



LAWRENCE M. SHINDELL AND JUDITH L. PEARSON

ARIS, THE LEADING PROVIDER OF ART TITLE INSURANCE BY KATY DONOGHUE, PORTRAIT BY MARIE ANGELETTI

WHITEWALL: ARIS is currently the sole provider of art title insurance. As president and CEO, respectively, what is the dynamic between you two?

JUDITH L. PEARSON (President): My background is insurance, whereas Larry's is law. Working together, we are able to bring together the legal side and the insurance side.

WW: ARIS was established in 2006, but collectors and dealers have had to guarantee title in transactions for decades. Why didn't questions of title come up before?

LAWRENCE M. SHINDELL (Chairman & CEO): The art world is an industry that has matured rapidly over the last 10 to 15 years. When we embarked to create ARIS, we talked to people in the market who kept saying, "For 20 years, the industry has been looking for an insurance solution." I think the delay was due in part to the fact that the only part of the insurance world that knew the art market was the property insurance industry, which cannot offer title insurance solutions.

WW: While title has not always been clearly defined in the past, buyers and collectors seem to have relied upon legal title based on records of provenance, often provided by a dealer or seller. How is title different from provenance?

LMS: Provenance and ownership history is a subset of legal title, but there are lots of things beyond

provenance that can impact whether one can acquire clear legal title. A variety of liens and encumbrances, authority to sell issues, and other matters can impact legal title beyond issues of theft. The notion of provenance is important from connoisseurship or valuation standpoints, but it often has little to do with whether a current buyer is acquiring clear legal title to the artwork.

WW: For collectors with property insurance and knowledge of provenance, if they haven't had an issue with title insurance before, why should they worry?

LMS: In the art world, the unfortunate reality is: "just because you bought it doesn't mean you own it." Nevertheless, the traditional attitude has been: "I haven't had a problem with legal title to my art so far, so I must be okay." This is probably what Steven Spielberg thought when he bought his important Norman Rockwell painting . . . until the FBI came to reclaim it from his office [the work had been stolen several years before he purchased it].

WW: What are the secondary-market risks for sellers?

JLP: Buyers today think the softening of the economy is an opportunity to push the price as low as possible. One's risks as a seller are that you may not achieve the desired value of the work. Fewer and fewer individuals are willing to buy art without guaranteed ownership. Sellers are now faced with having to present unlimited guarantees that sellers

may not have the assets to back up, especially if they are in a liquidity crisis.

WW: Conversely, what are the secondary-market risks for buyers?

JLP: If you're a buyer in the art world, you don't know if you're buying from a collector in good standing or a collector who is selling under duress. For example, a seller may have assets that are subject to a tax lien because the seller hasn't paid his taxes; he or she may have pledged the artwork to a lender; or the seller may wind up filing for

bankruptcy shortly after a sale, in which case the bankruptcy court will claim the work and the buyer will become a general creditor.

WW: For the first time this past October, a Sotheby's auction catalogue specified that an artwork was ARIS-insured. Did you see a positive reaction to listing an artwork as insured?

LMS: The work sold at 50 percent above the high estimate – in a down market. We anticipate that there will be a dramatic separation in the market between the value of works that have the title insurance and those that do not.

WW: What if a client comes to you looking for guaranteed title of a work they would like to bid on in an upcoming auction?

JLP: That is the absolute best time to approach us – before buying the work. We can complete the majority of the underwriting prior to a client winning the bid. We have a number of clients who have told dealers and auction houses that they won't buy anything unless they can secure title insurance and that they will not wire any money until the title insurance is in place.

WW: Do you think the days are gone when deals are done by a nod, wink, or handshake? Is that kind of art world no longer functional?

LMS: Yes, those old dynamics are gone. Buyers and collectors really drive the process now.