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Nonprofit Trends for a New Decade

BY A. CHARLES SCHULTZ

"It is tough to make predictions, especially about the future."
— *Yogi Berra, baseball coach and philosopher*

As we approach the new decade, what trends will emerge for successful nonprofits?

There are several reasons to be optimistic about giving in the new decade. The economy is strong, there is high employment, and investment values in public and private stock as well as homes and commercial real estate are all solid. A strong economy, high employment, and solid asset values generally lead to increased giving.

However, there also will be challenges. With the passage of the Tax Cuts and Jobs Act in 2017, the number of itemizers declined from around 30 percent in 2017 to about 10 percent by 2019. Because some donors are no longer itemizing, they may be less likely to make charitable gifts. Even though many loyal donors will continue to give, there is expected to be a relatively flat growth trend for the traditional annual fund.

In addition, many nonprofits are having difficulty finding new and younger donors to replace senior donors who have died. While the number of nonprofits has been increasing, total donor numbers have remained generally flat over the past few years. Competition for

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A Family's Art Legacy: Give, Sell, or Both?

BY MARK PRENDERGAST

Since I last wrote for Planned Giving Today ("Charitable Giving with Art and Collectibles" in the March 2017 issue), I left my auction house position to start my own art appraisal and consulting company. Prompted by an opportunity to focus primarily on a single client's collection, the move had all the expected benefits and challenges of being out on one's own.

As that bedrock project wound down earlier this year, I discovered that I have missed the auctions which for a 20-year professional career had been "my world." So, I am now a director with Simpson Galleries in Houston, working to help build and promote a smaller, quality auction house that has served Texas and the region since the 1960s.

My 18-month outing of independent work with the family art collection provided me with a perspective opposite to the one to which I have always been accustomed. Previously, I had been the one providing the marketing and sales pitch from a company position. Now on the other side, I was faced with concerns and decisions based on upholding the responsibilities of a family's interests as custodians of a long-held tangible asset and preserving a legacy.

There was a historically significant pedigree along with all the practical issues that such an inherited art collection must face. This collection had been amassed by the grandfather in Germany

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Mary Ann Liebert, Inc. publishers

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in the first quarter of the 20th century. He was a prominent attorney, and as an avid patron of the arts he became personal friends with many of the artists of the era.

His collection was documented at more than 6,000 works by the time of the rise of the National Socialist regime in Germany in the 1930s. Being of the Jewish faith, the grandfather was stripped of his legal practice and parts of the collection were forcibly sold. Portions of the art and the family were safely dispatched to the United States, but unfortunately the grandfather met his sad fate in 1934.

80 Years of Storage

The family settled in the Texas coastal region, and the collection of some 1,000 pieces of art — mostly prints and works on paper — was stored in attics, closets and storage facilities for most of the following 80 years. An interested family member took on the role of custodian of the collection as evidenced by notecard inventories and occasional loans to museum exhibitions over the years. An appraisal and inventory of the collection was completed in the 1970s, and again in the 1990s with the passing of the collection to the next generation. However, photographic identification was lacking, as was any confidence in an accurate representation of the contents of its true assortment.

It was recently placed in a revocable family trust that clearly established the managing parties. All outlying claims of ownership interest by segments of the family had been fully addressed through the formation of the trust. As ownership restitution issues relating to World War II implications is always a concern, having that aspect of the collection defined well allows the family to confidently make decisions regarding its disposition.

An Extended Engagement

The family continues to fight for restitution of other pieces from the grandfather's collection as identified works are in museum exhibitions or appear publicly for the first time at sale through auction. It has won a few legal claims to ownership of paintings over the years, and is still waging other battles that have been met with much resistance. Their grandfather kept very detailed lists of his collection, but the lack of definitive photographic identification has been an unfortunate hindrance.

Through discussions with the family as to their needs, desires, timeline, and ultimate goals, we entered into an agreement that would see my full-time attention for a defined period devoted to the project. Specific stages of the endeavor where segmented with anticipated completion dates. Further blocks of consulting hours were designated for when the project advanced to a less demanding commitment. A well-defined engagement is important for such an extended project in order to achieve the expectations of all parties.

We agreed that the first step would be to have the complete collection removed from the storage facility to be inventoried and appraised. I knew the collection had significant value. The project was worthwhile for the family, since one needs to know what exactly one has and what it is realistically worth (monetarily or historically) in order to make any logical decision about it. The family also wanted to ensure that the collection was properly housed so it was safely preserved.

Complex Documentation Takes Time

Unsure of how or whether the collection would be kept, distributed, sold, or donated, I wanted to provide them with a collection management system that they could interactively use to track the collection. Today there are many options, ranging from expensive museum-quality services that hold all the information in the cloud to basic software that is not much more than a spreadsheet. I chose a free-standing program that they could own and manipulate. It offered all the features they might ever need in terms of analysis, reporting, and accounting.

Once I configured the software to the specifics for the type of property held in their collection, taking inventory continued steadily for over two months. The primary lesson of this is that proper documentation of a large collection takes a lot of time. The listing went beyond what is normally found in an insurance or tax appraisal, leaning more toward a museum inventory that disregarded importance based on value. Multiple digital pictures of each piece, detailed descriptions, and

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His collection was documented at more than 6,000 works.

The family liked the idea of donating the collection to a museum.

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condition assessments were all needed for the next stages of the process.

On many days it was a true treasure hunt as I would open the next cardboard box and slide out a stack of drawings and prints. There was the history of printmaking right at hand — from its artistic infancy with Albrecht Dürer and Rembrandt, through the 18th and 19th centuries, then into a snapshot of 20th century Germany between the wars. My inner art historian loved every minute of it, and I quite possibly became the world's leading expert on printmaking in Germany during the 1920s.

Upon completing the inventory, the appraisal research and production took another month and a half. I was appraising for realistic fair market value as is used for tax purposes. But since sale through auction was a likely option (and I had auction house experience), I also included potential estimate ranges of value that they might see from auction venues.

The benefits of having well-selected software showed itself at this point and also in the back-end analysis of the collection. Comparable auction sale results and examples of similar pieces being handled by dealers were attached to an item. The full report would portray a clear picture of how the values were derived and provided a broader sense of what the monetization of part or all of the collection would look like.

The final report exceeded all the Internal Revenue Service (IRS) and The Appraisal Foundation's required Uniform Standards of Professional Appraisal Practice (USPAP) for its purpose and covers more than 1,200 items. The full printed version consisted of almost 500 double-sided pages. With the appraisal and management system now in hand, the family felt confident that they could intelligently consider all the options for the disposition of the collection.

Donation or Sale?

The family liked the idea of donating all or a portion of the collection to a museum. However, they also wanted to use the collection to fund the family trust. My role now as consultant turned to exploring donation possibilities as well as sale options.

In order to have a charitable donation of a collectible tangible asset accepted for full tax benefits, the IRS requires that the donation meet very particular rules. First is that the charity must be a domestic public organization with Internal Revenue Code 501(c)(3) status. Then, in order to accept the donation, they must have "like or related use" of the articles donated and must hold the donations for at least three years from the date of donation. The charity must provide a letter citing the acceptance of the donation, including a statement of the related use, valuation, and date of donation.

Finding an accepting charity can often be more of a challenge than many potential donors realize. Museums, civic organizations, and even one's own alma mater may not want to take on the responsibility and cost of accepting a donation of an offered item or collection. Despite high-value property, the limitations to immediate sale and the expenses associated with the item(s) often preclude the nonprofit from as readily accepting donations as one might expect.

Unless it is a very specific item with which the organization has direct and immediate use, most charitable entities much prefer cash donations. This was made very clear when each of the museums, religious organizations, and historical institutions that the family identified for the donation politely declined the gift. Each one would gladly be the beneficiary of the proceeds of the sale of the collection, but taking on the commitment of all or part of the collection was not going to happen.

Finding Appropriate Buyers

It was decided that any charitable pursuit of the family trust would have to be considered following a sale. The family liked the idea of the collection staying intact, but the reality was that no museum, dealer, or collector had an interest in obtaining the collection in its entirety. To maximize the value, the best option was to sell it.

I approached dealers and collectors with interests in the type of art we had to offer. It became quickly evident that for a collection of this size and material (which had its academic elements and a rather specific market), selling through auction would find the most appropriate buyers and ultimately see the highest possible results.

We considered a myriad of auction houses in the U.S. and Europe since the collection was composed of primarily German artists. I presented my recommendations to the family, who then chose which houses to approach for sales proposals. The inventory software again proved valuable in its ability to generate reports of the collection that contained only the information the auctioneers required for their assessments for sale.

It was very interesting to me to be on the seller's side of the auction process. I anticipated the typical negotiations over seller's fees, handling costs, and insurance coverage, but I was rather surprised by the variance in attentiveness and communication we received. Along with the full inventory of the collection, we provided the venues with our specific concerns and desires for the sale.

Some did an excellent job at providing timely and professionally polished proposals for how they would handle the collection. Several were easily removed from the running based solely on the first few interactions, either due to the character of individual employees or the company culture. The lesson here is that there are several good options available for the sale of art and collectibles. The seller has to feel comfortable with whomever is entrusted with that.

Also, the larger auction companies may not always be the best or most appropriate option. It is important to find the auction sale venue that has the experience at the appropriate values of the type of material that one is looking to sell. As was true in this collection, if many of the items are priced in the tens of thousands of dollars or below, then it most likely won't receive the attention and dedication one would like from venues that are focusing on a much higher price point.

Terms and Conditions

You want to have a high level of interest and excitement expressed for handling the sale of your collection — which is usually indicated by the attention provided. If your collection is important to them, you are almost ensured that the other terms and conditions of the sale will fall in your favor. Of the eight auction houses we approached, we received good responses and comprehensive proposals from three of them, viable yet limited sale options from another three, and virtually no interest from two others.

The one that proved to be the best fit listened to what the family wanted from the whole sale experience and had experience with the particular material in the collection. It also offered to feature a selection of the collection as a single-owner auction — providing its own auction catalog, a descriptive essay about their grandfather, and tailored marketing.

The seller's fees and financial terms were comparable to some of the other offerings, but the complete package included a schedule of auctions for everything in the collection, down to the lowest value items. I negotiated that the auction house arrange and pay for shipping so that there would be no other costs to the family.

Caution is advised on "per lot" fees for photography, insurance, or marketing. These may seem minimal, but can add up to significant amounts when selling a larger group of property. Most auction houses are willing to absorb many of these fees or incorporate them into the general seller's fee percentage. On the seller's side of auction sales, all the financial terms are negotiable. The auction house will be inclined to reduce rates and costs as the overall value of the consignment increases.

Getting to the Sale

Reserve prices are the confidential minimum prices for which any particular lot can possibly sell during the auction. The reserves should be agreed to during the consignment process. For this collection, a general reserve at 80 percent of the low-end auction estimates was established for most of the pieces. Exceptions included a few of the higher value items, which the family was willing to have returned to it should the reserve not be met.

An auction house makes its fees only when items sell at the auction, so it is in their interest to set reserve prices and auction estimates as low as possible to ensure the pieces sell. If it is the intent to sell a piece or collection at current market value, once the auction company is chosen, it is usually best to follow the suggestions for reserves and auction estimates. The bidding during the auction (assuming a well-publicized and respected auction venue) will ultimately determine the true fair market values.

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The best fit listened to what the family wanted.

We will again consider donation options.

Planned Giving Champion: Alexandra P. Brovey

There are many accomplished leaders in the field of planned giving, and again this month Planned Giving Today offers an interview with one of them. We know that our readers appreciate having experienced professionals answer real-life, work-related questions.

Each of these planned giving champions provides an excellent personal example, especially for newly hired and mid-career gift planners. We hope this conversation satisfies a bit of your curiosity about another admirable colleague whose dedication and expertise stand out.

Alexandra P. Brovey, J.D., LL.M., is senior director for gift planning at Northwell Health Foundation in Great Neck, New York. She has worked 11 years for the 23-hospital health system to expand its footprint in gift planning. She works strategically with the principal gifts team on gifts of $5 million and above and staffs a 38-person estate planning committee as well as multiple legacy societies.

She started her legal career concentrating on charitable gift planning and estate planning, while working for firms in Delaware and Pennsylvania, before starting a law practice in Pennsylvania and New York. In 1999, Brovey became the second planned giving officer hired at Pennsylvania State University, and within five years was coordinating gift planning across nine colleges and 25 campuses during a successful $1.3 billion campaign. She then was hired for senior director positions at Pace University and Stony Brook Foundation in Stony Brook.

Brovey speaks frequently on philanthropic and legal topics, and is the author of "Zen and the Art of Fundraising: 8 Pillars of Success," "Zen and the Art of Fundraising: 8 More Pillars of Success," and "Zen and the Art of Fundraising: The Pillars in

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As the auction date approached, the offering was available for bidding in-person, by telephone, and online. The latter has become the primary method. Some of the family members went to New York for the auction preview reception, exhibition, and auction. I watched the auction event live through an internet bidding platform as some items sold at expected prices, others didn't do as well as we had hoped, and some skyrocketed to multiples of their estimates.

In the end, after many phone calls with family members to assuage their concerns and excitement, I was pleased with the amount of bidding during the auction. The overall sale results fell easily within the appraisal valuation. We saw 82 percent of the lots sell, with the revenue achieving more than the low estimate for the total auction. Beyond the financial results of the primary auction, the family was most pleased with the attention and marketing surrounding the auction that showcased the history of their grandfather and his collection.

I will meet with the family at the end of 2019 to provide an updated accounting of sales to date, and they will then make decisions regarding the possible further disposition of that which remains. Anything unsold will be returned to the family and perhaps reoffered in a later auction. We will again consider donation options, but it seems likely that anything remaining will be retained by various family members as mementos for subsequent generations.

Even though the collection will be largely sold, in many ways the recognition and awareness of the grandfather's collection has been renewed. The family members retain the comprehensive appraisal and auction catalogs and, more importantly, are secure in the knowledge that they have been good custodians of an extended family legacy.

Mark Prendergast is a director with Simpson Galleries, Houston's oldest and most trusted fine art and antiques auctioneer. A former vice president with Christie's and then director of trusts and estates for Heritage Auctions, Prendergast is also a licensed auctioneer and Certified Member of the Appraisers Association of America.
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