

[unofficial translation]

In accordance with Section 3 of the Federal Act on the Restitution of Art Objects from Austrian Federal Museums and Collections, Federal Law Gazette I No. 181/1998, as amended by Federal Law Gazette I No. 158/2023 (Art Restitution Act), at its meeting on 12 March 2024, the Art Restitution Advisory Board adopted the following

DECISION

It is recommended to the Federal Minister of Art, Culture, the Civil Service and Sport to transfer the portrait cited in the dossier of the Commission for Provenance Research 04/2024, "Robert Kauder"

Johann Baptist Reiter
The Innkeeper Barbara Meyer (born in Laxenburg in 1787, as the daughter of the carpenter Bauer)
Inv. no. 3658

from the Austrian Gallery Belvedere to the legal successors *causa mortis* of Robert Kauder.

GROUNDINGS

The Advisory Board has received the above-mentioned dossier from the Commission for Provenance Research. It contains the following facts relevant to the decision:

Robert Kauder was born in Wodnian, Bohemia (today Vodňany in the Czech Republic) on 8 June 1868. In 1899, he married Malvine Stransky from Pisek in Bohemia; the marriage remained childless. From May 1912, they were registered at Palais Dumba at today's Parkring 4/7 in Vienna's 1st district.

As his main occupation, Robert Kauder ran a pottery business which was located in the former Sattler brothers' pottery factory, also on Parkring. In 1903, he registered his business under his own name as a general merchandise trade in pottery and also registered the marriage pact from 1899; Malvine Kauder was also employed in the pottery. From 1932, Robert Kauder was registered with the Lower Austrian Trade Association in his capacity as chairman and board member of the Viennese Wage Union of Master Stove Makers; he placed advertisements in newspapers as a sworn appraiser and expert for continuous-firing kilns.

In addition to the stove-making trade, Robert Kauder traded in art objects, in particular antique stoves. On 27 April 1922, he was accepted as a member of the "Genossenschaft der bildenden Künstler Wiens" (Vienna Fine Artists' Cooperative), and in 1924 the art magazine Belvedere listed him under the heading "Kunsthandel in Wien" (Art Dealers in Vienna) with the addition "Antike Öfen" (antique stoves); in 1930 he was listed as an art dealer in Maecenas, the address book of public collections, collectors, art and antique dealers.

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His collection ranged from "Bohemian glass beakers" and glass objects to works by Old Masters and oil paintings and prints by Biedermeier artists, including Josef Danhauser and August von Pettenkofen.

After the annexation of Austria to the National Socialist German Reich, Robert and Malvine Kauder were persecuted because of their Jewish origins. In his property declaration of 15 July 1938, Robert Kauder listed a "picture collection" with a total value of RM 18,940 under "IV g) Objects made of precious metal, jewellery and luxury items, works of art and collections". It is not possible to ascertain which works are to be regarded as part of his private collection and which he owned exclusively for commercial purposes or which he had on commission.

After Franz Hajicsek had been appointed provisional manager of the stove factory on 14 June 1938, Robert Kauder applied "for approval of the sale" on 23 July 1938, for which he proposed his previous employee Felix Cmelinsky as his successor. As a result of the intervention of Hans Blaschke, the representative for the "NS Veterans' Care Centre" of the Wien Gau (Vienna district), the contract was ultimately awarded to Anton Gollner who took over the management at the beginning of 1939. In February 1939, Robert Kauder wrote to the Property Transaction Office:

"Mr. Gollner actually took possession of the business on 2 January 1939, disposes of the assets, collects the outstanding debts and disposes of the goods. I myself receive nothing for my livelihood, so I am dependent on the support of my relatives. The valuation of the business and stock of goods was carried out, but I was not consulted and have not been given access to the valuation report. I am completely unclear about the terms of the purchase."

A letter from Gollner dated 14 March 1940 is also preserved in the trade file on "Aryanization", in which he defamed Robert Kauder's management and his trade in works of art:

"I would like to add here that my predecessor's over-indebtedness was caused by the fact that he bought paintings indiscriminately and when he took over, the entire store was full of oil and watercolour paintings, all of which he kept with him and always sold off on occasion."

Works of art were sold during this period. In annotated copies of the catalogues of the Weinmüller auction house in Vienna from March and December 1939 as well as from May 1941, "Kauder" is noted as the consignor for a total of 53 lot numbers. In 19 cases, a hammer price is also noted, although it remains to be seen whether Robert Kauder received the hammer price totaling RM 1,330 for the 19 lots sold at the three auctions or was able to freely dispose of it. The painting in question by Johann Baptist Reiter was acquired by the Österreichische Galerie (Austrian Gallery) in March 1939; it was the same auction at which the museum also sold Friedrich von Amerling's "Mädchen mit

Strohhut" from the expropriated Ernst Gotthilf Collection, which was recommended for restitution by the Art Restitution Advisory Board in 2007.

Robert and Malvine Kauder were registered at the address Pyrkergrasse 33 in Vienna's 19th district from 3 July 1940 - it was an "aryanized" house that had belonged to the couple Otto and Margarethe Witrofsky, who had fled Austria, and now apparently served as "Jewish quarters". Robert Kauder subsequently had the apartment renovated by the company Adaptor, Society for Housing Adaptation, for RM 4,280, as the invoice from 18 June 1941 preserved in the file of the Financial Directorate documents. In order to be able to pay the sum, he granted architect Adalbert Toth access to over 116 items from his art collection, which had previously been deposited at the Dorotheum for private sale. Apparently, Robert Kauder still assumed on 2 October 1941 that he could dispose of his art collection:

"I authorise the architect Adalbert Toth, Vienna, VI, Getreidemarkt No. 11 to dispose of the 116 paintings according to the list, which were deposited by the forwarding company Perl in the Dorotheum for private sale, or to withdraw the same. By transferring the 116 paintings to the ownership of Mr. Toth, the architect's fee claim against me has been settled."

In the same month, on 15 October 1941, Robert and Malvine Kauder were deported to the Litzmannstadt ghetto in the Generalgouvernement (today Łódź/Poland), where they both perished at an unknown date. In addition to the Kauder couple, at least eight other people were deported from the address at Pyrkergrasse 33 to the Litzmannstadt ghetto and the ghetto in Włodawa on 15 October 1941 and 27 April 1942, respectively. On 5 April 1943, the Gestapo, Vienna State Police Headquarters, confiscated all of Robert Kauder's assets for the benefit of the German Reich in accordance with Section 1 of the Regulation on the Confiscation of Anti-National and Anti-State Assets in Austria of 18 November 1938.

The files show that Toth's claims were settled from Robert Kauder's assets confiscated in this way, but not with the art objects. On 13 October 1941, two days before the deportation, Kauder had stated the estimated proceeds of RM 6,000 for "pictures in the Dorotheum (bronzes, marble figures, paintings)" for their planned sale; in fact, the Dorotheum's "statement of account for the auction" dated 27 September 1943, shows a credit balance of RM 6,538.50 for the corresponding consignment, which was transferred to the Chief Financial Officer (OFP) of Vienna-Lower Danube. Apparently, however, not all of the objects were accepted - 37 partial lots were auctioned off on 1 October 1943 at reduced starting prices, the proceeds of which, amounting to RM 2,673.90, were also transferred to the OFP.

After the end of the Second World War, the "Aryanized" stove-making business was registered as expropriated property on 15 October 1946. The heirs of both Malvine and Robert Kauder sought its restitution.

With the court settlement finally concluded on 3 September 1953, Anton Gollner undertook to return the company to the applicants

"with all non-material and material assets, [...] to surrender the business license for the company in favour of the applicants [...] All mutual claims are hereby settled. The costs are mutually waived".

Claims to the art collection or Kauder's art holdings could not be proven.

The Advisory Board considered the following:

According to Section 1. (1). 2 of the Art Restitution Act, objects that were the property of the State which were the subject of a legal transaction or legal act under Section 1 of the Nullity Act 1946 (or are comparable to these) may be transferred to the original owners or their legal successors *causa mortis*. According to Section 1 of the Nullity Act 1946, "legal transactions and other legal acts against payment or free of charge during the German occupation of Austria are null and void if they were carried out in the course of its political or economic penetration by the German Reich in order to deprive natural or legal persons of assets or property rights to which they were entitled on 13 March 1938.

Robert Kauder was persecuted by the Nazi regime for being Jewish. On 14 June 1938, his stove-making business was placed under provisional administration, with "Ariseur" Anton Gollner taking over its management at the beginning of 1939.

Robert and Malvine Kauder had to move to a so-called "Jewish quarter" in Vienna's 19th district in the summer of 1940, whereby Robert Kauder was still trying to renovate the apartment. After he was apparently no longer able to cope with the costs of this work, he offered the building company works of art that had previously been consigned to the Dorotheum. Less than two weeks later, on 15 October 1941, Robert Kauder and his wife Malvine were deported to the Litzmannstadt ghetto in the Generalgouvernement (today Łódź/Poland). Both died in the ghetto at an unknown date. All of Robert Kauder's (remaining) assets were expropriated by the Gestapo, Vienna State Police Headquarters, in accordance with Section 1 of the Regulation on the Confiscation of Anti-National and Anti-State Assets in Austria of 18 November 1938, in favour of the German Reich on 5 April 1943.

While the works brought to the Dorotheum were ultimately auctioned there, in March 1939, the Österreichische Galerie (Austrian Gallery) acquired the "Portrait of Mrs. Barbara Meyer" by Johann Baptist Reiter from the Viennese auction house Adolf Weinmüller for RM 444.50 including buyer's premium. Shortly before, Robert Kauder had stated that after the "Aryanization" of his company, he "received nothing for his livelihood". Consequently, it seems likely that he tried to sell works of art at the Weinmüller auction house in order to cover his living costs.

A total of 53 lot numbers submitted by Robert Kauder are listed there for March and December 1939 as well as May 1941; a hammer price is indicated for 19 of them, i.e. a sale was made, including the "Portrait of Mrs. Barbara Meyer"; it is not known whether Robert Kauder received the money or was able to dispose of it freely.

The acquisition of the painting by the Austrian Gallery must therefore be assessed as a void legal transaction within the meaning of Section 1 of the Austrian Art Restitution Act, irrespective of the question of whether the painting was part of Robert Kauder's company or his private collection. As the portrait is now owned by the Federal State, the facts of Section 1. (1). 2 of the Art Restitution Act are fulfilled. The Federal Minister of Art, Culture, Civil Service and Sport is therefore recommended to transfer ownership to the legal successors of Robert Kauder.

Vienna, 12 March 2024

Prof. Dr. Clemens JABLONER (Chairman)

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