

THE BRIDIDGE GROUP



The Bridge Group, the leading art succession planning firm in the country, works in full partnership with advisors and their clients whose assets consist of art, antiques and collectibles has opened an office in **Boca Raton**

The Artful Advisor

NEWSLETTER Spring 2009

"Collectors and their advisors need an advocate who knows how to lift art and collectibles out of the estate planning process and treat them with the special handling every collection deserves."

Michael Mendelsohn

The Briddge Group

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Contact us to learn more
about forming an
Art Succession
Planning Team

www.BriddgeGroup.com

Vita Brevis. Ars Longa

Life is Short. Art is Long

Michael Mendelsohn, founder and president of The Briddge Group is an art collector, philanthropist and president of The Briddge Group. Michael is the author of "Life is Short, Art is Long; Maximizing Estate Planning Strategies for Collectors of Art, Antiques and Collectibles".

David Frohman, President of Briddge Financial Services, a division of The Briddge Group, oversees the financial and risk management areas of art assets for clients of the Briddge Group. Briddge, working with the client's wealth advisory team can assist in securing financing against art assets, develop art asset protection programs and leverage and arbitrage strategies.



David Frohman has been a financial advisor specializing in asset protection and estate and wealth succession planning for the past 25 years. His knowledge and diligence as a planner has created numerous client-centered strategies for the collectors, galleries, artists and legacies for financially rewarded families.

David is an accomplished photographer whose work has been seen in the New York Times Sunday Magazine, Newsweek and Vanity Fair. His photographs have been used in medical and lifestyle books throughout the world. As an author he has contributed to the book, *Life is Short, Art is Long; Maximizing Estate Planning Strategies for Collectors of Art, Antiques and Collectibles*, published a book entitled, *Collective Memories* and is currently working on a book with his daughter, an award winning photojournalist.

David's ability to understand both sides of the client's art story and needs gives Briddge a unique advantage in providing for the goals in the financial planning arena.

Art Succession Planning after the Financial Fall, Real Estate Collapse & the Madoff Mess

By Michael Mendelsohn

Your clients are most certainly reeling from the effects of the financial turmoil the world is experiencing. By creating an art succession planning team you will now be in a position to revisit your client's silent "touchable" assets of art, antiques and collectibles (such as wine, coins, gems, cars, etc.). The majority of the advisory community has not focused in on these assets for a myriad of reasons. The key reason being that you never fully understood all the aspects of the art world to allow you to make informed decisions. An art succession planning group as part of your team can now put you into that position by creating for your clients an historical reference catalogue. Included in this catalogue is a comprehensive inventory of the collection, which describes each piece, its cost basis, and provenance. Also included are color photographs, collectors' past and current recollections and artist biographies. This document may also contain the ownership rights protection report which may mitigate future ownership issues.



The entire document is an excellent starting point to share with clients and is the initial step in successful art succession planning. This step alone can boost the value of your client's collection. This document will give you the necessary information which heretofore you may have lacked the expertise to accumulate allowing you to begin planning for this asset as you do for your client's traditional assets.

As I have discussed in past articles, conventional wisdom of "the kids will sort it out" or "the art will be sold and the monies will be used to pay estate taxes" has been in many cases, quite successful, however in the majority of client matters that I have been personally involved in it turns out that there is a slight change in this conventional wisdom. That change I have found is that the kids will fight it out causing the dreaded family art war, legal fees and the overall devaluation of art assets. But, in today's environment, the rules of the game have changed. The major auction houses' brilliant marketers, as they are, have quickly developed a fourth "D." Death, debt and

divorce have always been their favorites. Now they have added "disaster". This encompasses a huge loss in your client's stock portfolios and real estate holdings. Because of these losses, your clients are now looking at the art hanging on their walls as their "bailout". You, the trusted advisor, must be in a position to discuss this with your clients facing this scenario and through your due diligence, it is imperative that you understand how your clients came into possession of the art they wish to sell.

The first example would be that they purchased the art many years ago and, for illustrative purposes, we will say they paid a verified price of \$1 million. In May of 2008 this painting may have sold for \$10 million, but in today's rush to liquidate, this asset, if it sells at all, would probably go for \$7 million. Here is where your guidance as your client's trusted advisor is of the utmost importance. Your clients will be expected to pay a huge capital gains tax of 28% federal, plus, in some states, as high as 7%. This must be factored in to the overall sales strategy. I'm afraid that victims of Bernard Madoff in particular will be running to the auction houses without any sales strategies and without the above information. They will find out that they owe Uncle Sam a whopping \$2.1 million in their haste to liquidate the art to create a cash flow stream. This probably was not factored into their thinking. By you bringing it to their attention, you will be able to open a dialogue about selling this artwork in the appropriate charitable trust. In effect, your guidance will allow them a continued stream of income on this \$2.1 million tax, which normally would have to be paid.

A second and more dramatic scenario would be where your client has obtained the artwork under the 706 radar. This being your client has received the artwork as a gift from their parents or family members. This is a strategy we call the "empty hook" or "mistake" planning, which really is estate tax fraud, which as we know has no statute of limitations. This can create a multitude of problems when the client decides to sell and the government asks how the asset was acquired. At this point, your guidance is again paramount in creating the proper legal ways to mitigate these sins of the past while allowing your client the access to liquidate the artwork to continue their lifestyle.

There are numerous ways of accomplishing these goals and by working with an art advisory team; they can help illustrate many options. According to many insurance brokers from major corporations and the high net-worth clients I have had the privilege of working with for the last 20 years, it is quite surprising how many own art given to them by parents or loved ones in this manner. Think about it. If you don't show

the art in public, who will know you own it? This all comes to surface if and when your client chooses to sell, if they can sell at all. With stolen art being the third largest crime (behind guns and drugs) what reputable dealer or auction house would engage in the sale of a piece that has no proof of ownership?

Taking advantage of today's headlines, while it may be the worst time to follow the spin of the auction houses in selling at depressed prices, it may be the best time to create a family legacy. Based upon what may be a devaluation of 20%-30% of the art market, you are now in a position, being part of an art succession planning team, to work with your clients in getting this art to the next generation at a lower valuation, especially by using the techniques with their real estate holdings and family businesses (LLP's, LLC's, etc.) This topic alone welcomes a discussion of its own.