

Guidelines for Experts authenticating works of Fine Art

Responsible Art Market (RAM)

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Preamble: Main purpose and scope of the guidelines

- The Guidelines are Limited to Fine Art
- Do not consider employment or insurance concerns for the professional activity of experts.
- Do not deal with data protection rules that may apply.
- Valuation will be dealt with in a separate set of guidelines.
- Please note that these Guidelines suggest best practice. They have no legal effect and do not constitute legal advice. Experts are responsible for complying with legal obligations in the jurisdiction(s) where they operate and must take their own legal advice in this respect.

Who should follow these Guidelines?

The Guidelines are intended for any person who is asked to provide an analysis or expertise on a work of fine art (the “**Expert**”), including but not limited to: independent Experts, living artists, artists’ heirs, committees, foundations and authentication boards. In this context, Experts may be required to establish whether a work is by a specific artist or not, or identifying the artist of a work.

Other persons involved in the art market (including but not limited to dealers, auction houses, collectors, and art businesses providing ancillary services) directly impacted, may choose to adopt all or some of these guidelines as a matter of best practice.

1. Qualifications of the Expert

- 1.1. **Every Expert should self-assess their qualifications and be able to establish proof of such qualifications** (including but not limited to publications, academic degrees, professional experience etc.) relevant to the assignments he accepts. The Expert should have a thorough understanding of the possibilities and limitations of their analysis and be able to determine whether it is appropriate in the given case. If a technical examination is deemed necessary, the Expert should collaborate with professionals from the field of conservation/restoration and cultural heritage analysis experienced in authentication work.
- 1.2. Upon an authentication request, the Expert should conduct a self-assessment in order to determine whether there is **any conflict of interest** arising from this request (see also chapter 7).
- 1.3. The Expert should not accept any assignments that do **not fall within their competence**.

2. Communication and preparation of the Expertise assignment

- 2.1. Transparency is the basis of an accurate expertise.
- 2.2. Before accepting a request for authentication, the Expert should be told who the beneficial owner of the work is (the “**Owner**”).
- 2.3. Also prior to accepting an authentication request, the Expert should clearly establish who his counterparty is: it may be the Owner or an intermediary (e.g. an intermediary, art advisory and/or brokers) acting for the Owner (together the “**Client**”).
- 2.4. Before accepting the authentication request, the Expert should unequivocally inform the Client about any **conflict of interest** (see also chapter 7), their **field of Expertise** and the implications of any applicable limits of their expertise.

- 2.5. The Expert should clearly inform the Client **about the analysis and research** they undertake and those they have intentionally not conducted. The Expert should also communicate about the limits of their analysis and what outcomes may be expected from it, for example if they will deliver a certificate of authenticity or an Expert opinion.
- 2.6. If applicable, the Expert should clearly inform the Client about their right to **make public the results of their examinations and research** prior to publishing such results, and that the Owner's name will be withheld unless express permission is granted to publish the Owner's name.
- 2.7. The Expert should notify **any problem in the work's provenance** to the Client (for example, a gap in the provenance or that the work was looted during war, etc. See also the RAM Toolkit).
- 2.8. The Expert should clearly communicate **the price of their services** and any extra costs to the Client, and to have them approved by the latter, ahead of starting the authentication work.
- 2.9. If the work has to be transported for authentication, the Client should be responsible for insurance, transport and custom formalities for the work.
- 2.10. Should the Expert have any **doubts about the authenticity or concerns in regard to the results of his analysis**, they should then communicate these doubts or concerns to the Client.

3. Analysis

A. How to conduct the analysis

- 3.1. The Expert should request from the Client all available **documentation on the work**, including but not limited to copies of the gathered evidence (for example, invoices, references to a mention in a catalogue raisonné, an exhibition catalogue or any other authoritative literature, photographs, archival material, etc.). The Expert should double-check the veracity of the stated facts and/or authenticity of the provided documents. If possible, a recent condition report should be included in the documentation of the work.
- 3.2. The Expert should ask the Client for what purpose they need their expertise.
- 3.3. Experts should also request from the Client high resolution photographs of the work (front and back of the work with inscriptions if applicable, zoom on details and signature) to do a first examination and internal research. Often, non-authentic works may already be revealed as such based on a photograph.
- 3.4. The Expert should base his assessment of the work on a thorough **understanding of its condition**, and more specifically the degree to which it may have been altered through damage, natural aging and restoration treatment(s).
- 3.5. In order to deliver a certificate of authenticity, the Expert should examine the work in person.
- 3.6. The work should be unframed, with the verso available for inspection.
- 3.7. For works that were **created posthumously**, Experts must ensure to verify that the given artist has not given any instructions to the contrary (example: in their will).
- 3.8. Upon the deposit of a work for personal inspection by the Expert, the Expert should prepare a **deposit form or contract** to be handed over to and signed by the Client and attach a copy of the Client's proof of identity. If applicable, proof of the customs status of the work and its insurance coverage may be attached to or mentioned on the deposit form.

- 3.9. The Expert should establish **an internal record of all the research they have conducted on the work**, including a copy of the gathered evidence (for example, comparative study, references to a mention in a catalogue raisonné or an exhibition catalogue or any other authoritative literature).
- 3.10. The shape and scale of the technical examination, but also the types of imaging and analytical techniques applied and the order in which they are applied differ for almost every single examination. Determining factors are, first of all, the particular reasons for doubting the work's authenticity, as those reasons specify the questions addressed in the technical examination. Other factors that will guide the investigation are the material nature of the work to be examined, the analytical infrastructure available for the examination, the individual background of the technical experts involved, the analytical strategy they will develop, but also on other factors not specifically mentioned here. It is important to stress that Experts in the field of technical examination distinguish themselves by their flexibility of approach, not by their adherence to any type of standard procedure.

B. Examination steps

- 3.11. Connoisseurship, art-historical research and technical or scientific analysis are the three angles authentication problems may be tackled from. They complement each other.

a. Connoisseurship/ Comparative Analysis

- Connoisseurship or judgment by eye is the “sensitivity of visual perception, historical training, technical awareness, and empirical experience needed by the Expert to attribute the [work]”¹. The visual examination of the work enables the Expert to “determine whether it looks and ‘feels’ like a work by the artist, by focusing on composition, subject matter, brushstroke, colour palette, surface and overall technical skill”².
- The authentication process typically begins with a comparative analysis of a given work of art against works that have already been positively attributed to the artist in question. A typical comparative analysis may include the following steps.

a.1. Analysis of the style

- The Expert will generally assess whether the form and style of the work, for example the brushstroke patterns and the preparatory drawings underneath the painting, match the style of the artist for a given period of their life.
- The Expert may want to consider the date of the work if the artist's style has evolved over time.

a.2. Analysis of the signature

- If the work bears a signature, the Expert will commonly examine the artist's signatures on undisputed works by that same artist. The Expert may want to consider the date of the work if the artist's signature has evolved over time.
- The Expert will then compare the signature on the work that they are asked to examine to the signature style of the artists as previously assessed and as documented.

b. Art-historical analysis and scholarship

b.1. Provenance

- If possible, the Expert should establish the work's provenance since its creation and flag any provenance gaps.
- An ideal provenance provides a documentary record of owners' names; dates of ownership; methods of transfer, i.e. inheritance, or sale through a dealer or auction; and locations where

¹ Ronald D. Spencer, Introduction, in *The Expert versus the Object – Judging Fakes and False Attributions in the Visual Arts*, ed. By Ronald D. Spencer, Oxford University Press, 2004, p. xiii.

² Anne Laure Bandle, *The Sale of Misattributed Artworks and Antiques at Auction*, Edward Elgar Publishing, 2016, p. 30.

the work was kept, from the time of its creation by the artist until the present day. Unfortunately, such complete, unbroken records of ownership are rare. Thus art-historical research is often required to fill the gaps in provenance.

b.2. Art-historical analysis and scholarship

- Art-historical analysis and scholarship may entail verifying a great number of archival and scholarly resources, including but not limited to the following:
 - o Artist's inventory;
 - o Museum or gallery archives;
 - o Catalogues raisonnés;
 - o Authoritative literature;
 - o Auction sale catalogues or gallery catalogues;
 - o Exhibition catalogues;
 - o Verso labels from frames and backing boards;
 - o Registrarial records, which generally contain information on the acquisition, loan, sale, and transport of a work of art.
- Moreover, the Expert may find it useful to consult private online databases and do an online image search. For example, the Getty Provenance Index® databases contain more than 2.3 million records taken from source material such as archival inventories, auction catalogs, and dealer stock books; the SIKART database provides an online search tool on artists, works, exhibitions, literature and awards, and currently features 17,000 entries on current and historical artists, as well as 1,700 in-depth biographical articles.

c. Technical analysis

- Within the context of authentication, the technical examination of a work aims to reveal objective information permitting conclusions about the time and circumstances of the work's creation.
- A selection of both invasive and non-invasive methods that have been applied in the technical analysis of artworks and cultural heritage objects is listed in Appendix A. Although imaging techniques (non-invasive techniques) are used more often in the earlier stages of an examination and analytical techniques (mostly invasive techniques) more often in the later stages, almost all of the methods listed in Appendix A have, in the past, been used in all stages.
- What follows here is an attempt to draw an approximate picture of the steps that a technical examination may involve, using the example of paintings.

c.1. Preparatory clarification

- As a first step, a technical Expert generally carries out a preparatory clarification before accepting an examination commission. The points that the Expert should clarify may be:
 - The specific reason(s) for doubting the artwork's authenticity;
 - The agreed period of its assumed creation;
 - The state of research on the assumed artist's technique;
 - The availability of authentic artworks (as a comparison);
 - Other points, depending on the case.

c.2. Non-invasive examination of the work

- As a second step and depending on the information that the Experts can gather during the first step (c.1.), the Expert generally establishes a (preliminary) analytical strategy. This step is often carried out once the Expert has accepted a commission, with the aim to finalise an examination strategy. It may be guided by the following goals:
 - Distinguishing between original and non-original substance;
 - Defining which parts of the original substance are relevant for dating;
 - Detecting signs of natural and/or artificial aging;

- Other goals, depending on the case.

c.3. Developing an analytical strategy

- As a third step, the technical Expert will generally develop an analytical strategy. Possible strategies are:
- Examination of the signature: its chemical composition and/or its positioning in the stratigraphy of the surface layers;
- Sampling a (carbon containing) part of the painting and dating with AMS 14C;
- Targeted search for specific features in the painting's build-up or material composition for a comparison with the (assumed) artist's working practice;
- Targeted search for a (or several) specific material(s) representing (an) anachronism(s) to the assumed date of the creation of the work;
- Other strategies, depending on the case.

c.4. Examination and examination report

- The examination is implemented according to the chosen strategy, but may take an unexpected direction as new information is revealed. The examination report explains the strategy that was finally used, lists the techniques, sample preparation methods and relevant results and ends with a conclusion.

C. Result of the analysis

- 3.12. The Expert shall clearly state the means and results of their analysis in a written document and provide a summary of his reasoning, whether it is based on the study of the work of art in person or from a photograph.
- 3.13. Experts should clearly express their positive or negative opinions.
- 3.14. A specific assessment by one Expert does not preclude other Experts from reaching differing conclusions.
- 3.15. The certificate of authenticity or the Expert opinion shall reproduce the description of the work such as title, year, dimension, medium, edition number, if applicable, and a high resolution image of the work within the document. It should also bear the date and the signature of the author of the document. The Expert may want to include in their opinion the assumptions based on which they conducted their analysis, and indicate whether they were able to verify the accuracy of this information or not.
- 3.16. In the event that the Expert cannot guarantee for the accuracy of their conclusions, they should include a statement to this effect. Moreover, the Expert should, if applicable, add a statement specifying that other scholars may tend towards different interpretations of the same findings, and/or reach differing conclusions, and that additional or new facts may be uncovered in the future. It should further specify clearly whether the Expert has examined the work based on seeing it in person or on a photograph.
- 3.17. No duplicate of the certificate or the Expert opinion shall be issued.

4. Remuneration and disbursements of the Expert

- 4.1. The Expert's remuneration should be a fixed fee owed to them for their work regardless of whether the work turns out to be authentic or not.
- 4.2. Any research that exceeds the scope of analysis agreed with the Client should be approved by the Client in advance together with a notice of the additional costs that it will generate.
- 4.3. The fixed fee should not be a percentage of the work's value and should be owed in addition to any expenses (travel costs, etc.).

- 4.4. The Expert should insist on advance payment for their services and any related disbursements.
- 4.5. The Expert should clearly communicate their pricing structure on a written invoice.

5. Relationship between Experts and third parties

- 5.1. Experts should communicate with each other, if possible and necessary.
- 5.2. For certain artists or different types of works of art, several Experts may be qualified, so that a consensus may be required (and difficult to obtain).
- 5.3. The Expert should insist on being **authorised to make available** the results of their analysis for the scholarly research of other Experts. Authors of catalogues raisonnés are strongly encouraged to digitize their catalogues so that these can be **accessed online** in agreement with the publisher.

6. Liability of the Expert & dispute resolution

- 6.1. The Expert should **use contracts and waivers** that comply with applicable national law.
- 6.2. The Expert should seek an **amicable resolution** to any dispute that may arise in connection with their authentication services.

7. Conflicts of interest

- 7.1. In general, Experts should reveal any conflicts of interest including financial interest in the artist's market.
- 7.2. Expert who is an employee of a public museum should verify whether they are allowed to provide Expert opinions.

8. Annexes

- Technical Analysis Glossary
- Country guide template on national law

Appendix A: Technical Analysis Glossary

A selection of imaging and analytical techniques that have been applied in all stages of the technical examination of paintings (and of other types of artworks/ cultural heritage objects)

Imaging techniques (non invasive)

Technique	Application
Visual observations in normal light, raking light and transmitted light	Visualisation of different aspects of paint build-up, damages, previous restoration interventions, etc.
Large-field stereomicroscopy	Visualisation of different aspects of paint build-up, damages, previous restoration interventions, etc.
Examination with ultraviolet radiation: UV reflectography, UV fluorescence examination	Visualisation of surface structure and condition, presence of coatings, optical brighteners, different aspects of technique, previous restoration interventions, etc.
Examination with infrared radiation: IR-reflectography, IR-transmission	Visualisation of certain aspects of the image composition, of modifications carried out during the artist's working process, of the physical structure and condition of all parts of the object, damages, restoration interventions, etc.
IR-luminescence	Visualisation of certain aspects of the material composition at the surface (presence of certain pigments)
Xray	Visualisation of certain aspects of the image composition, of modifications carried out during the artist's working process, of the physical structure and condition of all parts of the object, damages, restoration interventions, etc.

Analytical techniques (mostly invasive)

Technique	Application
Micro X-ray fluorescence spectroscopy	This is a non-invasive technique to identify the chemical elements present at a surface. Identification of inorganic pigments, metals and their alloys, ceramics, glass etc
Fourier transform infrared micro-spectroscopy	Characterisation of organic materials (binding media, varnishes, adhesives, synthetic fibers etc.) and inorganic materials (pigments, corrosion products, salts etc)
Fourier transform infrared micro-spectroscopy, imaging mode	Proof of spatial distribution of certain colorants and binding media (in the sample)
Polarization microscopy	Identification of pigments and fibres by their optical characteristics from a microsample of a few tenths of a millimeter
Raman spectroscopy	Characterization of the molecular structure of various organic and inorganic materials. This method is useful for the identification of

	modern organic pigments.
Gas-chromatography-mass spectrometry	This technique is used to separate organic mixtures such as oils, synthetic and natural resins, waxes, proteins, plant gums. This will help the characterization of the individual components.
Scanning electron microscopy, with and without variable pressure	Provides information about the surface topography and the chemical composition of a sample or a small object. This technique is often used for the characterization of different paint layers in a cross section.
High pressure liquid chromatography	This technique is used to separate, identify, and quantify each component in an organic mixture in particular for binders and colorants.
Radiocarbon dating using accelerated mass spectrometry (AMS ^{14}C)	This technique is used to measure the concentration of the isotope carbon 14 in objects containing organic material such as paper, wood, fibers, ivory, etc

Country Guide: *[insert country]*

Author: *[name, job title etc.]*

Law as at: *[date]*

**RESPONSIBLE ART MARKET
Guidelines for experts**

	Aspect	Overview
1.	What is the legislation applicable to experts (i) authenticating works of art (ii) valuation works of art?	
2.	Are there any noteworthy ethical guidelines for experts in this country?	
3.	What characterizes the professional appraisal and attribution as a contractual relationship?	
4.	What is the liability of an expert towards their client who engage their services to authenticate a work of art or to give an opinion as to its period or provenance? Is the liability different for experts issuing authenticity certificates?	
5.	What is the liability of an expert towards their client who engage their services to <u>appraise</u> a work of art?	

Country Guide: [insert country]

Author: [name, job title etc.]

Law as at: [date]

6.	To what extent may experts waive their responsibility for appraising or authenticating works of art?	
7.	What is the liability of an expert towards a third party?	
8.	What liability applies to the <u>author of a catalogue raisonné</u> and to what extent may they waive their responsibility?	
9.	What liability applies to the <u>author of a sale/an auction sale catalogue</u> and to what extent may they waive their responsibility?	
10.	What could be a useful waiver for experts delivering written appraisals or authentications?	