

## Disaster strikes your fine art! R u truly protected?

Whether a \$100,000 or multimillion-dollar collection, many perils can befall fine art. We offer critical factors to keep in mind plus a 26-point guide to safeguard these valuable assets.



By Alan Snyder, Don Petrie, and Michael Cervino<sup>1</sup>

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Damage and loss can be painful. Insurance to protect against potential risks has its own unique and arcane terms, conditions, limitations and hidden pitfalls. Informed decision-making is critical for these assets, although most of us consider exploring insurance as much fun as having a root canal. However, the following “what-ifs” are worth taking into account:

1. Theft
2. Fire
3. Earthquake
4. Water/humidity
5. Light exposure
6. Accidents (especially in transit)
7. Critters
8. Restoration
9. Authenticity/provenance

Two true stories illustrate. Imagine lending your art to a pedigreed museum. In 1990, 13 artworks were stolen from Boston’s Isabella Stewart Gardner Museum in broad daylight by several individuals posing as police officers. The thieves’ haul – which has never been recovered – included pieces by Rembrandt, Vermeer, Manet and Degas. Their estimated current value is \$500 million. In 2004, Edvard Munch’s *The Scream* and *Madonna* were torn off the walls of the Munch Museum in Oslo by armed thieves in the middle of the day. Neither museum was insured for theft. Ouch!

Ben Franklin’s sage advice says it all: “An ounce of prevention is worth a pound of cure.” How ‘bout those “100-year floods” that now pop up every few years? Petra Nemcova, who is not only beautiful but also smart, observes, “We cannot stop natural disasters, but we can arm ourselves with knowledge....[and, insurance.]” Is the place where your art is stored or displayed safe from the hazards of water, temperature swings, sunlight, mold and dare we say it, critters that nibble? Art is generally fragile, particularly paintings, lithographs, prints, photographs, etc. And, transporting art is always a challenge, whether from one home to another, to your office or a museum.

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Insurance can protect your art against each of these exposures.

Many collectors rely on their homeowner's policy to cover art as contents of their home, but this is often a mistake. Contents coverage is often capped on a per-item basis and might be written to exclude fine art entirely. Standard homeowners and commercial property policies can be deficient in several ways when compared to dedicated fine art policies:

#### 1. Named perils vs. all-risks policies

With a named perils policy, only listed events are covered and the burden of proof falls on the insured. In contrast, an all-risks policy provides much broader coverage. All potential hazards are covered except those listed as exclusions in the policy (typically limited to damage from pests or vermin, gradual deterioration, acts of war, and nuclear events, among others).

#### 2. Valuation

How much will an insurance policy pay out in the event of loss? Common policies may cover only the purchase price rather than the current value of the piece. If a collector obtained the artwork several years prior, any appreciation may not be considered.

Fine art policies are often "scheduled," meaning that each artwork and its corresponding valuation is listed individually. This allows the insured to know exactly how much will be paid in a loss scenario. Because values change (sometimes rapidly) over time, it is important to have appraisals updated regularly.

Major appraisers and art advisory firms (i.e., Pall Mall, Gurr Johns, and Winston) all have the capability and credentials to appraise art for insurance purposes, and they typically offer yearly updates for a reduced price. An appraisal for insurance purposes should represent the art's replacement value, but these firms can also complete an appraisal for fair market value, which can be used for estate, tax, and possible sale considerations. While less useful, appraisals by the insurance company insuring the art are acceptable.

#### 3. Restoration and loss of value

What if an artwork is only partially damaged, and the owner wants to have it restored? A fine art policy can reimburse the owner for the restoration costs as well as any loss of value (as determined by a qualified appraiser).

#### 4. Recovery of damaged works

Fine art policies are often specifically written to allow insureds to buy their damaged works back from the insurance company even after a full payout. Standard property insurance policies often don't have a similar process in place.

#### 5. Authenticity issues, title defects, and/or loss of provenance

There are two basic forms of insurance: 1) legal defense cost and 2) indemnification for property (value) loss. While these risks can be generally insured against, most collectors decide that coverage is too expensive (up to 2% of the art's value per year) and may not be

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ultimately insured if the information is too unsettled. Aris, Lloyd's and Chubb, among a few others, will consider such coverage. However, careful documentation for chain of ownership, history of museum exhibits, utilization of catalogue raisonnés and expert opinions will generally provide sufficient evidence as proof. As a result of having the necessary documentation, most collectors decline such insurance.

Forensic scientific analysis is another alternative which is not dispositive but can be helpful for expensive and older artworks. Diagnostic imaging, analytical diagnostics, carbon dating and counseling with renowned art historians can be part of the package. The cost is substantial, typically \$40,000 for openers.

Given the value at stake, a prudent collector should secure a fine art insurance policy from a carrier with a proven track record in insuring fine art. Coverage can be tailored to an owner's unique situation, taking into account such factors as storage environment, geographic location, transportation methods and frequency, characteristics of individual artworks, and the nature of the secured party. Is the art on display in the lobby of a commercial building? Is it hanging in a spot that is exposed to the sun for several hours a day? Is it crated with other artworks in a cool basement in a 100- or 500-year floodplain? Does the owner live in an earthquake-prone area, like California? The questions are endless but essential to the process of determining basic coverage requirements.

Consider art dealers and gallerists who face issues similar to those of any major art collector. Often several pieces are kept on display in a public space while the remaining inventory sits in storage at third-party facilities that have a very different risk profile. Their art needs to be shipped to different exhibition spaces, auction houses, and buyers around the world. Newly-acquired works might require reframing or restoration, procedures that are often excluded from even the most generous policies. Experienced providers of fine art insurance (i.e., AIG, AXA, Lloyd's and Chubb) understand the multifaceted risks faced by the largest dealers and serious collectors. These insurers have the know-how to work with collections of any size.

Now the important question: "How do I choose a policy?" With many carriers offering fine art insurance and limited information available on each outside of their own marketing materials, tackling this issue alone is tough. We recommend finding a trusted advisor with experience procuring fine art insurance. A well-informed broker understands the capabilities of the various carriers and can provide insights into their approach. Good agents or brokers will take the time to ask you questions about all aspects of your collection, giving them a deep understanding of your coverage needs, which allows them to accurately frame your situation and effectively negotiate with the carriers on your behalf. (See our sidebar checklists, "Choosing the Best Insurance Company for You!" and "Who Should Help You Purchase Insurance.")

Shinnecock Partners faces these same issues in our Art Lending Fund. We extend loans to borrowers against their fine art, which is put up as collateral and stored in a dedicated art warehouse. Protecting this collateral is paramount for these hard-asset loans. For us, the additional complexity of subrogation, named loss payee, lender endorsements, bailee considerations, warehouse quality and transit from warehouses to museums, demanded more. To our surprise, many other lenders seemed almost casual about the subjects we have covered herein.

The number of issues to consider may seem daunting, but achieving appropriate coverage and the ensuing peace of mind is worth the effort. For us, duty of care demanded much research,

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solicitation of third-party help and deep discussions with insurers. As worrywarts, we know there is always more to be done.

Become A Scout

Robert Baden-Powell, the father of scouting, gives the best conclusion. “Be prepared... the meaning of the motto is that a scout must prepare himself by previous thinking out and practicing how to act on any accident or emergency so that he is never taken by surprise.”

## **Choosing the Best Insurance Company for You**

Insurance is an intangible asset evidenced by a contract between you and the insurance company. Therefore, careful evaluation of both the insurance company and its ability to honor your contract is a critical process that requires understanding exactly what is being agreed to in the contract as shown by your policy.

### **1. Financial Measures and Third-Party Independent Ratings:**

**A.M. Best rating** – A.M. Best is a global rating service that is one of the most experienced and oldest in the business. They provide a rating of the creditworthiness and financial strength of insurance companies.

**S&P Claims-Paying Ability** – A measure of liquid assets of an insurance company and its likelihood to pay claims, particularly in harsh economic times. Many advisors recommend against insurance from companies with less than “A-” ratings.

Fitch and Moody’s are two other quality-rating services, albeit without the same stature as S&P and A.M. Best in the insurance space.

Comdex aggregates the ratings of A.M. Best, S&P, Moody’s and Fitch into a single number from one to one hundred.

The Better Business Bureau and your state’s insurance department are additional sources. State registration of your selected insurance company provides another safety valve. Safeguarding policyholders is one of the primary missions of state insurance departments, and they can often help resolve disputes. For international coverages, the U.S. regulatory framework offers uncommon protection versus offshore insurance companies with complex reinsurance treaties that are generally less regulated.

### **2. Reputation: Check out reviews online and relevant expertise.**

**3. Customer Service:** Find out who represents the company as agent or broker and their availability, knowledge and personal chemistry with you – see agent/broker checklist.

**4. Price:** Always get a quotation for the desired coverage, exclusions and limits. Be sure to understand the pertinent details with help from your agent/broker.

**5. Degree of Specialization:** Beware glib assertions of what is or is not covered. Insuring art is not a common expertise and will often go beyond standard homeowners’ policies. Insurance

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companies specializing in art often have experts on staff that can provide valuable guidance in the sought-after coverages.

6. Full Disclosure: Demand total transparency. Insuring art assets warrants complete visibility about all terms and conditions.

7. Discounts: Not infrequently, bundling your insurance needs by placing all of your insurance coverages with a single company can result in a discounted total premium or cost. However, with high-value assets, it remains important to carefully assess what is actually covered by a policy and its riders or addenda.

### **Who Should Help You Purchase Insurance?**

Nothing is easy in the world of insurance with its complex terms, myriad options and dense contracts. Finding the right pathfinder and guide to facilitate this process thus takes on unusual importance. The entire point is to adequately protect your valuable art assets. It's like Goldilocks: neither too much nor too little.

These pathfinders come in several flavors: insurance agents (independent or captive) and insurance brokers. Insurance agents are intermediaries between you and the insurance company. An independent agent represents multiple companies whereas a captive agent works for a single company. Insurance brokers usually work with many companies to source the right one for your needs. Most experts would assert that insurance brokers have the most expertise and best access to the insurance markets. The following checklist offers some evaluation touchpoints for decision making.

1. Personal Chemistry – Of your three choices, finding the one with whom you can best relate is critical. Don't be shy and ask questions:

- What is your expertise in fine art?
- How much coverage have you placed?
- Do you have personal references in these areas?
- How long have you been in business?
- Have you ever been sued?

Alas, this is not "one and done" because things change and you could be working with this individual for many years.

2. Assess Technical Knowledge and Credentials

- Education
- Professional designations – while this can be alphabet soup, there are designations evidencing advanced study and related competence.

3. Simple research

- Google is a powerful tool to use when researching individuals and their businesses. Augment Google with LinkedIn, Facebook, Instagram and business websites.

4. Expect written proposals

- Don't settle for verbal promises and read the fine print.
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5. Stay active

- If your collection changes, updates to your policy will be necessary.
- Location of your artwork may change as it may be moved to and from office, home or displays at museums or schools.
- Stay in touch with your trusted advisor.

6. Inadequate service

- Fire your advisor. Of course, any confrontation can be difficult but if the service is poor, you may need to reevaluate who is providing it. Remember, the agent or broker is making money from the insurance premiums you pay every year.

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## Upcoming Events

See attached for schedule of industry related events at which Shinnecock will be sharing more in-depth information, and let us know if you'll be attending so we can look for you!



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## Upcoming Events

Shinnecock will be in attendance and/or speaking at the following events. We'd be happy to have you join us!

**Jul 25** – San Francisco

**Family Office Club: Private Investor Summit**

Hyatt Regency San Francisco

5 Embarcadero Center, San Francisco, CA 94111

For information and registration: <https://familyoffices.com/sanfrancisco/>

**Oct 3-4** – New York City

**Context Summits New York 2019**

New York Hilton Midtown

1335 6<sup>th</sup> Avenue, New York, NY 10019

For information and registration: <https://contextsummits.com/newyork/>

**Oct 22-23** – New York City

**Hedge Connection: Global Fund Forum**

TheTimesCenter

242 West 41<sup>st</sup> Street, New York, NY 10036

For information and registration: <https://www.hedgeconnection.com/gff-intro-2019/>

**Nov 4-5** – New York City

**Agecroft Partners: Gaining the Edge**

The Roosevelt Hotel

45 East 45<sup>th</sup> Street, New York, NY 10017

For information and registration: <https://www.apgainingtheedge.com/>

**Nov 11-12** – New York City

**3<sup>rd</sup> Annual Beryl Elites Alternative Investment Conference**

The Cutting Room

44 East 32<sup>nd</sup> Street, New York, NY 10016

For information and registration: <https://berylelites.com/3rd-annual-beryl-elites-alternative-investment-conference>