an investment like this, and to secure a contract that properly sets out the responsibilities of the seller and the buyer. Even from the seller's side, it makes sense to present it as a well thought out, professional offering, with the potential for lasting value, and a contracting process that accommodates future option holders and owners. Without this, surely no self-respecting collector would take NFTs like Magnum 2.5 seriously? ■



RARE VIOLINS [ARE NFTS]

David Wallace Wilson, Schellenberg Wittmer

As the Private Client Global Elite community gathers on the shores of Lake Como in November, a visit to Cremona, especially its Museo del Violino, is a must. With its 140 "botteghe liutarie" (workshops specialising in the creation of string instruments), it is the only real centre of violin making in the world. UNESCO recognised "il saper fare liutario" of Cremona as part of the world's intangible cultural patrimony.

No wonder private clients are attracted to such unique instruments. Among the artist luthiers, 3 violin makers stand out: Antonio Stradivari, Bartolomeo Guarneri del Gesù and Giovanni Guadagnini. These masters crafted instruments during the 18th century that are now part of the global heritage. Of the approximately 1100 instruments that Stradivari built during his life, only an estimated 650 remain in the world – and fewer del Gesù. And only about a dozen Strads are embellished with decorations, such as the "Hellier" that Christie's auctioned in July.

In today's economy, where investments in stocks, bonds and hedge funds have been severely battered and inflation is making a strong return, investors are increasingly drawn to non-correlated alternative investments. And the discrete market for rare violins and cellos remains fluid and very healthy. Thus, the da Vinci, ex-Seidel was sold in June for $15.34 million after a lively bidding process.

Far from the danger of speculative bubbles, the most exceptional violins have seen their value rise with almost metronomic regularity. Thus, over the past twenty years, many instruments in the top tier category have increased in value 15% or more per annum, with virtually no downside volatility. These instruments also constitute a store of wealth, admittedly not as dense as diamond per carat, but far lighter and movable than gold bullion or large contemporary artworks.

The truly limited supply and constant demand ensures good prices anyway. The national cultural identity can further increase a violin's value. By contrast, instruments that have been retouched with a new varnish or include a non-original scroll (the violin's head) are considered inferior in value. Necks are also important because many were altered as 19th century composers composed music that demanded longer fingerboards.

Authenticity, condition and provenance obviously play a crucial role. The Hartley features one of the intriguing authenticities: this Strad was played on the Titanic as it sank in 1912 but was auctioned 101 years later. Indeed, it had been preserved in its near-waterproof leather case and recovered from Hartley's dead body, which very luckily floated upright in his cork and linen lifejacket!

As to condition, the Lady Blunt is one of two Stradivarius that remain in pristine condition. Crafted

during Stradivari's golden period (1700-1725) and named after Lord Byron's granddaughter, it has hardly been played, has not been altered or restored and one says it was last played in 1971 by Yehudi Menuhin. This exceptional state of preservation explains why it was auctioned for $15.9 million in 2011.

The appearance of specific databases and new technological tools have added a scientific basis to violin expertise, especially dendrochronology – a forensic method of dating tree rings to their exact year of formation. Such tests on the wood can provide not only the date, but even the geographic location of the wood used by the luthier. And specialised know-how is increasingly required for cross-border transactions with rare violins: one may require a CITES certificate to avoid confiscations by customs because of ivory inlaid on the violin. This Convention on International Trade of Endangered Species (CITES) document serves to prove any ivory or other banned body-parts were not acquired after 1976. And the EU has further tightened the rules for trade and import at the beginning of 2022 to protect elephants, although exemptions can be applied for historical instruments.

The same goes for the bows, which are made of Pernambuco wood. Its nervousness, density, and ability to retain the camber make it a unique material for bow making. Since 2007, this wood had been included in CITES's appendix II, thus requiring a permit for the manufacturing of bows for stringed musical instruments. Bow makers have thus been compelled to buy so-called "pre-convention wood". Brazil now intends to pass an amendment to move it to Appendix I, further restricting its use – to the concern of the 600 to 800 bowmakers worldwide.

Authenticity, condition and provenance are the true hallmarks of the rarest violins. Stradivari's the Messiah is currently the most valuable violin in the world. It is believed to be the last remaining Stradivarius in brand new condition. According to its provenance, its pristine condition stems from the fact that it has always been a collector's piece.

This explains why rare violins are true NFTs, Non-Fiddling Transactions! ■

KEEPING ART AND LUXURY ITEMS IN THE FAMILY

Jonathan Morris, John Lamb Hill Oldridge

Art and luxury items are bought for a variety of reasons; sometimes as a store of value, sometimes with a view to capital gain, but often, simply because the purchaser loves what they're buying. Typically, with ownership comes knowledge and interest in the item itself and its history. Once the love affair with a particular item or collection has started any loss can be devasting, especially if the long-term intention was to have the items enjoyed by future generations. As luxury art and goods tend to significantly increase the value of the owner's estate, their possession can lead to enhanced liability to inheritance tax (IHT). To protect against the asset needing to be the subject of a fire-sale in the event of a liquidity issue on death, many owners choose to insure the value of their assets against loss, whether that loss is due to fire/theft (dealt with as part of household insurance) or a tax charge on death.

What happens to the assets on death?

On death, an individual's estate will be subject to a 40% inheritance tax charge on any value above the available nil rate bands and reliefs. The IHT charge must be paid before probate is granted and, unfortunately, given that luxury items are relatively easy to sell, they are often the ones used to provide the funds to pay the bill. If the owner wants the piece of art or a luxury item, which can often form part of a collection, to be passed on to their beneficiaries, the tax needs to be funded in another way. Life insurance can be purchased to match the existing IHT liability, with a policy designed specifically to provide the liquid cash required to pay the tax bill to HMRC.

How can assets be passed on?

Assets can be passed to future generations or beneficiaries in two ways. Either via the execution of a will on death or as gifts made during the individual's lifetime. Those who choose to pass on assets during their lifetime enjoy he added benefit of seeing their beneficiaries enjoy the items and also watch their interest and knowledge in the subject grow. In both instances, life insurance can provide a cost-effective solution to the potential IHT problem.

For assets passed on death, a long-term life insurance policy can be taken out to cover the IHT liability on an individual's estate, including any art and luxury goods. The policy will pay-out a cash sum, providing the beneficiaries with money to pay the 40% IHT charge. Not only does this remove some of the stress at a difficult time, it also enables probate to be granted quickly and permits the entire estate to passed on to beneficiaries without the need to break up collections or sell the family's prized assets. For example, a policy protecting a 60-year-old couple's £1million art portfolio, by providing a £400,000 pay-out, would cost around £2,160 per year through to age 90.

Alternatively, if items are gifted during an individual's lifetime, a life insurance policy can be implemented to mirror the decreasing liability to IHT throughout the 7-year tail. This type of policy is known as a gift-inter-vivos policy and has the distinct advantage of creating a 'closed gift'. If the donor dies within 7 years of making the gift, the value of the item is returned to the donor's estate for the purposes of IHT calculations. However, if any IHT is deemed to be due on the gift, it falls to the beneficiary to pay it. A gift-inter-vivos policy provides the funds to pay this tax, 'closing' the gift and allowing the beneficiary to enjoy the gift without future risk.

Gift cover is a very cost-effective option. At age 60, you can make the gift IHT-protected at a cost of around 0.5% of the gift's value. To cover the potential liability on the gift of a portfolio worth £1,000,000, the estimated cost would be:

	Age 60	Age 70
Year One	£1,116	£3,161
Year Two	£1,116	£3,161
Year Three	£1,116	£3,161
Year Four	£857	£2,435
Year Five	£623	£1,760
Year Six	£413	£1,134
Year Seven	£206	£567
Total Paid	**£5,448**	**£15,379**
Cost as a % of gift	**0.54%**	**1.54%**

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