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# Jewish Heirs Take on an Art Foundation That Rights Nazi Wrongs

By William D. Cohan

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The German Lost Art Foundation operates a database of art likely looted by the Nazis, a list that has earned plaudits for helping to return works taken from Jews during the Holocaust. Established by government officials to address the sins of a prior generation, the foundation and its database alert the market to works that may have painful pasts and cloudy title.

But now the foundation is being criticized for removing from public view 63 works by the Austrian Expressionist Egon Schiele, as a result of lobbying by several dealers who specialize in the artist. The dealers contend the works in question were never stolen.

The removal — a rare step — is being challenged by the heirs of a popular Viennese cabaret performer, Fritz Grünbaum, whose sizable art collection, including 81 Schieles, was inventoried by Nazi agents in 1938 after he had been sent to a concentration camp where he died.

The heirs say the Schieles in question were definitely Grünbaum's property and confiscated by the Nazis. Earlier this year, they persuaded a New York State court of the merits of their claim, and a judge ordered that two of the Schieles, which have been held by one of the dealers, be returned to the family.

But the foundation has discounted the American court's ruling in favor of the dealers' view that the Schieles survived the war in the possession of a Grünbaum relative, not the Nazis, and were later sold fair and square.



Provenance researchers like Uwe Hartmann, left, head of the research department of the German Lost Art Foundation, and art historian Kai Artinger, try to trace the ownership of art works suspected

of having been looted by the Nazis. Dpa Picture Alliance/Alamy

“The fact that Fritz Grünbaum was persecuted by the Nazis is not contested,” a spokeswoman for the foundation, Freya Paschen, said in an email. But, she continued, “this does not mean that the entirety of Grünbaum’s art collection must have been lost due to Nazi persecution.”

The dispute has drawn attention to the question of what sort of evidence the foundation should rely on to list — or delist — works, a difficult decision given the murky histories of much of the art lost in that era and the personal and financial consequences involved. Posting a work by Schiele, whose paintings have sold for as much as \$40 million, on the database unquestionably damages its marketability. Refusing to list one just as certainly pains those who view restitution as justice long delayed.

“How does one strike a Jew’s name from the book of history in modern days?” asked Raymond Dowd, a lawyer who represents the Grünbaum heirs.

The foundation, based in Magdeburg, was born in 2015, after efforts in Germany, and elsewhere, to find the huge number of works lost during World War II were often criticized as lackluster. That view had only grown with the discovery in 2012 of 1,500 works, some of them later shown to have been looted by the Nazis, in the Munich and Salzburg homes of Cornelius Gurlitt, whose father, an art dealer, had worked with the Nazis.

The foundation, established by the German federal government and other German states and municipalities, is designed to comply with the so-called Washington Principles, a set of nonbinding tenets that emerged from an international conference in 1998 that are meant to encourage restitution. The so-called Lost Art Database was created two years later in Germany and has been operated since by a series of German organizations, the most recent being the foundation. Ms. Paschen said the database provides “transparency” and contains nearly 170,000 detailed reports of stolen artworks and “several million” summaries of other objects.

Searching the database is free, and its website averages some 14,000 visits to its website per month, the foundation said. Works are listed based on requests to the foundation, which evaluates the information presented to it but does not do its own provenance research.



Egon Schiele’s “Woman in a Black Pinafore” (1911) was ordered returned to Grünbaum’s heirs by a New York judge earlier this year.

The database's guidelines say "the reporting party must plausibly demonstrate that an individual object or a collection was confiscated as a result of Nazi persecution, or was removed or lost during the Second World War, or that such a suspicion cannot be ruled out."

The Schieles were first listed on the database more than a decade ago at the request of the heirs, based on their view that the Nazi agents who inventoried the Grünbaum collection in 1938 ultimately seized it. At that time, the collection contained more than 400 works, including the Schieles. But the inventory did not record the names of many of the works, and it remains unclear what exactly happened to the collection after it was moved to a storage depot in Vienna. The art dealers contend that Grünbaum's wife, Elisabeth Grünbaum-Herzl, who was later sent to a concentration camp where she died, worked to export the bulk of the collection and that it's possible the works actually were shipped from Vienna to her relatives in Belgium.

What is clear is that in 1956, a Swiss art dealer offered 63 Schieles from the Grünbaum collection for sale. It was the first time any of the works had surfaced on the art market since Mr. Grünbaum's death 15 years earlier.

The Swiss dealer, Eberhard Kornfeld, said at the time that he had obtained them from "a refugee," without elaborating. More than 40 years later, in 1998, when questions about the provenance of the Schieles arose, Mr. Kornfeld identified the refugee as Mrs. Grünbaum-Herzl's sister, Mathilde Lukacs-Herzl, who had managed to escape the Nazis. He later presented letters, some logs and receipts that, he said, documented the sale from Ms. Lukacs-Herzl. He also said she had never identified herself as a Grünbaum relative or told him how she had come into possession of the works.

In 2011, a federal court in Manhattan found Mr. Kornfeld's account credible in a separate case in which it ruled a different Schiele from the same collection had not been looted.

But the Grünbaum heirs contend that Mr. Kornfeld's account is a fiction and that the documents are forgeries. They say it is suspicious that he did not identify Ms. Lukacs-Herzl as his supplier until nearly two decades after her death, and they contest the validity of the signatures on the records, pointing to places where Ms. Lukacs-Herzl's name is misspelled or written in pencil.



Schiele created "Woman Hiding her Face" in 1912. An art dealer, Richard Nagy, appealed the judge's order to return this work to Grünbaum's heirs.

Earlier this year, a New York State Supreme Court judge, Charles J. Ramos, found the heirs' arguments persuasive and ordered one of the dealers, Richard Nagy, to return Schiele's "Woman in a Black Pinafore" and "Woman Hiding Her Face" to them. He ruled that the Grünbaum collection had indeed been looted and that any actions by Mrs. Grünbaum-Herzl had been made under duress. "A signature at gunpoint cannot lead to a valid conveyance," the judge said in his ruling. He found discrepancies in Mr. Kornfeld's account, noting, for example, that his 1956 sale catalog had not listed the sister-in-law as the prior owner of the Schieles.

Mr. Nagy has appealed the judge's order and points to the fact that the three experts in lost works he has enlisted said that they too do not find evidence that the Schieles were looted.

"Had any one of them found that the Schiele artworks were owned by Fritz Grünbaum and stolen by the Nazis, Richard would not have hesitated to reconstitute them," Nina Hartl, the director of Mr. Nagy's gallery, said in a statement earlier this year.

On Aug. 2, an appellate court stayed the heirs' proposed auction of the artworks at Christie's until Oct. 1, as long as Mr. Nagy posts a \$4 million bond.

Ms. Paschen said that over the years, the foundation and its predecessors have removed at least four other works from the publicly viewable portion of the database after new evidence suggested they had not been looted. "Should there be new historic facts brought to light that may change the current evaluation," she said, "the works would be publicized again."

Stuart E. Eizenstat, a former deputy U.S. Treasury secretary who helped negotiate the Washington Principles, said that even if the claims by the Grünbaum heirs ultimately turn out to be unfounded, it makes sense to err on the side of caution when it comes to removing items from the database.

"The whole point of the Washington Principles is disclosure," he said. "You can't possibly have any justice on the merits without the disclosure so that claims can be made."

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