

BASKETBALL

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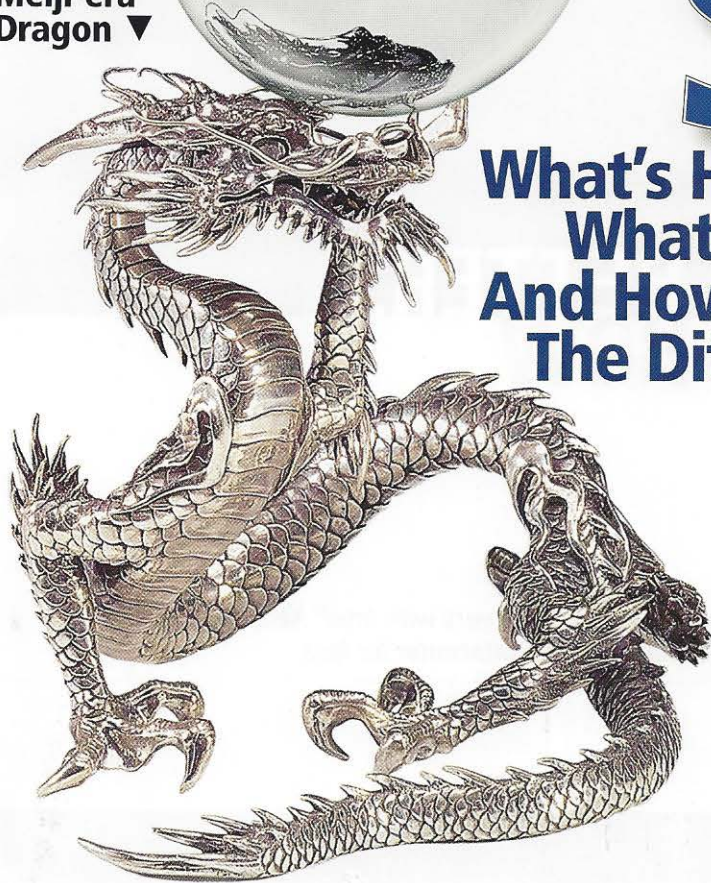
2005 ANNUAL GUIDE



▲ Duck Decoy \$802,000

Collecting Smart

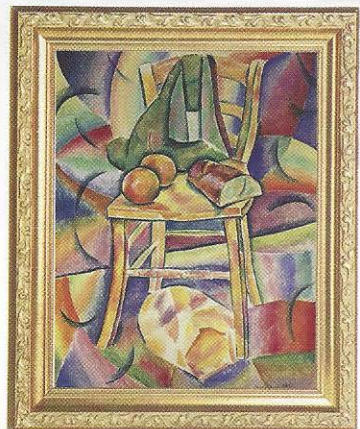
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The Deal of the Art

Want to invest in art without all the risk? Partner with an art dealer.

By Carrie Coolidge

A MUNICIPAL BOND DERIVATIVES SALESMAN BY trade, William Zachary has a costly hobby, fine art, that could pay for itself. In addition to buying things to put on his wall (he likes 19th-century landscapes), he also buys art to hang on a dealer's wall. If the dealer sells at a profit, Zachary shares the loot.

Zachary is among a pool of investors who back art dealer Mark Murray—a 19th-century paintings specialist for Sotheby's before opening Mark Murray Fine Paintings in Manhattan in 1992—when Murray speculates on a piece of art. Members of this investor pool also happen to be clients of Murray's gallery. "My investors are art enthusiasts who enjoy getting involved on the business side and understand the risks involved," says Murray. His clients hold equity stakes. They can't foreclose. But the ability to form a limited partnership with the dealer offers them the rare opportunity to be on the other side of the transaction—the one that is making the money rather than spending it.

In October Murray saw such an opportunity when "On the Spanish Main" (*see photo*), an oil by Montague Dawson, a British artist who flourished from the 1940s to the 1960s, came up. Murray hoped the painting wouldn't fetch a high price; the sale was obscure, and the canvas betrayed evidence of having been in an attic for the past two decades. Other Dawsons hang in such places as the Imperial War Museum in London; Queen Elizabeth II is also a collector. Hours before the sale, Murray examined the painting and figured out how much he was willing to pay for it. He won with a bid of \$28,750 (including a 15% auctioneer's commission), spending another \$4,000 for relining and framing the canvas. Murray thinks he can resell it within a year for at least a 40% profit after expenses. Says Zachary, who had agreed to fund the acquisition, "It's a lot more fun than dabbling in the stock market."

Peter M. Fairbanks, owner of the Montgomery Gallery in San Francisco, which specializes in French and American impressionist oil paintings, has six wealthy clients who double as investors. He worked for several auction houses in his 30-year career, including Sotheby's, Phillips and William Doyle Galleries. He taps those clients when he has an opportunity to buy a seemingly undervalued painting that will run to six or seven figures.

A typical contract for funding an art dealer gives investors a two-to-three-year time frame. Alas, they can't expect a profit share in proportion to their capital contribution. The dealer must be paid for his expertise and having the piece authenticated, given a clear title, repaired and reframed. Often the

dealer is compensated for this work by being paid 50% or more of the net after expenses. Another approach: Passive investors put up all the cash while the dealer pays expenses of restoration, shipping and the like. After both parties are reimbursed, any profit or loss is split equally. Fairbanks' investors usually contribute half of the money; he makes up the rest. When the art is sold, expenses come off the top; investors get 30% of the profit.

Murray and Fairbanks both say none of their angels have lost money. Sometimes there's a quick gain. A few years ago Murray and an investor bought a painting for \$30,000 at an estate sale and



Art for art's (and profit's) sake: William Zachary and Mark Murray.

sold it through a Sotheby's auction a few months later for \$150,000.

Some caveats. It typically takes up to two months just to conserve a work of art and another six to find a buyer or sell it at auction. Would-be investors should be wary. "This is not a regulated industry," says Fairbanks. Never back a dealer unless you've already done business with him. Find out how long the dealer has been in business and in a well-known industry group like the American Art Dealers Association. Have a lawyer review the partnership contract. If the painting is valuable, be sure the dealer makes a Uniform Commercial Code filing with your state naming you as the co-owner of the work of art. (UCC filings are public, by the way.) This paper creates a lien making you a "secured creditor"—at the head of the line if the dealer files for bankruptcy.

Next, get a certificate of insurance for the work of art issued by the insurer of the gallery naming you as the insured for your interest in the work in question. If there is a fire or theft, all or a portion of the proceeds would be paid to you, rather than to the gallery or to a court-appointed trustee if it is in bankruptcy. **F**