COCHRANE ADAMS FINE ART AGENTS

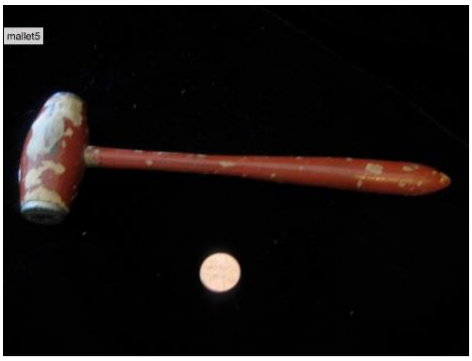
In this newsletter, we hope to highlight some prevailing points of concern facing owners and collectors. While Mark discusses the power of a story, Charles addresses the forthcoming planning developments of HMRC. We will also give a brief analysis on the increase of Buyer's Premium.

Chapter 1
Significant Objects

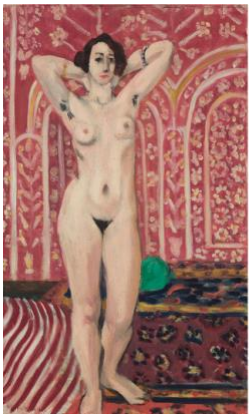
'Facts tell, stories sell.' *Anonymous, widely attributed.*

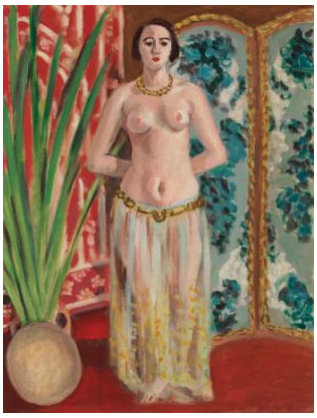
In 2009 two American contemporary anthropologists, Joshua Glenn and Rob Walker, set out to test a semi-serious hypothesis. It was that: 'Stories are such a powerful driver of emotional value that their effect on any given object's subjective value can actually be measured objectively.' They termed the items which they chose for the experiment 'Significant Objects' (http://significantobjects.com/). Their method was simple and brilliant. The pair bought objects at charity shops or scavenged them from skips (dumpsters) and attached a fantastical story to them. They then offered them for sale on eBay. One item was a painted wooden mallet, in poor condition. It had cost a net 33 cents as part of a job lot in a junk shop. That's a cent, by the way, in the photograph. This was not a big thing: the span of your hand. It was offered on eBay with only the following description:

On September 16th, 2031 at 2:35 am, a temporal rift – a 'tear' in the very fabric of time and space – will appear 16.5 meters above the area currently occupied by Jeffrey's Bistro, 123 E Ivinson Ave, Laramie, WY. Only the person wielding this mallet will be able to enter the rift unscathed. If this person then completes the 8 Labors of Worthiness, he or she will become the supreme ruler of the universe.



It sold for $71. That's a 21,500% markup. Just let that permeate for minute - 215 times the purchase price. For a story.
Why should this be significant for our readers? Because we're dealing above with assets of no intrinsic worth, where subjective valuation is all. Does this ring any bells? A client of ours is looking for a Matisse at the moment. While trying to make a reasoned analysis of likely pricing, I came upon a comparison which brought the Significant Objects experiment suddenly back to me. Have a look at these three pictures:





A **B** **C**

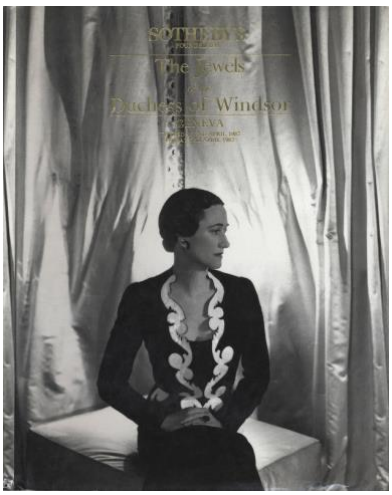
All three were painted by Henri Matisse in his studio in Nice in 1922-23, and came to auction in 2017-2018. Rate them in ascending order while you read the next paragraph. The model is Henriette Darricarrère, a professional dancer who did much to inspire in Matisse the theme of the odalisque, or harem concubine, after she attended a fancy dress ball with artist and his wife Amélie. Matisse was a Turkish sultan and the two women played his subjects, and it was an influential inspiration: Picasso commented years later that 'when Matisse died he left me his odalisques as his legacy'.

These are all important works of European art, but they are clearly different in quality – we'd say the ascending order runs B, then C, then A. The market agreed, but let's have a look at the way that choice is reflected in the price record. This is as follows:

B----------C----------A

$4,420,000 $14,375,000 $80,750,000

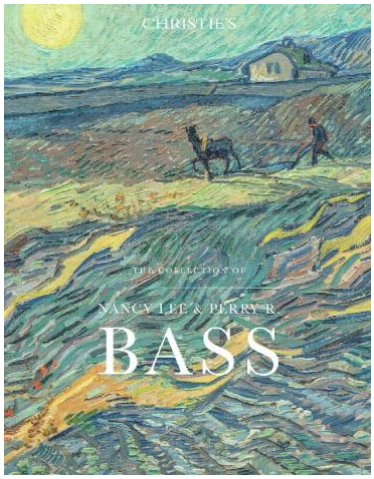
Now A, *Odalisque Couchée aux Magnolias,* 1923 is an amazing picture, a widely exhibited and justifiably celebrated masterpiece. At the same time, I think that this exponential difference in price has just as much to do with its having been a part of Christie's sale last year of the collection of Peggy and David Rockefeller.



In other words, it has a story. And the kind of story, furthermore, that auction houses have learnt to tell with spell-binding power. They perfected their craft with some extraordinary sales: the Duchess of Windsor's jewels in 1987, the Jacqueline Kennedy Onassis estate sale in 1996, Yves St. Laurent's estate and David Bowie. These sales were windows into historic, fairy tale lives, in which every lot was sprinkled with a little stardust.

The worry for buyers, and for those of us who advise them, is that auction houses have learned in the interim to manufacture their own stardust, and it can be hard to look through the blizzard of glitz to gauge the real financial worth of a distinguished provenance. There's little doubt that Jacqueline Kennedy and David Bowie will still be legendary figures 50 years from now, but does the same really apply to

Mr and Mrs Rockefeller, or indeed to Perry R. Bass, Mrs Paul Mellon or Alfred Taubman, all of whom received the auction star treatment in recent years?



These individuals were important, or at least voracious, collectors in their various ways, but that is not actually the question at issue as far as a buyer is concerned. A buyer needs to reckon how much their association with a work of art will enhance its value in the long term. Bluntly, when he or she needs to resell it, is anyone going to care any longer that it once belonged to a rich person? Will its lustre really survive?

This may be inelegantly expressed, but we're dealing with inelegant facts of life. For all his virtues, Perry Bass was not the Duchess of Windsor and 21st century memories are short. The likely truth is that two decades hence, his is just going to be one more name listed in the catalogue notes and barely glanced at (with apologies to the Bass family). A lauded provenance has to be truly timeless in order to carry its value through re-sale.

And this matters when, in our estimation, the Rockefeller association perhaps added $20,000,000 or $30,000,000 to the purchase price of *Odalisque couchée aux magnolias*.

These stories come in many forms. According to Artnet.com, 19 works from Damien Hirst's gold-encrusted one-artist auction, Beautiful Inside My Head, at Sotheby's in 2008, have been resold since the sale. These sales resulted in a cumulative loss of £3 million on an initial outlay of £8 million. And the promotion of this sale was truly stunning, as evidenced by the fact that it vastly exceeded its top estimate even though Lehman Brothers had collapsed earlier that day.

Auction catalogues are perishable items. Sensational sales come and go, and the auction houses move onto the next one like old time carnival spielers doing their act and packing up their tents. Sometimes their stories have value, sometimes they don't.

The key for any buyer is to recognise a story for what it is. Ultimately it is the work of art which is for sale and which will speak to future generations who know nothing of its ownership. The trick of good collecting is to look beyond the lustre of the story and find the essential truth of the object.

Chapter 2
Some Planning Developments

AILs and probate estates using a 36% IHT rate

We were going to write about an important Danish symbolist painting and why it's not as easy to give something away as you might think. While this matter is still has some life in it, we turn our attention to some developments from the planning side of what we do.

We heard recently from HMRC on an anomaly relating to Acceptances in Lieu (AIL) from estates where the executors have reduced the Inheritance Tax (IHT) rate to 36% by leaving the requisite amount to charity.

The AIL provisions relate to an IHT rate of 40% on which the douceur (the IHT reduction) of 25% is calculated making the tax credit 70% of the chattel value rather than at 60% if IHT applied without concession. If an estate with an IHT rate of 36% offered a chattel via an AIL the tax credit would relate to the 40% IHT rate: this appears unfair.

We have seen a recent letter from HMRC allowing for a douceur of 32.5% to apply to estates with IHT rates of 36% that offer chattels via AIL. The IHT rate for AIL remains at 40% but the tax credit is increased so that the proportion of value for the tax credit is 73% and the effective IHT rate is therefore 27%. This new rate will apply not only to current and future AILs offers but also to those dating back to April 2012. Good news for the taxpayer although it makes little difference to the basic issue for AILs – namely, that of whether suitable value can be agreed to make the AIL worth accepting in the first place!

Chattel Licences

Now that Tony Spindler is no longer head of the relevant section of the Shares and Assets Valuation department of HMRC we wonder whether the impetus which he brought to increasing revenue at the Revenue will continue.

Tony made it clear back in 2017 that he thought the considerations for the use of chattels under licence are too low. In 2017 HMRC looked at commercial chattel licence examples for higher returns and last year they floated the idea that other asset classes such as gilts and other financial investments should be considered as a commercial guide.

We note that since 2017 considerations have fallen due to the use of the market as the reference by which to set levels for chattel licences, rather than the previous '1% rule'. We will watch with interest how HMRC will apply themselves to licences in the offshore context prior to April 2017 and the onshore arrangements within the Gift with Reservation of Benefit.

Trip to HMRC, Nottingham

Practitioners such as ourselves have been invited to meet HMRC and spend a morning in May seeing how they work and getting to know personnel and some of their working issues. It will be interesting to note how paperless their offices really are.

Buyer's Premium

On 31st January Christie's raised their Buyer's Premium again, for the third time in 3 years.

The Christie's changes were twofold. The 25% maximum premium will now apply to the first £225,000 ($300,000) of a saleroom bid. More dramatically the upper level of premium went up a full percentage point from 12.5% to 13.5%.

After a decorous interval of two weeks Sotheby's followed suit, raising their upper tier premium by a similar percentage point to a startling 13.9%.

Current buyer's premium rates are now:

Christies		Sotheby's	
Up to £225,000/$300,000*	25%	Up to £300,000/$400,000	25%
£225,000 - £3,000,000 / $300,001-$4,000,000	20%	£300,000- £3,000,000/ $400,001-$4,000,000	20%
£3,000,001/$4,000,000 and above	13.5%	£3,000,000/ $4,000,001 and above	13.9%

*Dollar rate apply to New York

These commissions are subject to sales taxes which in most jurisdictions are not reclaimable. It might also be borne in mind that the auction houses are already charging a commission to the seller at the same time as they extract these percentages from the buyer. These steady increases in Buyer's Premium are beginning to look like brinkmanship on the part of the auction houses. At what point will the giant marketing exercise which sustains the auction market for top tier works of art cease to be enough to persuade buyers to pay the price required to fund it? This will one subject of our next newsletter.

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