

Berlin – 20.03.2014. The Advisory Commission for the return of Nazi-confiscated cultural artefacts, especially from Jewish possession, stated its position on the "Welfenschatz" case today under the chairmanship of Prof. Dr. Limbach.

The facts of the case are as follows:

The "Welfenschatz" (English: "Guelph Treasure") is a collection of late medieval works of ecclesiastical art in gold from Braunschweig (or Brunswick) Cathedral, which had been owned by the Princely House of Braunschweig-Lüneburg since the 17th century. In the 1920s, the princely house tried to sell the collection. At the time, the price estimates varied greatly, from 42 million Reich marks to 6 million Reich marks. In October 1929, shortly before the outbreak of the world economic crisis, Jewish art dealers from Frankfurt / Main acquired the collection consisting of 82 individual items at a price of 7.5 million Reich marks. The purchase contract was signed on the 5th of October 1929 by the proprietors of the art dealership, J.S. Goldschmidt, I. Rosenbaum and Z.M. Hackenbroch. "Foreign and domestic business associates" were involved in the purchase, who formed a consortium with the authorized art dealers. The consortium agreement has not been found to date. The composition and legal structure of the consortium are not known. In the purchase contract, the art dealers undertake to sell the treasure of relics and to give the princely house a share in the profits obtained above a certain profit margin. It was expressly agreed, that the buyers would not be entitled to retain the purchased objects themselves either in whole or in part, but rather that they would be obliged to "make every effort to sell".

In the years that followed, the art dealers tried in vain to sell the whole collection in Germany and in the USA. It is generally believed that the world economic crisis considerably impaired the willingness of potential purchasers to buy. In 1930/31, they succeeded in selling only 40 individual items, primarily in the USA, for a total price of approximately 2.7 million Reich marks. The remaining 42 pieces were put into storage in Amsterdam after the collection had been exhibited in the USA.

In 1934, Dresdner Bank expressed an interest in purchasing the collection, which at the time was still in Amsterdam and therefore not in Germany. The bank presented itself as a potential buyer. However, it was to remain secret that it was acting on behalf of the State of Prussia. In April 1935, the consortium of art dealers submitted an initial binding offer to the amount of 5 million Reich marks. Dresdener Bank responded with an offer of 3.7 million Reich marks. In June 1935, a purchase sum of 4.25 million Reich marks was agreed. The purchase price was to be paid partly in cash (3,371,875 Reich marks) and partly (due to the currency export provisions in effect at that time) in works of art (800,000 Reich marks), which were to be sold abroad for the foreign business partners. The purchase contract was signed on the 14th of June 1935 by the art dealers I. and S. Goldschmidt and Z. M. Hackenbroch, as well as by Isaac Rosenbaum and Saemy Rosenberg, the previous proprietors of the Rosenberg Company, as the seller, and by Dresdner Bank (for the State of Prussia) as the buyer. In July 1935, the purchase price was paid less a provision of 100,000 Reich marks. The 42 pieces in the collection were brought to Berlin.

After 1945, the Welfenschatz was seized by the occupation authorities and later handed over in trust first to the State of Hessen and then to the State of Lower Saxony. In 1963, the collection was taken

over by the Stiftung Preußischer Kulturbesitz [Prussian Cultural Heritage Foundation] and has been exhibited at the Kunstgewerbemuseum in Berlin ever since.

Within the context of the reparation procedures, no compensation claims were made by the Jewish art dealers or their heirs or by the other participants with respect to the Welfenschatz treasure.

In 2008, the heirs to the art dealers represented by Stötzel, their lawyer, demanded that the 42 Welfenschatz pieces be returned by the Stiftung Preußischer Kulturbesitz [Prussian Cultural Heritage Foundation].

The claimants are of the view that the sale in 1935 was a case of confiscation due to persecution. In 1934 and 1935, they maintain that Dresdner Bank and the Prussian state government behind it deliberately exploited the difficult economic situation the Jewish art dealers found themselves in and exerted pressure on them. Even the Prussian Prime Minister Göring became involved. He was the driving force behind this transaction, they claim. The purchase price of 4.25 million Reich marks did not correspond to the market value of the collection. According to expert estimates, a purchase price of at least 6 to 7 million Reich marks for the 42 individual items would have been appropriate in 1935.

The Stiftung Preußischer Kulturbesitz has refused to return the Welfenschatz. First of all, it refers to the fact that it has not been clarified whether the four art dealers alone or also other participants in the sale were the co-owners of the Welfenschatz. Only all of the co-owners as a whole would be entitled to claim the return of the collection. The sale in 1935, the Foundation holds, was not a compulsory sale due to persecution. The art dealers had been attempting to sell the collection since 1929 and did not enter into the contract in 1935 under political pressure. The purchase price of 4.25 million Reich marks reflected the market value at that time and was therefore appropriate. There were no other interested potential purchasers in 1934 and 1935 that would have been in a position to raise the purchase sum. The lack of demand and the lower purchase price in comparison with earlier estimates can be attributed to the world economic crisis and not to the repression of Jewish art dealers by the National Socialist government. They accepted the purchase price after lengthy negotiations. If one compares the entire proceeds from the sale of the 40 individual items in 1930/1931 and the 42 individual items in 1935 to the purchase price in 1929, the Jewish art dealers and their business partners made a loss in the amount of ca. 10%. Moreover, the Stiftung Preußischer Kulturbesitz points out that the art dealers and their business partners were free to dispose of the proceeds from the sale. In any case, there is no evidence which speaks against free disposal.

After the two parties were unable to come to an agreement during the discussions on the Welfenschatz, they agreed to call upon the Advisory Commission in 2012, which has the task of mediating and working to find fair and just solutions in the case of differences of opinion between public institutions and the previous owners of cultural artefacts, especially those from Jewish ownership.

The Advisory Commission has examined this extraordinary case in detail, evaluated the extensive documentation and written submissions from of the parties and listened to their legal representatives. According to the findings of the commission, the art dealers had been trying to resell

the Welfenschatz since its acquisition in 1929. They were able to sell 40 individual items in 1930 and 1931, but did not receive any offers for the remaining 42 individual items. Dresdner Bank first expressed an interest in purchasing the remainder of the collection in 1934 on behalf of the Prussian State government. During the negotiations, which were drawn out over a lengthy period of time, the different target prices for both sides gradually approached each other. Although the commission is aware of the difficult fate of the art dealers and of their persecution during the Nazi period, there is no indication in the case under consideration by the Advisory Commission that points to the art dealers and their business partners having been pressured during negotiations, for instance by Göring. Furthermore, the effects of the world economic crisis were still being felt in 1934/1935. In the end, both sides agreed on a purchase price that was below the 1929 purchase price, but which reflected the situation on the art market after the world economic crisis. The art dealers used the proceeds primarily to repay the financial contributions of their domestic and foreign business partners. Moreover, there is no evidence to suggest that the art dealers and their business partners were not free to dispose of the proceeds.

The Advisory Commission, in accordance with its findings on the course of the purchase negotiations, is of the opinion that the sale of the Welfenschatz was not a compulsory sale due to persecution. It cannot therefore recommend the return of the Welfenschatz to the heirs of the four art dealers and any other previous co-owners.

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