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PRESS RELEASE

U.S. LAWSUIT FILED AGAINST FEDERAL REPUBLIC OF GERMANY AND PUBLIC FOUNDATION IN GERMANY FOR “GUELPH TREASURE” OR “WELFENSCHATZ”

DER PRÄSIDENT
MEDIEN UND KOMMUNIKATION

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A lawsuit was apparently filed in the U.S. District Court yesterday against the Federal Republic of Germany and one of Germany's largest public cultural institutions, the Stiftung Preußischer Kulturbesitz (in English also known as “Prussian Cultural Heritage Foundation”) in a case involving a Nazi-era claim to a valuable collection of medieval ecclesiastical objects known as the “Guelph Treasure” or “Welfenschatz.”

The Stiftung Preußischer Kulturbesitz (the “Foundation”) is committed to the fair and just resolution of legitimate claims to Nazi-confiscated art, consistent with well-established, universally accepted guidelines, as set forth in the Washington Conference Principles on Nazi-Confiscated Art (the “Washington Principles”). The Washington Principles were established and agreed upon by the German Government, the U.S. Government, and more than 40 other governments at the Washington Conference on Holocaust-Era Assets in 1998. Since that time, the Washington Principles have been adopted throughout Germany at every level of government, including the German federal government, the German state governments, and the organizations that represent German municipalities. Together, these German governmental entities have also issued a “Common Declaration” and “Guidelines” to ensure that claims to Nazi-confiscated property are handled in a fair and just manner, consistent with the Washington Principles.

The Foundation is a German public institution; as such, it is fully committed to the Washington Principles and invariably adheres to each of these documents, which set the benchmark for the Foundation's work in this field, including its responsibilities with respect to Nazi-confiscated art. Since 1998 in particular, the Foundation has been able to reach a number of just and fair resolutions with legitimate claimants in more than 50 individual cases.

In the present case, the Foundation has handled the claim to the Guelph Treasure in accordance with the Washington Principles, the Common Declaration, and the Guidelines, and concluded that the property at issue was not confiscated by the Nazis. Nor was it part of a forced sale or transfer under duress or coercion by the Nazis. The Foundation has



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carefully and extensively researched and analyzed all the evidence, facts, and circumstances surrounding the acquisition of the Guelph Treasure by the State of Prussia in 1935. As a result of this work, the Foundation concluded that the claim to the Guelph Treasure lacks merits, not only under the principles and guidelines set forth in the Washington Principles, the Common Declaration, and the Guidelines, but also under applicable law. Although the individual art dealers who sold the Guelph Treasure to the State of Prussia in 1935 were Jewish, and although some of the dealers were still resident in Germany at the time of the sale in 1935, the evidence demonstrates that the sale was voluntary and not a forced sale resulting from Nazi persecution or duress. This conclusion reflects the special circumstances of a rare and isolated case.

The claim to the Guelph Treasure was first asserted roughly six years ago in 2008, in Germany, by the heirs of the art dealers who sold the collection in 1935. Since the claim was first made in 2008, the Foundation has conducted extensive research and openly shared its information and findings with the claimants. Although the Foundation and the claimants had access to the same evidence and information, they came to a different conclusion about the 1935 sale and were unable to resolve the claim. Consistent with applicable principles and guidelines, the Foundation and the claimants agreed to present the case to Germany's "Advisory Commission in connection with the return of Nazi-confiscated art, especially Jewish property," (the "Advisory Commission") for a formal, but non-binding, recommendation regarding resolution of the claim. The Commission is chaired by the former President of the German Constitutional Court, Jutta Limbach. In March 2014, the Advisory Commission reached its conclusion and published a recommendation, in which it effectively agreed with the Foundation's assessment of the facts and the claim. The Advisory Commission therefore declined to recommend so-called "restitution" of the Guelph Treasure. Among the members of the Advisory Commission coming to this conclusion was the recently deceased former President of Germany, Richard von Weizsäcker.

The claimants have rejected the Advisory Commission's recommendation and instead filed a lawsuit in the United States, apparently in the hope that a U.S. court will reach a different conclusion than the Advisory Commission in Germany. The Foundation is surprised and disappointed by this lawsuit, not only because there is no connection between the Guelph Treasure and the United States that would justify bringing this



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lawsuit there, but also because the Foundation is aware of no new evidence or facts that would justify revisiting the Advisory Commission's recommendation. The Foundation regrets that the parties and the U.S. court must now incur the burdens and costs of litigation to resolve this claim for a second time.

The Foundation's President, Hermann Parzinger, has issued the following statement in response to the U.S. lawsuit: "I am astonished by this step. It was the express wish of the claimants to present the case to the Advisory Commission. The Foundation decided to meet this wish unreservedly and always made clear that it would follow the Advisory Commission's recommendation regardless of the outcome. The claimants have repeatedly emphasized how highly they value the Advisory Commission. Considering this, it impresses us as strange that after the Commission followed in full the arguments of the Foundation last March, the claimants have now decided to file a lawsuit in the United States. The applicants' legal representative had told me that the applicants would also accept and abide by the recommendation of the Commission. I am not aware of any new facts that might lead to a different evaluation of the case. While we believe that there is no jurisdiction over this claim in the United States, we are confident that any court ruling on the merits would reach the same conclusion that we and the Advisory Commission have reached."

Background

From the point of view of the Foundation, the following historical facts demonstrate that the sale of the Guelph Treasure in 1935 was voluntary and not the result of Nazi persecution or duress:

At the time of the sale, the Guelph Treasure was not in Germany and thus not exposed to the authority of the German state. Since 1930, it had no longer been located in Germany. At the time of the purchase by Prussia in June 1935, it was in storage in Amsterdam.

The purchase price paid was fair and appropriate. The art dealer's syndicate had acquired the treasure, consisting of 82 pieces, in 1929 for 7.5 million Reichsmark, for the purpose of reselling quickly at a profit. Due to the onset of the economic crisis that occurred soon thereafter, public institutions and other potential buyers were not in a position to make such a purchase at the price the dealers wanted. In spite of intensive efforts by the dealers to sell the collection, including in the United States, only about half of the group of objects, 40 pieces, could be sold, for roughly 2.5 million RM. The asking prices that the dealers hoped to realize for the main objects in the collection, which are on exhibit today



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in Berlin, were considered, even by museums in the United States, to be inflated and unrealistic. At such asking prices, many of the pieces could not be sold at that time. As documented in the sellers' own business records, dated 1934 and 1935, these pieces were valued at no more than 1.6 million RM.

By 1933, the State of Prussia was the only prospective buyer for the Guelph Treasure. Following arms'-length, protracted negotiations in the years of 1934 and 1935, the parties agreed on a purchase price of 4.25 million RM for the remaining objects that now comprise the Guelph Treasure (42 pieces). That price was 750 thousand RM less than the 5 million RM the sellers had initially hoped to obtain, but it was also 750 thousand RM more than the 3.5 million RM the buyer had initially hoped to spend. In the end, the dealers realised a sum total of 6.75 million RM for the whole collection. This amount represented about 90 percent of their own purchase price paid in 1929, in spite of a worldwide economic crisis and serious political unrest in the intervening years. Consequently, the price paid by Prussia for the acquired pieces in 1935, though below the original purchase price paid by the dealers in 1929, was the market price at that time and not unreasonably low or suggestive of an unfair or involuntary price.

The sellers received the purchase price at their free disposal. There is documentary evidence that the sellers each received the agreed upon price paid by Prussia and were free to dispose of the amounts they received as they saw fit. In particular, considerable efforts were made on the buyer's side to transfer the appropriate portion of the purchase price to those syndicate members who, in 1935, were living outside Germany in other European countries, notwithstanding existing German currency regulations. Notably, 20 pieces of art from the Berlin museums were selected jointly by the Berlin museums and the sellers (by mutual agreement) as a substitute for part of the purchase price. The sellers were then allowed to export these pieces of art and to sell them outside of Germany for their own accounts.

There were no post-war claims for the Guelph Treasure, although its whereabouts after 1945 were publicly known and easy to ascertain.

Since end of the war, the Guelph Treasure has always been located in the zones occupied by the western Allied Forces or in the Federal Republic of Germany. From 1963 onwards it has been kept in West Berlin. Since the 1950s, it has always been displayed publicly. Its history and its exhibition venue in the Kunstgewerbemuseum der Staatlichen Museen zu Berlin have been published several times. Family members of the sellers have visited the museum repeatedly since the 1960s. No restitution request or



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legal action for recovery was ever filed by the sellers or their descendants before 2008; in particular, no claims were made within the scope of the allied and German Federal reparation and restitution procedures, nor was an application for financial losses and reparation ever filed.

The Guelph Treasure was compiled over several centuries for the Braunschweig Cathedral. In 1671, it became the property of the Guelph dynasty, which sold it in 1929, when it consisted of 82 objects, to a dealer syndicate. From this syndicate, 42 works were bought by the Prussian State in June 1935, via the Dresdner Bank, for the Schlossmuseum, today's Kunstgewerbemuseum der Staatlichen Museen zu Berlin – Preußischer Kulturbesitz. The part of the Guelph Treasure held in the Kunstgewerbemuseum now comprises 44 works of treasure art from the 11th through 15th Century. Thus, it is the largest German ecclesiastical treasure owned by a public art collection.

Further information:

<http://www.preussischer-kulturbesitz.de/en/priorities/provenance-research-and-issues-of-ownership/issues-of-ownership/dealing-with-cultural-assets-looted-by-the-national-socialists.html>