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In accordance with Section 3 of the Federal Law on the Restitution of Art Objects from Austrian Federal Museums and Collections (Art Restitution Act), Federal Law Gazette (BGBl. I) No. 181/1998 as amended by BGBl. I No. 117/2009, at its meeting on 28 November 2023, the Art Restitution Advisory Board adopted the following

DECISION

It is recommended to the Federal Minister of Art, Culture, Public Service and Sports that the works listed in the dossier of the Commission for Provenance Research 08/2023, "Dr. Heinrich Schwarz", from the Albertina:

- I. Friedrich Philipp Reinhold
Grape harvest in Vöslau
inv.no. 28290
Pencil drawing

Joseph Schönmann
Self-portrait
inv.no. 28292
Pencil drawing

should be transferred to the legal successors *causa mortis* of Dr. Heinrich Schwarz,

and the following work listed in the dossier of the Commission for Provenance Research 08/2023:

- II. K. k. Hof- und Staatsdruckerei Wien
The Schottenbastei in Vienna at the time of its demolition, 1860
inv.no. Foto 2002/13
Photograph

should not be transferred to the legal successors *causa mortis* of Dr. Heinrich Schwarz.

FOUNDATIONS

The Advisory Board considered the above-mentioned dossier of the Commission for Provenance Research. The impetus for the research came from inquiries from the Hamburger Kunsthalle and the Staatliche Kunstsammlungen Dresden to the Commission for Provenance Research. This resulted in the following facts relevant to the decision.

Heinrich Schwarz, born in Prague on 9 November 1894, grew up in Vienna with his older brother Alfred. His parents, Louis (Alois) Schwarz, a procurator from Brno, and Hanna (Johanna), née Posamentier, born in Vienna, married in the Jewish synagogue located at Untere Viaduktgasse 13 in the third district of Vienna in 1892. The family lived in the first district at Kolowratring 8 (renamed Schuberting in 1928)

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from 1896. Heinrich Schwarz attended the Academic Gymnasium and began studying art history with a minor in classical archaeology at the University of Vienna in the winter semester of 1913/14. However, he had to interrupt his studies in October 1914 due to his military service during World War I. It is believed that he converted from Judaism to Catholicism during the war years. When he resumed his studies in the summer semester of 1918, his religion was listed as Roman Catholic in the enrolment forms.

After completing his Ph.D. in philosophy with a thesis on the beginnings of lithography in Austria in July 1921, Heinrich Schwarz worked briefly in the art department of the Rikola publishing house. There he worked, among other things, under the artistic direction of Otto Nirenstein (later known as Kallir) on the production of the Schiele portfolio entitled "Das graphische Werk von Egon Schiele" (The Graphic Work of Egon Schiele), published in 1922. Subsequently, he completed an internship in the Graphic Collection of the Albertina, where, according to his own account, he involved in "the processing and cataloguing of newly acquired Menzel works and the handling of duplicate inventories". In April 1923, Heinrich Schwarz started working at the Austrian Gallery, initially in the position of research assistant alongside Director Franz Martin Haberditzl, responsible for exhibitions and scholarly publications, particularly those related to the artistic discovery of Salzburg and the Salzkammergut in the nineteenth century. In 1927, he secured a permanent position, and seven years later, he was promoted to Kustos II. Klasse (Curator 2nd Class). Due to the listed owners, the 1930 publication on the life and oeuvre of Carl Schindler, a collaborative work with Haberditzl, remains an important reference work, especially for provenance research. Heinrich Schwarz gained international recognition in 1931 with his monograph on the photographic work of the Scottish painter and photographic pioneer David Octavius Hill. He was also sought after for his expertise in the art market, contributing to catalogues for the art dealership C. J. Wawra and the art antiquarian Artaria & Co. He was also involved in the Venice Biennale in 1934 and the Austrian Exhibition at the Musée du Jeu de Paume in Paris in 1937.

However, Heinrich Schwarz emerged not only as an art historian and author but also as a collector. Both the "Handbuch des Kunstmarktes" (Art Market Handbook) from 1926 and the 1927 "Kunstadressbuch Maecenas" (Maecenas Art Directory), which lists private collectors with names, addresses and specified collecting areas, identify him as a collector of books and graphic works. His collector's stamp, consisting of his initials "HS" in a rectangle, was included in Frits Lugt's 1921 reference work on ownership marks on artistic prints and paper works, with a note that Schwarz had only recently begun collecting old and modern prints. As provenance research has shown, Heinrich Schwarz's collection included works by Jost Amman, Alfred Buchta, Gustave Courbet, Georg Ehrlich,

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Hendrick Goltzius, Anton Hanak, Felix Albrecht Harta, Stephanie Hollenstein, Eugen Jettel, Ludwig Heinrich Jungnickel, Oskar Kokoschka, Oscar Larsen, Oskar Laske, Georg Merkel, Emil Orlik, Robert Philippi, Otto Rudolf Schatz, Johann Sigrist, Otto Wagner and Anton Zampis. Additionally, Schwarz laid the foundation for his own Hill Collection with his years of scholarly engagement with the photographic oeuvre of David Octavius Hill: He acquired nearly 200 originals during his research travels.

His father, Louis Schwarz, had already been an art collector; for example, in early August 1916, he purchased two unspecified sheets by Egon Schiele from the Viennese art writer Arthur Roessler. The acquisition of the painting "Der eingeschlafene Maler im Atelier" (The Sleeping Painter in the Studio), created by Josef Danhauser in 1830, from Artaria was documented in 1917. When Louis Schwarz died in 1930, his 1927 will pointed out that the pictures, sculptures, prints, etchings, etc., presently in the possession of his son, Dr. Heinrich Schwarz, "which mainly the aforementioned person has acquired and collected over the years", were excluded from the estate, to which his wife was the sole heiress. Louis Schwarz also identified the library "with all the books in the apartment" as belonging to his son.

Heinrich Schwarz also appeared as a lender, for example, in 1927 with graphics for the Carl Schindler exhibition at the Upper Belvedere. The following year, he lent works multiple times, including the exhibition "Austrian Art 1700–1928: Drawings, Watercolours, Graphics" featuring works by Johann Nepomuk Hoechle, Johann Schindler, Carl Schindler, Eugen Jettel and Egon Schiele. He also contributed to "Die Kunst in der Photographie der Frühzeit" with two photographs, and the Egon Schiele Memorial Exhibition, organised by Hagenbund in cooperation with the Neue Galerie. In 1937, works from his collection were displayed in the exhibition "Entwürfe von Malern, Bildhauern und Architekten der Barockzeit in Österreich" (Designs by Baroque painters, sculptors and architects in Austria) at the Austrian Gallery.

After the annexation of Austria to Nazi Germany in March 1938, Heinrich Schwarz, being Jewish, faced persecution. According to his own statements, he was "relieved" of his position as curator at the Austrian Gallery on 4 April 1938. In his asset declaration dated 12 July 1938, he listed securities with a total value of RM 8,310 under the category of capital assets. In the section "Items made of precious metal, jewellery and luxury items, art objects and collections", he noted jewellery valued at RM 484, a specialised library valued at RM 800 and an art collection assessed at RM 1,785. The art collection included unspecified paintings, drawings, prints and photographs, described as "mostly originating from my father, who passed away in 1930, and who gave them to me as a gift during his lifetime".

After an unsuccessful attempt to secure a position at the George Graves Art Gallery in Sheffield through the London-based Society for the Protection of Science and Learning, Heinrich Schwarz made

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preparations for his escape from Austria. On 24 January 1939, he applied to the Central Monument Protection Office for an export permit for his art collection, listing items such as "16 oil paintings, 18 framed watercolours and graphics, various small sculptures, 1 clock, 3 packages, graphics unframed (sealed), various glass pieces, porcelain, silver, knick-knacks, 10 carpets". The destination was marked as "Abroad". The export, valid until 24 April 1939, was approved as fee-free household effects for relocation.

While Heinrich Schwarz was officially registered as having left for Copenhagen on 18 March 1939, his mother remained in Vienna. She died on 28 November 1939, at the hospital of the Jewish Community on Währinger Gürtel. From Copenhagen, Heinrich continued to Stockholm, where he wrote to his former director, Haberditzl, in early April 1939:

"Once again, a Prince Eugene, this time a living one, has determined my fate. I owe a debt of gratitude to Prince Eugene of Sweden, with whose curator I have been friends for many years and in whose house I have found an exceptionally warm welcome, for my entry into this splendid country."

Subsequently, Heinrich Schwarz continued his journey to Norway and boarded a ship in Oslo bound for the USA, where he arrived in New York on 3 February 1940. While he had been allowed to export artworks from the "Ostmark", his remaining assets in Vienna fell to the German Reich under the Eleventh Regulation to the Reich Citizenship Law of 25 November 1941, RGBl. I, p. 722ff.. In a letter dated 17 November 1942 and addressed by the Secret State Police in Vienna to the Reich Main Security Office in Berlin, his Domestic Assets were indicated as "co-heir after Johanna Sara Schwarz", referring to a securities account of his mother Johanna at the Bankkommanditgesellschaft Antoni, Hacker und Co. Vienna, amounting to RM 101,937.02. From this account, securities worth RM 7,432.50 were paid in January 1940 "as an expiatory payment to the Prussian State Bank" in Berlin, and in July 1942, arrears of inheritance taxes amounting to RM 12,923.20 had been paid to the Tax Office for Transfer Taxes.

Upon his arrival in the USA, Heinrich Schwarz claimed to have only \$500 in cash, obtained through the sale of part of his library in Stockholm. After settling in New York, he sought assistance from the organisation "The Emergency Committee in Aid of Displaced Foreign Scholars", founded in 1933, which aimed to help displaced scholars find employment in American institutions. An unnamed staff member noted the following about him in mid-March 1940:

"Charming and handsome man; tall and well groomed. Very sympathetic personality. I am so

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accustomed to seeing scholars who sacrifice everything to scholarship, that to meet one who adds charme [sic] to his qualifications is an experience.“

An attempt to place him at Yale University failed, but in September 1940, Gordon Washburn, the director of the Albright Art Gallery in Buffalo/New York, who knew Heinrich Schwarz from earlier, contacted the Emergency Committee:

"we would be delighted to have him work with us [...] we are unable to afford another salary [...] Dr. Schwarz would be of the greatest assistance to us in working on this project [note: the creation of the position of a museum guide]. Anything you or your committee can do to assist in bringing him to Buffalo will be deeply appreciated by myself and by my board of directors".

Through the financial support of the Committee and the New York lawyer Louis Stern, Heinrich Schwarz's employment was initially secured for the year 1941, and subsequently extended until 1943. His household goods, stored with Rohner, Gehrig & Co in New York since July 1940, were delivered to him in June 1941, while he was already working for the Albright Art Gallery. Shortly after his art collection arrived, he resumed his role as a lender. In the fall of 1941, he provided 40 photographs from his David Octavius Hill collection, mainly portraits, to the Museum of Modern Art (MoMA) for the exhibition "D. O. Hill: Portrait Photographs 1843–1848". In 1943, Heinrich Schwarz became the curator for paintings, drawings and prints at the Rhode Island School of Design Museum of Art in Providence. He was to stay in the United States, acquiring American citizenship on 24 September 1945. Around the same time, he met Elisabeth Arany, a native Hungarian who, like him, had emigrated to the USA due to Nazi persecution. Their marriage in 1948 remained childless. In 1954, Heinrich Schwarz started working at the Davison Art Center Collection in Middletown, where he remained until his retirement in 1972. Even in the USA, he continued his scholarly activities, publishing in leading art journals such as "Philobiblon" or "The Art Quarterly". He also served as a professor of art history at Wesleyan University in Middletown and Columbia University in New York.

In 1958, Heinrich Schwarz claimed the securities that had been transferred from the estate of his mother to the Preußische Staatsbank (Prussian State Bank) in 1940 as part of the compensation for the "Judenvermögensabgabe" (Jewish Asset Levy) for himself and his brother Alfred, who also lived in New York. The application for restitution of monetary claims against the German Reich and equivalent legal entities was granted, and in February 1960, the brothers were awarded an amount of DM 21,701.50 in undivided inheritance. According to information from the Bankgesellschaft (Banking Group) in March 1960, the remaining funds were "transferred in 1946 to a depot of the heirs Dr. Heinrich Schwarz and Alfred Schwarz, who later sold some and withdrew some, so that there is

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currently no depot". In October 1955, Heinrich Schwarz was notified by the Austrian Federal Ministry of Education that he had been granted "extraordinary maintenance benefits" retroactively from 1 May 1950. In 1956, he applied to the Relief Fund for Political Persecutees Living Abroad. His application was approved, and Heinrich Schwarz received compensation payments of ATS 28,500 in 1959. His application for vocational damage to the relief fund, submitted in December 1962, was rejected in 1963, since "the applicant had been awarded compensation of ATS 52,020 for the loss of this profession under the Civil Servant Compensation Act". In his applications submitted after 1945, there is no mention of the art collection, or any sales made during the escape. Heinrich Schwarz died in New York on 23 September 1974. His wife, Elisabeth, survived him by more than 30 years, dying in 2005. During his lifetime, Heinrich Schwarz parted with some artworks, bequeathing them to his workplaces, such as the Davison Art Center at Wesleyan University in Middletown or the Rhode Island School of Design Museum in Providence. The Metropolitan Museum (MET) in New York has 60 artworks with provenance from Heinrich Schwarz. He sold or gifted the majority to the museum in 1948 and 1964, including numerous photographs and some prints, as well as his portrait created by Otto Rudolf Schatz. Parts of his collection were also offered to Austrian museums and collections such as the Austrian Gallery or the Historical Museum of the City of Vienna (now Wien Museum). These sales took place in 1957 and subsequent years, often during visits to Vienna. In 1957, the Historical Museum in Vienna acquired over 100 artworks by Austrian artists for a total of ATS 4,000. This included works by Franz Zülow, Georg Merkel, Stephanie Hollenstein, Karl Angerer, Oskar Laske, Felix Albrecht Harta, Georg Ehrlich, Julius Zimpel, Ludwig Heinrich Jungnickel, August Xaver Karl von Pettenkofen and others. In 1960, the museum purchased a set of documents from the k. u. k. Chemische Druckerei (Imperial Royal Chemical Printers) in Vienna, and in 1961, they acquired the four-part oil painting "Der Morgen (die vier Tageszeiten)" by Friedrich Philipp Reinhold. The connection to the Wien Museum dates back to Heinrich Schwarz's time in Vienna: Already in 1935, he dedicated a set of around 50 photographs by the court gardener Franz Antoine to the museum. In 1961, the Austrian Gallery, to which he dedicated a sketchbook by an unknown artist in the early days of his collecting in 1921, acquired the aforementioned painting by Josef Danhauser, which Heinrich's father Louis had purchased from Artaria in 1917. In 1965, the painting "Cimon und Pero" (Cimon and Pero), attributed to Franz Sigrüst the Elder and produced around 1775/1780, entered the collection as a purchase made by Heinrich Schwarz. Even after Heinrich Schwarz's death in 1974, sheets from his collection continued to appear on the art market.

As outlined, Heinrich Schwarz's export permit was approved with validity until 24 April 1939. Therefore, he was able to take his art collection and specialised library, or at least parts of them, with

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him. While he was still in Vienna, he might have parted with some of his artworks to cover the costs associated with his departure. When he was already in Sweden, several drawings were auctioned at the 201st auction of C. G. Boerner on 28 April 1939, including the two that are now in the Albertina: Friedrich Philipp Reinhold's "Weinlese in Vöslau" (Grape Harvest in Vöslau), inv.no. 28290, and Joseph Schönmann's "Selbstporträt"(Self-portrait), inv.no. 28292. Both bear Heinrich Schwarz's collector's stamp. In early April 1939, the Albertina reported to the Ministry of Internal and Cultural Affairs about the upcoming auction, where "high-quality drawings by German Romantics" would be offered for sale. The requested funds of RM 10,000 were approved, and Anton Reichel, the then acting director of the Albertina, personally attended the auction in Leipzig. There, he acquired 23 drawings for the Albertina, including the two in question here (catalogue numbers 230 and 255). Besides parts of his library, which Heinrich Schwarz sold in Sweden, he also likely sold the auctioned sheets to finance his escape. It remains unclear whether the arrangement with C. G. Boerner was made from Vienna or Stockholm. Whether Heinrich Schwarz received the proceeds from the auction of the sheets is not known.

The representational photograph "Die Schottenbastei in Wien zur Zeit ihres Abbruchs" (The Schottenbastei in Vienna at the time of its demolition), 1860, inv.no. Foto2002/13, produced using the salt print method (a technique from the early days of photography), was acquired by the Albertina from the Vienna gallery Johannes Faber in January 2002. In this case as well, a clear association with the Heinrich Schwarz collection is possible through his collector's stamp. According to the gallery's information, it acquired the photograph, which likely originated from the Photo-Antiquariat (Antiquarian Photo Shop) Helfried Seemann, through an exchange with the collector Hans Schreiber. When and how the photograph left the Schwarz collection cannot be determined. However, it is documented that Schwarz was able to take his photo collection, or at least a significant portion of it, into exile. For example, in the above-mentioned exhibition "D. O. Hill: Portrait Photographs 1843–1848" at MoMA in New York in 1941, 40 photographs from the Schwarz collection were shown on loan. There are also over 40 photographs by the Viennese amateur photographer Franz Antoine at the Metropolitan Museum in New York, with provenance from Heinrich Schwarz, who gifted them to the museum in 1948.

The Advisory Board considered the following:

According to Section 1 (1). 2 of the Art Restitution Act, objects that legally became the property of the State but had previously been the object of a legal transaction or legal act under Section 1 of the 1946 Annulment Act, or comparable legislation, may be transferred to their original owners or legal successors *causa mortis*. Section 1 (1). 2a of the Art Restitution Act extends this definition to objects

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which, although legally transferred to the ownership of the Federation, were the subject of (or comparable to) a legal transaction or act according to Section 1 of the Nullification Act 1946 between 30 January 1933 and 8 May 1945 in the territory of the German Reich outside the territory of the present-day Republic of Austria.

Heinrich Schwarz was persecuted as a Jew by the Nazi regime. Already on 4 April 1938, he lost his position as a curator at the Austrian Gallery. In preparation for his escape, he submitted an export request for his art collection as well as photographs to the Central Monument Protection Office, which was approved for him until 24 April 1939.

Regarding **Ad I**: The present dossier shows that Heinrich Schwarz sold objects from his collection, including the two representational drawings, at the 201st auction of C.G. Boerner on 28 April 1939 to finance his escape to Denmark and Sweden via Norway to the USA. Since the transfer to Boerner and/or the sale to the Albertina thus constitutes a null and void legal act according to Section 1 of the Nullification Act 1946, the Advisory Board considers the conditions of Section 1 (1). 2 or 2a of the Art Restitution Act fulfilled. Therefore, it is recommended to the Federal Minister for Arts, Culture, Civil Service and Sports to transfer ownership to the legal successors of Dr. Heinrich Schwarz.

Regarding **Ad II**: The Albertina acquired the photograph "Die Schottenbastei in Wien zur Zeit ihres Abbruchs" (The Schottenbastei in Vienna at the time of its demolition) – identifiable through the collector's stamp as part of the former Heinrich Schwarz collection– from the Viennese Galerie Johannes Faber in 2002; the exact date on which the object left the Schwarz Collection cannot be verified. However, it is confirmed that Heinrich Schwarz was able to take large parts of his art collection, including photographs, to the USA. When the works arrived in the USA in 1941, Heinrich Schwarz again appeared as a lender – as he had been in Vienna until 1937. Thus, in 1941, 40 photographs from his David Octavius Hill collection were exhibited at MoMA; in 1948, he donated over 40 photographs by the Viennese amateur photographer Franz Antoine to the MET. Due to the large number of photographs from his collection which were loaned and traded by Heinrich Schwarz in the USA after 1938 and 1945, and since no evidence of a Nazi-persecution-related sale of the photographs in his collection could be found, the Advisory Board assumes that Heinrich Schwarz was able to take it with him from Austria and that it was sold either by himself or from his estate after 1974. Therefore, a transfer of ownership to the legal successors is not recommended in this case.

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Vienna, 28 November 2023

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