It was only by chance, during a routine border inspection on a train from Switzerland to Germany in September 2010, that customs officials found Cornelius Gurlitt with 9,000 euros in his pocket and no existence in government databases. That random inspection, however, set off a chain of events that is still reverberating on both sides of the Atlantic.

Some of the details are, by now, well known: the revelation that 81-year-old Cornelius is the son of Dr. Hildebrand Gurlitt, a German art dealer/art historian/collector who aided the Nazis; the discovery of an enormous cache of mostly unaccounted for artworks—some clearly looted—in Cornelius’ modest Munich apartment; the confiscation of 1,406 items from the apartment, including 1,280 artworks, in February 2012 by the Bavarian State Prosecutor’s Office (SPO) pending investigation into tax evasion and possible other crimes; and the incredible failure of authorities to make the find public for more than a year and a half.

Were it not for an apparent whistleblower, it still might not be public. The German magazine Focus broke the story in early November 2013, forcing the government to call a news conference on November 5 (FIG. 1). Outrage soon followed, with claimants and other individuals and organizations calling for total transparency regarding the seized works and speedier provenance research. While transparency has not yet been achieved—to date, only 458 of the 1,280 artworks found in Munich have been posted on the German government site (www.lostart.de)—some progress has been made on provenance research. To augment the lone researcher who had been tasked in secret by the Augsburg Public Prosecutor’s office, an international provenance research team (the Schwabing Art Trove Task Force) has now been assembled. It includes one American—Jane Milosch of the Smithsonian Institution. They do not have an easy job ahead.

Recently, an additional cache of 60 works was discovered in another Gurlitt home in Salzburg, Austria. As IFAR goes to press, however, neither German nor Austrian authorities have released any official information as to the exact contents of this new find, other than to say that it includes works by Picasso, Monet, Renoir, and other masters, none of which, we are assured without explanation, show evidence of having been looted.

Even if it turns out that works in Gurlitt’s collection were looted, German law may protect him. As discussed in more detail below, the statute of limitations for a claim, generally speaking, runs out 30 years after the theft,

FIGURE 1. Some of the images from the Munich art trove shown at the government press conference, November 5, 2013.
whether or not the current owner acquired a contested work in “good faith.”

The slowness of the German government’s response and its (and Gurlitt’s) apparent unwillingness to deal immediately with claimants, has led to the filing of the first of what may be many lawsuits in the United States. As IFAR went to press, David Toren, an elderly New York resident and heir to the collection of David Friedmann, the pre-World War II owner of Max Liebermann’s Two Riders on the Beach (FIG. 2), filed suit in Federal District Court in Washington, D.C.¹ not against Gurlitt, but against the Federal Republic of Germany and the Free State of Bavaria. The German and Bavarian governments will likely try to get the case dismissed on jurisdictional grounds. Stay tuned.

By all accounts, Cornelius Gurlitt is an eccentric—an elderly, single man who is deeply attached to an art collection he inherited upon his mother’s death in 1967 and which he has kept sequestered ever since. He has apparently never worked, and has funded his modest lifestyle by occasionally selling a piece of art.

The Munich art trove consists of works acquired by Gurlitt’s father, Dr. Hildebrand Gurlitt (1895-1956), who obtained at least some of the works through illegitimate channels. Although not a member of the National Socialist Party and part Jewish himself, Hildebrand Gurlitt was one of the art dealers authorized by the Nazis to sell and trade so-called “degenerate” art works—mainly late 19th and 20th Century avant-garde works that the Nazis confiscated not only from Jews, but also, legally, from German museums and other public collections in 1937-1938. Although abhorrent to Nazi tastes and ideals, degenerate works had a market value elsewhere, and the Nazis permitted Hildebrand and a few other dealers to sell them on the international market to procure much-needed foreign currency. It was a lucrative business. At the same time, they mandated that Hildebrand purchase approved works for Hitler’s proposed Führer Museum in Linz, Austria.

It is Hildebrand Gurlitt’s Nazi associations that have cast a long shadow on the contents of his son’s Munich art trove. In the interest of establishing legitimate ownership, the Bavarian State Prosecutor’s Office now has the difficult task of documenting a clear provenance for each work Cornelius possessed.

“It is Hildebrand Gurlitt’s Nazi associations that have cast a long shadow on the contents of his son’s Munich art trove.”

IFAR has done its own research into the activities of Hildebrand Gurlitt during the war. We have consulted the National Archives and Records Administration in Washington, D.C., which has over 15 million pages of documentation related to Holocaust-era assets, some of which are searchable online.² Among the documents that we have been consulting are the: Holocaust Era Assets Restitution Claim Records, Property Declarations; WWII OSS Art Looting Investigation Unit Reports; Consolidation Interrogation Reports (CIR); Roberts Commission-Protection of Historical Monuments; Repositories and Art Looting Investigation File; and the Claim File of Hildebrand Gurlitt A1-495. We have also

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WHO WAS HILDEBRAND GURLITT?

A comprehensive account of Hildebrand Gurlitt’s activities during World War II is difficult to compile since information related to him during the war is scattered, incomplete and complicated by the fact that he wasn’t always truthful to his interrogators after the war. Although he had close Nazi associations, Gurlitt’s role as an art dealer and his relationship to the Nazi party is far more complex than has been portrayed in the general press.

Hildebrand Gurlitt denied ever having been a Nazi. And, although he profited greatly from sales of degenerate art, he was also a collector and champion of modern art. In 1925, after completing a doctorate in art history, Hildebrand became an art reporter for several German newspapers, and, shortly after, was appointed the Director of the Museum of Art in Zwickau. He actively supported modern artists, particularly the German Expressionists, by exhibiting and purchasing their art, enriching the museum’s collection. By 1930, members of the National Socialist Workers Party (NSDAP) engineered Hildebrand’s dismissal on the basis of his modern art purchases. He then became the Director of the Kunsthalle in Hamburg, from where the Nazis dismissed him again in 1933, also for promoting modern art. Gurlitt then became an independent art dealer in Hamburg.

“By his own estimates given in a sworn statement to the Allied Command after the war, Hildebrand made about ten trips to Paris between 1941 and 1943, but he denied ever having handled Nazi-seized art.”

According to the anti-Jewish Nuremberg Laws of 1935, Gurlitt was a “Mischling” of the “Second Degree” (a person with one Jewish grandparent), and, as such, he was allowed to keep his German citizenship, but could experience other hardships. Nonetheless, in 1938, after the purge of degenerate art from German museums, Hermann Goering selected him to become one of the four official art

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3 The Victoria and Albert Museum, UK has recently published a digital version of the typescript inventory of degenerate art works that were removed from German museums and art galleries by the German government. http://www.vam.ac.uk/__data/assets/pdf_file/0020/240167/Entartete_Kunst_Vol1.pdf


6 The Reich Citizenship Law of September 15, 1935 and the First Supplementary Decree of November 14, 1935.
dealers permitted to sell degenerate art to foreign buyers. By 1941, he also was traveling to Paris to buy and sell art on the international art market. By his own estimates given in a sworn statement to the Allied Command after the war, he made about ten trips to Paris between 1941 and 1943, but he denied ever having handled Nazi-seized art.\(^7\)

He did, however, admit to profiting from the wartime art trade in France, estimating that his income jumped from 40,000 Reichsmark in 1941 to over 200,000 Reichsmark in 1943 on account of his art purchases.

In 1942, after bombs destroyed his Hamburg gallery, Gurlitt moved to Dresden and by 1943 became one of the official Paris agents for Hitler’s proposed museum in Linz under its second director, Hermann Voss. Gurlitt later insisted that this was preferable to being sent, due to his partial-Jewish status, to do forced labor in the “Organization Todt”.\(^8\)

Even directly after the war, the Allies were equivocal in their assessment of Gurlitt’s activity, and reports about him conflicted. Gurlitt’s art collection was seized and held for several years by the Allies (see below). An undated statement from the Wiesbaden Collecting Point following Gurlitt’s inspection of his works that were sequestered there states that “Mr. Gurlitt does not seem very open-hearted” (FIG. 3).\(^9\)

Nevertheless, an inter-office memo from the Office of Military Government for Bavaria—Fine Arts and Archives Section—from 24 March 1947 stated: “This office is of the opinion he [Gurlitt] actually does not hide any illegal property. But, that of course, has to be checked on the spot.” It ends with a directive to release his collection to him (FIG. 4).\(^10\)

\(^7\) The text of Gurlitt’s statement to the Allied Command signed on June 10, 1945 has been made available by the Bavarian State Prosecutors Office on the official Lost Art website. http://www.lootedart.com/web_images/pdf2013/

\(^8\) See, Statement of October 3, 1946, op. cit., footnote 5; www.fold3.com/image/2700556467/. The Organization Todt, named after its founder, Fritz Todt, an engineer, was responsible for much of the wartime construction in Germany.


WARTIME ACTIVITIES AND THE MUNICH TROVE

What light does Hildebrand Gurlitt’s wartime collecting and dealing shed on the art trove found in his son’s Munich apartment? In 1945, the Allies seized Gurlitt’s art collection at the Neue Residenz in Aschbach and on June 10 of that year, Lieutenant Dwight McKay of the U.S. Third Army interrogated Gurlitt about his activities as a Nazi art dealer. The collection taken by the Allies comprised 117 paintings, 19 drawings and 72 decorative objects — far fewer than the 1,280 artworks recently seized in Munich, which begs the question of where, when and how Hildebrand acquired — or hid — all the additional works.

The works seized by the Allies included Max Liebermann’s Two Riders on the Beach (FIG. 2), claimed in the federal lawsuit just filed in Washington, D.C.; Marc Chagall’s gouache Allegorical Scene (FIG. 5); and Max Beckmann’s Lion Tamer, also a gouache, of 1930 (FIG. 6 and JOURNAL COVER), which was recently sold by Cornelius Gurlitt at auction in Cologne (see discussion below).

Hildebrand’s seized collection was stored at the Wiesbaden Collecting Point until 1950, when he applied for its return. On December 13, 1950, he submitted an annotated list of his collection as proof of ownership. He put a check next to 71 works that he claimed had been in his family’s collection since 1933 and made a cross next to 68 modern works and objects that he said were acquired directly from the artists and did not come from Jewish collections. That month, the Allies returned all the works, with the exception of the Chagall and a Picasso titled Portrait of a Woman with Two Noses, which were made subject to further investigation. They were designated to return to France until Gurlitt sent a letter from the Lugano painter Karl Ballmer stating that he had given both paintings to Gurlitt as a gift in 1943 (FIGS. 7A&B). That was deemed “sufficient proof” and both works were returned to him in January 1951. Curiously, on a list that Gurlitt prepared in 1945 when his works were initially...
taken by the Allies from the castle in Aschbach, he had stated—presumably referring to the same Chagall and Picasso—that the Chagall had been an “old possession” of his sister’s (who died in 1933) and that the Picasso was “bought from the artist, Paris 1942.” What to make of these contradictory statements, other than that Hildebrand apparently lied to the interrogators, especially in light of the fact that Savely Blumstein, a Latvian Jew who survived the Holocaust, registered an ownership claim on what seems to be the same Chagall in 1957, stating that the work had been taken by the Gestapo from the Blumstein home in Riga in 1941.  

While the term usually denoted modern art works—even those by major German artists like Max Beckmann and Otto Dix, degenerate art could also include works judged to be Jewish-Bolshevist in nature or rendered by Jewish artists, such as Max Liebermann or Marc Chagall. The remaining 590 (of the 970) works are currently being investigated as possibly Nazi-looted works. The latter are slowly being added to the www.lostart.de website, many with poor reproductions and all watermarked “Staatsanwaltschaft Augsburg”. The SPO site makes clear that regulations limit the posting of a work to the Lost Art site unless the prosecutor’s office believes “that the suspicion of Nazi confiscation is well-founded,” and cautions that categories may shift as new information comes to light.

“The collection taken by the Allies comprised 117 paintings, 19 drawings and 72 decorative objects—far fewer than the 1,280 artworks recently seized in Munich, which begs the question of where, when and how Hildebrand acquired—or hid—all the additional works.”


14 In 1981 Blumstein’s family received a 25,000 Mark payment from the government in settlement for the artworks—including the Chagall—the Nazis took. See H-W. Saure and Ralf Gawel, “Bild lost das Rätsel des gestohlenen Chagalls,” Bild, Dec. 11, 2013. Although Blumstein’s children are aware of the Munich find, we do not know whether they made or will make a formal claim.

FIGURE 7A (left). Certificate from Karl Ballmer confirming his gift to Dr. H. Gurlitt, December 30, 1950. 7B (right). Letter from Office of Economic Affairs Property Division, January 9, 1951.
CORNELIUS’ COLLECTION

For the purpose of discussion, we will divide the known Munich art trove into 3 sections:

• Works that appear to have been legitimately acquired by Hildebrand Gurlitt and passed down to Cornelius.

• Degenerate works confiscated by the Nazis from German museums/public collections, which Hildebrand was allowed to purchase. And other degenerate/modern works that did not come from German museums, but rather via friendships with the artists, eg. Beckmann; direct purchases—legitimate or otherwise—from collectors or dealers; art trades, where the prior owner may have acquired the work through looting.

• Looted or possibly looted works to which Gurlitt had access based primarily on his position as art dealer for the government.

Within these somewhat arbitrary categories there are considerable overlaps. Liebermann’s Two Riders on the Beach, for example, which now appears to have been a looted work (but was returned to Hildebrand by the Allies after the war), also falls into the category of degenerate art, since Liebermann was Jewish. Similarly, Chagall’s Allegorical Scene was declared degenerate, but it, too, as already mentioned, may be the subject of an ownership claim. Provenance research in general is painstaking; but the provenance for the Gurlitt hoard may be particularly difficult to ascertain, and will keep the newly formed task-force busy. Some of the works—for example Chagall’s Allegorical Scene and Otto Dix’s Dompteuse of 1922 (FIG. 8)—do not factor into catalogues raisonnés of the artists, which were compiled in the post-war period.

Many of the Munich works are on paper, with prints and lithographs comprising a large segment of the cache. Researchers will have to plow through numerous documents to make sure that the work, or number in an edition, is correctly identified. Neither the Victoria and Albert list of degenerate artworks, nor the collection lists made by the Allies is very detailed. In their written documentation, the U.S. military organized objects according to the shelves on which they had been placed when confiscated. Generally, only an inventory number, the artist’s name and the subject identifies an object, with no mention of the title, date, support, or presence or absence of a signature. The Picasso Woman with Two Noses, for example, was originally identified as “German 20th c. Woman’s Head.” In later documentation someone scribbled “Picasso” next to the entry. Karl Ballmer’s letter describes it as a “gouache” and provides dimensions (45 x 30 cm), which may be of some help, but from the title provided and without an image, IFAR has not been able even to identify the work. The Wiesbaden list of Gurlitt’s collection contains at least three works by George Michel that are simply titled Landscape with no other identifying markers, making authoritative cross referencing very difficult.

“Regulations limit the posting of a work to the Lost Art site unless the prosecutor’s office believes ‘that the suspicion of Nazi confiscation is well-founded’ …”
WORKS THAT HILDEBRAND INDISPUTABLY OWNED

The SPO has only posted those Gurlitt works it believes may have a problematic provenance, and even that list is incomplete. Thus, we cannot say what works comprise the 310 that the SPO currently believes are “legitimately owned,” but it would naturally include those works indisputably acquired by Hildebrand prior to 1933 or after 1945, or those created by his relatives, notably his grandfather Louis Gurlitt (1812–1879), a landscape painter. Of the works the Allies sequestered and returned to Hildebrand, approximately 17 were by Louis Gurlitt. The Allies also handed back several “decorative” and non-Western art objects, such as African and Oceanic masks, clay figures from Peru and Meissen plates. While we do not know whether these objects are included in the SPO’s list of indisputably owned works, given their anonymous authorships, ethnographic nature, and minimal descriptive information, it would be difficult for a claimant to identify them or challenge their ownership.

DEGENERATE ART

Under the Law of the Confiscation of Products of Degenerate Art, enacted rather belatedly in May 1938, more than 20,000 degenerate artworks were confiscated by the Nazis from German public collections and museums during the 1937-1938 campaign against degenerate art (Aktion entartete Kunst). The confiscated works were stored in two places: approximately 780 paintings and 3,500 of the best works on paper were placed in the Schloss Niederschoenhausen, a Baroque palace in Berlin; the rest were kept in two storerooms in the Kopenicker Strasse. As noted, the V&A in London currently holds a hard copy inventory list of these confiscated works.

In 1938, Joseph Goebbels set up the Kommission zur Verwertung der Produkte entartete Kunst (commission for the disposal of products of degenerate art) and authorized Hildebrand Gurlitt and three other prominent art dealers: Karl Buchholz, Ferdinand Möller, and Bernhard Böhme to sell the works to raise money for the Nazi military machine or trade them for desired works by Old Masters. In 1939, 125 degenerate works confiscated from the museums were put on sale by the government in the now infamous Galerie Fischer auction in Lucerne. Works from that sale have entered major collections in the U.S., including MoMA in New York and the Fogg at Harvard. The campaign against degenerate art ended with the dramatic burning of more than 4,000 works in a Berlin courtyard, so it is with some justification that those people who acquired and hid the banned art could say that they helped “save” it, and at some personal risk to themselves. This, in fact, is what Cornelius Gurlitt said in defense of his father when his Munich trove became public.

“It is clear that Hildebrand Gurlitt acquired several works that were confiscated from German museums during the Nazi purge of degenerate art, although it is difficult to say yet which ones. The SPO has not posted those works on the Lost Art site, as under the German law of 1938, the museum confiscations were legal.”

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A few works in the Munich trove that fall under this heading, however, are known, including Franz Marc’s watercolor, *Horses in a Landscape* of 1911 (FIG. 9), confiscated from the Moritzburg Museum in Halle, Germany. A cross reference with the V&A list shows that Gurlitt purchased the painting for 500 Swiss francs. Similarly, Ernst Ludwig Kirchner’s *Melancholy Girl*, a print found in the Munich apartment, was purged and acquired from the Kunsthalle in Mannheim. But it is not always easy to cross reference the Munich art trove with the V&A list. For example, the Otto Dix *Dompteuse* that surfaced in Munich is a watercolor. The V&A list of degenerate works confirms that Hildebrand purchased Dix’s *Dompteuse* from the Konigsberg Städtische Kunstsammlung for 0.5 Swiss francs, but that work was a print. This suggests that Hildebrand, at least at one point, had both a print and a watercolor of the work, but it is not yet clear to us how he acquired the latter.

The Munich trove contains many other degenerate works that did not come from German museums. Works such as Otto Griebel’s *Woman Veiled* of 1926 (FIG. 10), and the undated *Child at a Table*, both watercolors, would have been declared degenerate, but IFAR cross-referenced them with the V&A list to no avail, which suggests that Gurlitt may have owned them prior to the war, or purchased them from private collectors. The Wiesbaden Collecting Point misidentified *Woman Veiled* as “Lady with a Veil” by “Otto Grissel,” but the Wiesbaden identifying number 1917/7 matches that on the back of the painting. The description on the verso has a reference to “Dr. Glaser 1917/17,” indicating that this work may have been in the collection of Dr. Fritz Glaser, a Jewish lawyer from Dresden who was a vibrant supporter of avant-garde art in the 1920s. Glaser hid his own degenerate art collection from the authorities and narrowly escaped deportation to the Theresienstadt concentration camp in early 1945. It is possible that both of these watercolors by Griebel originally belonged to Glaser, although whether he sold them or what his ties were to Hildebrand Gurlitt, if any, remain a mystery for now. While Hildebrand and his wife Helene, claimed that all of his business records were destroyed in the Dresden firebombing of 1945, it is rumored that some files remained in Cornelius Gurlitt’s apartment, but, if so, this information has not been released. It is curious, however, that while all of Hildebrand’s papers were supposedly destroyed in the Dresden bombings, somehow, the artworks survived.

Some other degenerate works were acquired by Hildebrand directly from the artists.

Although it is not known whether they remained in his collection or factor among the Munich hoard, it is known that Hildebrand traveled to Amsterdam in 1943 to visit Max Beckmann and purchased four works from the artist, whose art was banned in Germany at the time. Gurlitt had championed Beckmann as early as 1936 and gave him his first major exhibition after the war, in Frankfurt in 1947.

**POTENTIALLY LOOTED ART**

The SPO has designated 590 of the Munich works as questionable in terms of provenance and potentially looted. Only 458 of these have been posted. Perhaps the most prominent, however, and almost surely the most valuable, is an Henri Matisse oil painting of c.1920 (1924?) (FIG. 11). Called Seated Woman/Woman Sitting in an Armchair by the SPO, but alternately and more frequently referred to as Woman with a Fan or Woman with a Headscarf, the painting belonged to the French Jewish art dealer, Paul Rosenberg, who exclusively represented Matisse at the time of World War II.

Unlike many other paintings that have surfaced in Munich, the trail for the Matisse is reasonably well documented. It was one of 162 Rosenberg works seized by the Einsatzstab Reichsleiter Rosenberg taskforce (ERR) from its hiding place in a bank vault in Libourne (Bordeaux), France in September 1941, then sent to the Jeu de Paume storeroom in Paris, and was soon traded for a School of Fontainebleau painting to the dealer Gustav Rochlitz. It is not exactly clear how it got to Hildebrand Gurlitt by 1944. After the war, Paul Rosenberg actively searched for his stolen artworks, including the Matisse in question, regaining many but not all of them. His family has continued the search. But the November 2013 Focus magazine article and subsequent government press conference was the first they learned the whereabouts of this Matisse, their attorney Christopher Marinello told IFAR. They filed an immediate claim.

Although the Matisse entered Hildebrand’s collection in 1944, it was not one of the 117 paintings seized from him by the Allies in 1945 and returned in 1950. Why? Where was the painting at that time? As already noted, the works seized and returned by the Allies make up only a small percentage (about 15%) of the Munich hoard, but as

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**FIGURE 11. HENRI MATISSE. Seated Woman, 1921. Oil on canvas. 56 x 46 cm.**

Left, shown in a pre-war black and white photograph. Right, as posted in a poor color reproduction watermarked by the Bavarian State Prosecutors Office (SPO).

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20 See, Julia Voss, Frankfurter Allgemeine, November 11, 2013, who cites NARA records for discovering that Gurlitt visited Beckmann on October 19 and 20, 1943 (and perhaps subsequently) and purchased 4 works (Woman with a White Jacket, French Bar, A Fish, and a Southern Landscape). Beckmann had left Berlin at the time of the Entartete Kunst exhibition, which included 22 of his paintings and graphics.

the Matisse shows, at least some of the works acquired before the war’s end—including works with tainted provenance—escaped Allied investigators.

“Unlike many other paintings that have surfaced in Munich, the trail for the Matisse is reasonably well documented.”

Several other contested works that were seized and returned have already been mentioned here, including Liebermann’s Two Riders on the Beach, which has spurred a lawsuit in the U.S. by the heirs of David Friedmann. Friedmann, a Jewish landowner and sugar refiner from Breslau (now Wroclaw), purchased it in 1905 and exhibited it in 1917 and 1927. It was also illustrated in 1917 in an article in the German periodical Deutsche Kunst und Dekoration. The provenance for this painting has been published in the catalogue raisonné of Liebermann’s work. Despite its well-documented paper trail to Friedmann, however, the work was returned to Hildebrand by the Allies in 1950, Hildebrand evidently convincing investigators that the work was legitimately his. He apparently felt comfortable enough about his ownership that he lent the painting in 1954—two years before he died in a car crash—to exhibitions at the Landesgalerie Hannover, the Kunstverein Düsseldorf and the Kunstverein in Hamburg. No claim was made on it at the time.

But the lawsuit paints a less innocent picture about Gurlitt’s acquisition of the work. It references a letter dated December 5, 1939 with a subject heading, “Seizure of Jewish Collections.” Written by a Dr. Westram, a senior government official in the Reichsministry for Economics, to the Nazi Minister of Economics in Berlin, the letter has a section on the “estimated value of artworks owned by Friedmann, a Jew.” It says: “The painting by Liebermann (Riders on the Beach) would fetch at least 10-15,000 Reichsmarks abroad.” Westram added that Friedmann had been forbidden to sell his works without authorization. Friedmann’s collection was subsequently seized. In 1942, Cornelius Hofstede, the director of a museum in Breslau, wrote to Hildebrand in Dresden offering him the Two Riders along with another Liebermann painting (Basket Weavers). Hofstede signed the letter “Heil Hitler.” Gurlitt evidently made the purchase. Whether he knew precisely how or whether the works had been acquired from Friedmann isn’t clear, but it is difficult to believe that he didn’t realize they had been looted.

Another work returned to Gurlitt by the Allies has not yet spurred a claim, but may. Carl Spitzweg’s The Piano Recital, a small drawing of c.1840 (FIG. 12), originally belonged to the Leipzig music publisher, Henri Hinrichsen. Gurlitt purchased it directly from Hinrichsen in July 1940 for 300 Reichsmark. But Hinrichsen, a Jew, fled Germany with his wife that same year. She perished in Brussels in 1940 and he was later killed in Auschwitz. This suggests that the work was sold to Gurlitt under duress. Heirs of the Hinrichsen family who now live in London are said to be considering a restitution claim.


23 The letter, which surfaced in the Polish National Archive in Wroclaw, is cited in the Toren lawsuit and also mentioned in an article in the German magazine, Der Spiegel: http://www.spiegel.de/international/germany/0,1518,932899,00.html

WHAT LIES AHEAD?

We have tried to give some sense of the complexity of the provenance research involved in examining the Munich trove and determining the legitimacy of Cornelius Gurlitt’s possession of the works. The international task force, as noted, clearly has its job cut out for it. Perhaps it will also be able to explain how Hildebrand and Cornelius managed to hide so many works from the rest of the world not only in recent years, but at the time of the Allied investigations.

It remains to be seen what will happen regarding the ownership claims in Germany and now in the U.S. While Cornelius Gurlitt continues to insist that he legally owns the entire Munich trove, he appears to have softened his initial stance that he would not even entertain restitution claims. He has hired attorneys—civil and criminal—and has set up a website to provide information, address media inquiries, and “encourage” claimants to come forward. Although he, and his lawyers, have said that he is absolutely under no legal obligation to do so, he is now amenable to private discussions about individual ownership claims from heirs of persecuted Jews and “where morally compelling grounds exist”—but only after his collection that was seized, he believes illegally, by the SPO is returned to him. His attorneys assert that no more than about 3% of the 1,280 confiscated artworks are subject to such claims.

Gurlitt has already reached a private agreement regarding at least one of the artworks, Beckmann’s Lion Tamer, which Hildebrand purchased in 1931 from Alfred Flechtheim, a prominent Jewish art dealer. Flechtheim’s heirs approached Cornelius when they learned that he was planning to auction the painting in Cologne in 2011, and asserted that the work had been sold by Flechtheim under duress. They came to an agreement, Flechtheim’s heirs reportedly getting 45% of the profits of the sale. The work, estimated to sell for 300,000 euros, sold for 864,000 euros (with premium), and indeed, the catalogue entry for the Lempertz sale of December 2, 2011, lot #230, notes that the work was “sold after amicable settlement with the estate of Alfred Flechtheim.”

Will the legal advantage remain on Gurlitt’s side? While this article is not focused on legal issues, it is clear that Germany’s 30-year statute of limitations for claims under its Civil Code works in Gurlitt’s favor. He could choose to waive the limitations defense, but he has given no indication that he would do so. His attorneys insist that he legally owns the collection by acquisitive prescription. Similarly, Germany’s Forfeiture Act of 1938 allowing the confiscations of works of degenerate art—a law that has never been nullified—works in his favor regarding the degenerate works confiscated from German museums, which, Cornelius’ lawyers insist, Hildebrand “legally acquired by purchase or trade.” Cornelius has said that he will “gladly review appropriate repurchase offers made by German museums.”

Whether the government’s investigation into tax evasion and possible other criminal offenses by Cornelius will give it leverage to force settlements with Holocaust heirs—or the museums—is an open question. The government has been under pressure for mishandling the case and will likely be looking for an equitable solution. Will others follow the lead of the Friedmann heirs and try to sue in the United States? Will that suit even be allowed to go forward? There is much more to be said on this complicated case, which no doubt will be in the news for a long time. We will return with more.

—SHARON FLESCHER and MICHELE WIJEGOONARATNA,
IFAR Research Associate
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COVER: MAX BECKMANN. Lion Tamer, 1930. Gouache and pastel on paper. 90 x 59.3cm
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