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A Museum in Possession of a Nazi-Looted Painting: A Case Study

Wander the halls of the Fred Jones Jr. Museum of Art and you will find many treasures. Located on the campus of the University of Oklahoma in Norman, Oklahoma, a visitor might expect the museum to be filled with prints, paintings, and sculptures created by Native American artists and works with subject matter derived from tales of the American West, and they would not be disappointed. However, these are not the only artworks found within the museum's walls, and many of the galleries on the ground level and lower level contain modern and contemporary paintings, Asian ceramics, and European works of various media. Objects from the Weitzenhoffer Collection of French Impressionism, located in rooms Three and Four on the ground level¹, are particularly admired. Valued at more than \$50 million at the time it was donated in 2000, it is "the largest collection of French Impressionist art ever given to a public American university."² However, one of the original 22 paintings donated by the family of Mrs. Clara Weitzenhoffer is no longer on display at the Fred Jones Jr. Museum. In fact, it has been transported 4,830 miles away to the Musée d'Orsay in Paris, France, where it will spend the next few years among many similar Impressionist works in the country where it was painted. The reasons for this are legally complicated, having to do with lawsuits, the Swiss court system, and the Oklahoma state legislature. And yet, there is a much simpler explanation: the painting was

¹ Fred Jones Jr. Museum of Art, "Museum Map," Issuu online, 22 May 2018, https://issuu.com/fjjma/docs/new2018_verticalmap8.5x14.

² Carl Vogel, "INSIDE ART; A New Home for Old Masters," *The New York Times*, 29 September 2000, <https://www.nytimes.com/2000/09/29/arts/inside-art-a-new-home-for-old-masters.html>.

stolen by the Nazis during the Second World War, as countless others were, and the family of the original owners fought for its return. This essay is intended to be a case study on the entire history of the painting in question, how it came to be at an art museum on a university campus in Oklahoma, and most importantly the controversy that erupted in 2013 when the family sued the university's Board of Regents for ownership of the artwork. This paper will also examine the implications of the university's fight to retain ownership over a disputed work, the public outcry on campus, on social media platforms, within the Oklahoma state legislature, and in media publications nationwide, and how the controversy affected the institutional behavior of both the museum and the university. Hopefully, a thorough analysis of the facts of the case will shine some light on its legal and ethical outcomes, and may provide some insight into how similar situations can be prevented in the future.

Before we discuss the consequences of the Meyer case, we must first understand the scope of the Nazi Party's looting and the system that was created to carry out such a large operation. Thousands of artworks were confiscated from Jewish families in Europe in the 1930s and 1940s, and Nazi-stolen artworks continue to be discovered in museums and private collections around the world to this day (for example, a Dutch restitution project recently identified 170 Nazi-connected artworks in the collections of forty-two institutions in the Netherlands³). They often appear to have clear provenance records, but these records can hide terrible truths. Beginning in 1933, the year that Hitler was appointed Chancellor of Germany, the Nazis began plundering the collections of Jewish families, destroying existing archival and provenance records that those families had kept, and replacing the records with fake

³ Daniel Boffey, "Dutch Museums Discover 170 Artworks Stolen by Nazis," *The Guardian* online, 10 October 2018, <https://www.theguardian.com/world/2018/oct/10/dutch-museums-discover-170-artworks-stolen-by-nazis>.

provenance documents or bills of sale.⁴ In other instances, the Nazi Party “fabricated tax debts that were marked paid by the acquisition of [Jewish families’] art.”⁵ The Nazis falsified the records so that they could sell the paintings at auction or else have them transported to other countries like Switzerland where the art could be sold, as in the story we will now explore.

Sometime in 1886, decades before the Nazis began their systematic theft of artistic masterpieces, French artist Camille Pissarro painted *La bergère rentrant des moutons*, known as *Shepherdess Bringing in Sheep* in English.⁶ Already an accomplished and well-respected artist alongside his countrymen Monet, Cézanne, and Degas, Pissarro was known to experiment with different color techniques⁷, and at the time he painted *Shepherdess* he was adapting his own methods to the new painting technique known as pointillism, having been impressed by the works of Georges Seurat and Paul Signac, both of whom he met the year before.⁸ In typical pointillist fashion, Pissarro used small dots of primary colors to create a quaint scene of a woman opening a wooden gate to greet a flock of sheep. While not as impressive as some of his other works, the painting nevertheless marked an important stage in Pissarro’s career as his transition into pointillism began. While the line of provenance is unclear in the years immediately after the painting’s completion, it is known to have been in the collection of French supermarket mogul Gaston Lévy in the early decades of the 20th century.⁹ After this, the painting was subjected to a

⁴ Barbie Latza Nadeau, “Museums Use ‘Nazi Tactics’ to Keep Art Stolen by the Nazis,” *The Daily Beast* online, 29 November 2018, <https://www.thedailybeast.com/museums-use-nazi-tactics-to-keep-art-stolen-by-the-nazis?ref=scroll>.

⁵ Ibid.

⁶ Amended Complaint, *Meyer v. The University of Oklahoma*, no. 13-cv-3128 (S.D.N.Y. 2014), filed 10 January 2014, Commission for Art Recovery online, accessed 12 November 2018, http://www.commartrecovery.org/docs/14_0110_OUAmendedComplaint.pdf.

⁷ Ralph E. Shikes and Paula Harper, *Pissarro: His Life and Work* (New York: Horizon Press, 1980), 209.

⁸ Ibid.

⁹ Amended Complaint, *Meyer v. The University of Oklahoma*, 14-15.

bizarre and unfortunate odyssey on its way to Norman, Oklahoma. Sometime prior to 1940, Lévy sold the painting to Théophile Bader, cofounder of the department store Galeries Lafayette¹⁰, who thereafter passed the painting on to his daughter Yvonne Meyer and her husband, Raoul.¹¹ Three months before the Nazi occupation of Paris began in June 1940, the Meyers chose to hide their art collection away in a vault at the Crédit Commercial de France bank in Mont-de-Marsan in southern France¹², but the German financial agency known as *Devisenschutzkommando* (DSK) was able to seize the collection in February 1941.¹³ Major Hartmann, deputy leader of the DSK, had notified the Meyers and another family that their art collections were subject to seizure, but the Meyers were unable to move their collection again in time.¹⁴ From Mont-de-Marsan, the *Shepherdess* painting was taken to the Galerie nationale du Jeu de Paume in Paris, well-known as a storage site for Nazi plunder during the occupation of France¹⁵, and from there the painting was shipped to Switzerland, along with another painting, by a man named Léon de Sépibus.¹⁶ De Sépibus later claimed that he had exported the two artworks to the United States shortly thereafter, but in reality he had sold them to Basel art dealer Cristoph Bernoulli.¹⁷ Bernoulli's name would later be featured in the "Index of enemy and collaborationist personnel involved in art looting recommended for exclusion from the United

¹⁰ Amended Complaint, *Meyer v. The University of Oklahoma*, 14-15.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ "The Jeu de Paume and the Looting of France," Project for the Documentation of Wartime Cultural Losses, Loyola University Maryland online, accessed 12 November 2018, <http://docproj.loyola.edu/jdp/index.html>.

¹⁶ Marc Masurovsky, "ERR database—Raoul Meyer, Pissarro, Modigliani, Soutine," Plundered Art blog, Holocaust Art Restitution Project online, 14 May 2011, <https://plundered-art.blogspot.com/2011/05/err-databaseraoul-meyer-pissarro.html>.

¹⁷ Masurovsky, "ERR database—Raoul Meyer."

States,” compiled by the American Strategic Services Unit (SSU) after the Second World War.¹⁸ In 1952, the Meyers (who were lucky enough to survive the war as a French Jewish family living through the occupation), filed a civil lawsuit against Bernoulli for the painting’s return, but the Swiss Compensation Office denied any knowledge of the painting’s theft in 1941¹⁹, and Bernoulli himself argued that he had acquired the painting in good faith; the Swiss court sided with Bernoulli, and he was allowed to retain ownership of the artwork.²⁰ He offered to sell the Meyers their own painting, but they refused²¹, and at some point the *Shepherdess* ended up in Amsterdam.²² In 1956, the art dealer E. J. van Wisselingh & Co. agreed to sell the painting to David Findlay Galleries in New York, after which it was sold to the wealthy art collectors Aaron and Clara Weitzenhoffer of Oklahoma the same year.²³ The Weitzenhoffers owed their significant wealth to the oil industry; Aaron founded the Davon Oil Company (not to be confused with Devon Energy, which is headquartered in Oklahoma City), and Clara was the daughter of oil developer Henry Rosenthal of Illinois.²⁴ They have been described as “leaders in philanthropic, cultural, and educational organizations in Oklahoma City and enthusiastic patrons of the University of Oklahoma.”²⁵ The Weitzenhoffer estate donated *La bergère rentrant des moutons*, along with many other French Impressionist works, to the University of Oklahoma after Clara’s death in 2000.²⁶ Even at the time of the bequest, the *Shepherdess* painting was seen

¹⁸ Amended Complaint, *Meyer v. The University of Oklahoma*, 22.

¹⁹ Masurovsky, “ERR database—Raoul Meyer.”

²⁰ Amended Complaint, *Meyer v. The University of Oklahoma*, 24.

²¹ *Ibid.*

²² Amended Complaint, *Meyer v. The University of Oklahoma*, 3.

²³ Amended Complaint, *Meyer v. The University of Oklahoma*, 27.

²⁴ Eric McCauley Lee and Rima Canaan, *The Fred Jones Jr. Museum of Art at the University of Oklahoma: Selected Works* (Norman, OK: University of Oklahoma Press, 2004), 15.

²⁵ *Ibid.*

²⁶ Vogel, “INSIDE ART.”

as a highlight of the collection. In a 2001 article for *Sooner Magazine*, published quarterly to biannually by the University of Oklahoma Foundation, Lynette Lobban described *Shepherdess Bringing in Sheep* as a “breathtaking” work of art that “showcases [Pissarro’s] experimentation with the juxtaposition of color contrasts.”²⁷ Ironically, Lobban characterizes Clara Weitzenhoffer as a “discerning collector,”²⁸ and the author goes on to say that after Clara’s death, “the speed with which the bequest was executed caught even those in the loop by surprise...the collection fell into the lap of a giddy museum staff.”²⁹

Of course, the artwork’s journey was not yet over, and the giddiness wouldn’t last forever. Although the Fred Jones Jr. Museum opened the Mary and Howard Lester Wing in January 2005 to accommodate the Weitzenhoffer collection and other works³⁰ (many of which were installed in four rooms built to resemble Clara Weitzenhoffer’s childhood home)³¹, the *Shepherdess* painting would soon draw much attention, and not just from the museum’s visitors. After their 1953 civil lawsuit failed in Basel, Switzerland, the Meyers never ended their exhaustive search for the artworks taken from that French bank vault in 1941. In coordination with the *Office des biens et intérêt privés* (Office for Personal Property and Interests), a division of the French Ministry of Foreign Affairs, the Meyer family requested records from the West German government in 1960, but the “Federal Service of External Restitutions” could produce

²⁷ Lynette Lobban, “Clara’s Gift,” *Sooner Magazine* vol. 21, no. 2 (Winter 2001): 24.

²⁸ Lobban, “Clara’s Gift,” 23.

²⁹ Lobban, “Clara’s Gift,” 25.

³⁰ “January 21: The University of Oklahoma Unveils its New Art Museum,” *e-flux* online, 21 January 2005, <https://www.e-flux.com/announcements/42306/january-21-the-university-of-oklahoma-unveils-its-new-art-museum/>.

³¹ Max Kutner, “How a Nazi-Looted Painting Made its Way to the University of Oklahoma,” *Newsweek* online, 4 October 2016, <https://www.newsweek.com/2016/10/14/nazi-looted-art-shepherdess-bringing-sheep-university-oklahoma-505736.html>.

no helpful clues as to the paintings' whereabouts.³² After the deaths of Raoul and Yvonne Meyer in the early 1970s, their adopted daughter Léone, herself a Holocaust survivor, continued searching for her family's collection. In 1994, in the hopes that she would find one of the paintings, she attended an exhibit at the Musée d'Orsay featuring unclaimed artworks restituted by Germany and Austria to France after World War II.³³ None of her family's artworks were displayed in the exhibit, but she kept searching. She would later seek help from Hector Féliciano, author of *The Lost Museum*³⁴, and establish correspondence with Sandrine and Lionel Pissarro, the heirs to the Pissarro Estate.³⁵

Meyer's luck would soon change, however, as in 2009 an associate curator at the Indianapolis Museum of Art would make an important discovery. While conducting research on the State Library of Berlin's Mendelssohn Archives, Dr. Annette Schlagenhauff found that the provenance for the *Shepherdess* was highly questionable, and that before her research on behalf of an entirely different institution, the Fred Jones Jr. Museum's files contained "minimal ownership information at the time of the 2000 bequest."³⁶ According to court documents from the Southern District of New York (SDNY), where Léone Meyer first filed her lawsuit against OU's Board of Regents, Meyer argued that the lack of provenance documentation "confirms that the Fred Jones Museum failed to perform any meaningful investigation into title or perform any provenance research...upon the 2000 bequest," a violation of the Association of Art Museum Directors' guidelines.³⁷ Although the Meyer family was not aware of Schlagenhauff's research,

³² Amended Complaint, *Meyer v. The University of Oklahoma*, 36.

³³ Ibid.

³⁴ Amended Complaint, *Meyer v. The University of Oklahoma*, 37.

³⁵ Ibid.

³⁶ Amended Complaint, *Meyer v. The University of Oklahoma*, 35.

³⁷ Amended Complaint, *Meyer v. The University of Oklahoma*, 35.

in 2011 the historian Marc Masurovsky published an article on the Holocaust Art Restitution Project's Plundered Art blog detailing the *Shepherdess* painting's dubious history.³⁸ The Meyers stumbled upon this article, which revealed the artwork's location at the Fred Jones Jr. Museum and erroneously listed the artist as "Claude Pissarro,"³⁹ in March 2012, and they contacted the University demanding its return in December of that year.⁴⁰ However, the University of Oklahoma's then-President David L. Boren refused the family's request, claiming that the painting was under the authority of the University of Oklahoma Foundation, not the university itself⁴¹, even though OU was the original benefactor of the Weitzenhoffer bequest in 2000.⁴² In response, Léone Meyer sued the Board of Regents of the University of Oklahoma, the University of Oklahoma Foundation, and Boren himself, along with David Findlay Galleries (the art dealers that sold the painting to the Weitzenhoffers in the 1950s), the American Alliance of Museums, and others.⁴³ Having finally located an object from her parents' collection, Meyer hoped that the lawsuit would finally produce some welcome results. For reasons still unclear, the university chose not to negotiate with a Holocaust survivor to return a painting stolen from her family, and instead hired Thaddeus Stauber, an attorney known for defending museums who refuse to return stolen works to Jewish families.⁴⁴ At the time Stauber was hired by the OU Board of Regents, he was busy defending the famous Thyssen-Bornemisza Museum in Madrid, Spain as it attempted to retain ownership over another Pissarro painting taken from the family of Lilly Cassirer in

³⁸ Masurovsky, "ERR database—Raoul Meyer."

³⁹ *Ibid.*

⁴⁰ Kutner, "How a Nazi-Looted Painting."

⁴¹ Kutner, "How a Nazi-Looted Painting."

⁴² Amended Complaint, *Meyer v. The University of Oklahoma*, 39.

⁴³ Amended Complaint, *Meyer v. The University of Oklahoma*, 1-2.

⁴⁴ Kutner, "How a Nazi-Looted Painting."

1939.⁴⁵ Stauber, who has ironically given presentations at art restitution conferences since the Meyer case concluded⁴⁶, succeeded in convincing the SDNY to dismiss Meyer's initial suit on the technicality that Meyer did not file her complaint in Oklahoma.⁴⁷ The family appealed this decision, and after a long process of appeal, the case was restarted in the Western District Court of Oklahoma in April 2015.⁴⁸

Unfortunately for the university and the museum, however, the lawsuit was now public knowledge and controversy was spreading rapidly, both on and off campus, and via social media platforms such as Facebook and Twitter. Much of the public outrage was being stoked by Oklahoma state representative Paul Wesselhoft. Wesselhoft was the first elected official to comment publicly on the case in January 2014, soon after Meyer's lawsuit was filed in New York. In a statement to the press, he urged Oklahoma residents to avoid visiting the museum until the legal dispute was resolved, and he also asked concerned residents to contact David Boren's office to demand action.⁴⁹ Echoing Meyer herself, Wesselhoft stated that while OU was attempting to respect the legal precedent set by "an antiquated court ruling in Switzerland," the

⁴⁵ John Wilkens, "Family's suit revived over Pissarro painting looted by the Nazis," *The San Diego Union-Tribune* online, 10 July 2017, <http://www.sandiegouniontribune.com/news/courts/sd-me-pissarro-painting-20170710-story.html>.

⁴⁶ "The Future of Nazi Looted Art Recovery in the US and Abroad," conference website, accessed 23 October 2018, <http://www.nazistolenart.com/>.

⁴⁷ Kutner, "How a Nazi-Looted Painting."

⁴⁸ Nare G. Aleksanyan, Alessandro Chechi, and Marc-André Renold, "La Bergère – Meyer Heirs and Fred Jones Jr. Museum of Art," University of Geneva Art-Law Centre online, January 2017, <https://plone.unige.ch/art-adr/cases-affaires/la-bergere-2013-meyer-heirs-and-fred-jones-jr-museum-of-art/case-note-2013-la-bergere-2013-meyer-heirs-and-fred-jones-museum>.

⁴⁹ Courtney Francisco, "UPDATE: Lawmaker telling patrons to avoid OU until famous art stolen by Nazis is returned," Oklahoma's News Channel 4 online, updated 7 February 2014, <https://kfor.com/2014/01/29/could-could-artwork-that-became-nazi-loot-be-hanging-in-ous-museum/>.

case was in fact an issue of morality more than anything.⁵⁰ In May 2015, Wesselhoft and other Oklahoma state representatives would introduce Resolution 1026, which stated that “the House of Representatives hereby directs the University of Oklahoma and the Fred Jones Jr. Museum of Art to resolve the matter in an equitable, appropriate and mutually agreeable manner, including restitution.”⁵¹ In the following months, as the university refused to change course and the backlash grew, larger news outlets began publishing articles regarding OU’s actions, and the university found it difficult to deal with what *Newsweek* magazine described as “a public relations nightmare.”⁵²

The most vocal critics of President Boren’s actions, and the behavior of the Board of Regents, were University of Oklahoma students themselves. After Meyer filed her lawsuit against OU in 2014, a student editor for the campus newspaper *The OU Daily* discovered that the Nazi-Era Provenance Internet Portal, a database created to track possible Nazi-looted artworks, lists 40 items in the collection of the Fred Jones Jr. Museum that could have Nazi connections.⁵³ These artworks include three other works by Pissarro, as well as a painting by Vincent van Gogh and another by Claude Monet.⁵⁴ Obviously, this did nothing to rehabilitate the university’s image in the eyes of students or others who might previously have given OU the benefit of the doubt. Once the trial restarted in Oklahoma’s Western District Court in March 2015, awareness of the lawsuit’s implications began to grow amongst the student body. Frustrated that no

⁵⁰ Francisco, “UPDATE.”

⁵¹ Oklahoma State Legislature, House, HR 1026, 55th Legislature, 1st session, introduced in House 22 May 2015, http://webserver1.lsb.state.ok.us/cf_pdf/2015-16%20FLR/HFLR/HR1026%20HFLR.PDF.

⁵² Kutner, “How a Nazi-Looted Painting.”

⁵³ Paighen Harkins, “OU Museum Holds 40 Pieces of Art with WWII Nazi Connections,” *The OU Daily* online, 6 November 2014, http://www.oudaily.com/news/ou-museum-holds-pieces-of-art-with-wwii-nazi-connections/article_f4911dfe-654e-11e4-80ac-0017a43b2370.html.

⁵⁴ *Ibid.*

progress had been made over that summer, a group of students decided to take matters into their own hands and advocate for the painting's return at major events on campus. On September 5th, 2015, prior to the OU football team's first home game of the season, a plane hired by the advocacy group Americans for Limited Government flew over the pregame tailgate festivities with a banner that called out the OU President directly: "David Boren #ReturnTheStolenArt."⁵⁵ That same day, a group of students stood outside the football stadium and handed out flyers that stated "Hitler stole it. The University of Oklahoma has it."⁵⁶ Such a provocative message prompted an underwhelming response from Boren himself, who told a reporter from OU's campus newspaper that the flyover was a "highly inappropriate...attempt to simplify the issue."⁵⁷ Nevertheless, Boren and the university finally backed down in late 2015 after the intervention of Ronald Lauder, President of the World Jewish Congress (WJC).⁵⁸ Lauder, along with a WJC mediator, were able to negotiate a settlement between the university and the Meyer family in early 2016.⁵⁹ Under the conditions of the settlement, Léone Meyer became the sole owner of the painting, and she agreed that after a five-year stay at the Musée d'Orsay, the artwork will then rotate between the University of Oklahoma and a French institution, to be chosen by Meyer

⁵⁵ Lorne Fultonberg, "Students protest OU painting with football flyover," Oklahoma's News Channel 4 online, updated 6 September 2015, <https://kfor.com/2015/09/05/students-protest-ou-painting-with-football-flyover/>.

⁵⁶ Ibid.

⁵⁷ Jesse Pound, "Aircraft will fly over OU football game to protest Nazi-stolen art," *The OU Daily* online, 4 September 2015, http://www.oudaily.com/news/aircraft-will-fly-over-ou-football-game-to-protest-nazi/article_7f49269a-534b-11e5-9b61-6f05f6c4e2b1.html.

⁵⁸ Kutner, "How a Nazi-Looted Painting."

⁵⁹ Ibid.

herself.⁶⁰ The painting finally returned to France on April 20th, 2017, bringing some closure to the Meyer family's decades-long struggle to recover all of the artworks stolen from them.⁶¹

As mentioned above, this is far from the first time that a Jewish individual has sought the return of an artwork stolen from their family by the Nazis before or during World War II, and it's certainly not the first time that an institution in possession of such an artwork has attempted to retain possession after controversy sparks. Since the end of World War II, Holocaust survivors and the families of Holocaust victims have searched for, identified, and sought the return of the works that rightfully belong to them. For as long as these families have sought repatriation, however, museums and individuals who have found themselves in possession of such artworks after their theft have argued that they are not obligated to give up the artworks. Arthur Brand, a Dutch art crimes investigator known as "the Indiana Jones of the art world"⁶², has stated that museums are using "Nazi tactics"⁶³ to hold onto certain dubious items in their collections. He explained these tactics in an interview with the news site *The Daily Beast* in 2018, stating that many museums use records that the Nazis fabricated in the 1930s and 1940s to justify their claims that the objects' provenance records are legitimate.⁶⁴ He suggests that many museums around the world are aware of the potentially false records they have in connection to their collections items, and he states rather bluntly that the museums are just waiting for Holocaust

⁶⁰ Max Kutner, "Nazi-Looted Painting Returns to Paris Almost 80 Years After Theft," *Newsweek* online, 26 April 2017, <https://www.newsweek.com/nazi-painting-meyer-pissarro-oklahoma-france-590430>.

⁶¹ Kutner, "Nazi-Looted Painting Returns."

⁶² "Investigator '100 Percent Sure' Stolen Art from Legendary Heist in Ireland," CBS News online, 12 July 2017, <https://www.cbsnews.com/news/boston-museum-art-heist-mystery-arthur-brand-no-doubt-in-ireland-ira/>.

⁶³ Nadeau, "Museums Use 'Nazi Tactics.'"

⁶⁴ Ibid.

victims and their families to die so that they aren't dragged into legal cases or controversy.⁶⁵

Brand also warns that beyond the museums themselves, there are numerous legal deterrents that prevent families from making claims.⁶⁶

It appears that, more often than not, legal defenses in cases such as this one tend to rely on arguments focused on arbitrary statutes of limitations, precedents set by courts in previous cases, and vague definitions of “good faith” and “bad faith.” The University of Oklahoma’s defense, as we have established, argued that the Fred Jones Jr. Museum had no legal obligation to give up the painting based on a Swiss court’s rejection of the Meyer family’s claim that Christoph Bernoulli had purchased it with the knowledge that it was stolen.⁶⁷ That his purchase was made “in good faith” was enough for the court to allow him to retain possession of the artwork, even if this solution brings no solace or closure for the victims of the original crime. Advocates have voiced their concerns about such technicalities and loopholes for decades. French lawyer Antoine Comte, for example, has decried “a real moral problem” in legal systems that allow good-faith purchasers to sell artworks for profit even after those works are found to have been stolen.⁶⁸ Ronald Lauder has also publicly criticized unfair laws, and he has specifically condemned laws that have established an arbitrary statute of limitations, stating that “Our adherence to this commitment requires that resolution of such cases be based on the merits

⁶⁵ Nadeau, “Museums Use ‘Nazi Tactics.’”

⁶⁶ Ibid.

⁶⁷ Nicholas M. O’Donnell, “Claims Against University of Oklahoma Over Pissarro ‘La bergère’ Dismissed on Jurisdictional Grounds,” Sullivan and Worcester Law Firm online, 15 May 2014, <https://blog.sandw.com/artlawreport/2014/05/15/claims-against-university-of-oklahoma-over-pissarro-la-bergere-dismissed-on-jurisdictional-grounds/>.

⁶⁸ Nina Siegal, “Owner Withdraws Nazi-Looted Painting From Auction in Austria,” *The New York Times* online, 26 April 2017, <https://www.nytimes.com/2017/04/26/arts/design/owner-withdraws-nazi-looted-painting-from-auction-in-austria.html>.

of each case and not on procedural technicalities or the capacity of one party to outspend, or outwait, the other... This is not justice.”⁶⁹

Frustratingly, many legal experts—including those seemingly sympathetic to the plight of victims of Nazi-era lootings—have struggled to come up with solutions to these tricky legal issues. Civil litigator Nicholas M. O’Donnell, in his book *A Tragic Fate: Law and Ethics in the Battle Over Nazi-Looted Art*, admits that Boren and the University of Oklahoma “had a powerful legal argument that the Swiss judgment extinguished any claim to title by the Meyer family,”⁷⁰ and that although “Bernoulli is a notorious name that should be a red flag in any provenance... the finality of a Swiss judgment that found him to be a good-faith purchaser is something that Meyer would have had to contend with.”⁷¹ Interestingly, O’Donnell later seems to argue that because litigation led to an acceptable resolution of the case, litigation in such cases is a preferable and practical legal approach for the involved parties.⁷² However, as should be obvious to anyone familiar with cases of looted artwork, the types of legal arguments employed by the defendants in the Meyer case are often an excuse not to confront the actual moral implications of an institution’s or individual’s actions. Although the litigation process ultimately succeeded in bringing both parties to the negotiating table in this instance, the notion that litigation will always lead to fair outcomes for the victims of Nazi art theft is extremely dubious, as evidenced by the previously mentioned Cassirer case, in which the District Court for the Central District of California ruled that the Thyssen-Bornemisza Museum in Madrid has a greater claim to the painting known as *Rue Saint-Honore, Apres-Midi, Effet de Pluie*, even

⁶⁹ Nicholas M. O’Donnell, *A Tragic Fate: Law and Ethics in the Battle Over Nazi-Looted Art* (Chicago: American Bar Association, 2017), 347.

⁷⁰ O’Donnell, *A Tragic Fate*, 223.

⁷¹ *Ibid.*

⁷² *Ibid.*

though there is no dispute that the Nazis stole the painting from the Cassirer family.⁷³ Although the family recently won the right to appeal that decision in the U. S. 9th Circuit Court of Appeals⁷⁴, it is unlikely that the decision will be reversed. The Meyer case could easily have ended under similar circumstances, and perhaps it would have if the university's actions had not been scrutinized so publicly.

Why did it take so long for the University of Oklahoma to be willing to negotiate the return of *La bergère rentrant des moutons*, and why did their behavior change only after the story garnered national attention? Must we always rely on an institution's bad behavior becoming public knowledge before such behavior is reversed and resolved? One possible reason that the university waited so long to reach a settlement is that the family of Clara Weitzenhoffer, whose estate donated the painting to OU in 2000, is a major donor to the university.⁷⁵ In regards to the Weitzenhoffer family's influence over the university's decisions, Oklahoma Representative Mike Ritze stated that "It is absurd that the University of Oklahoma would act as if they have done a noble thing...In order to accommodate a wealthy donor, President Boren went as far as spending hundreds of thousands of dollars to keep the art away from its rightful owner."⁷⁶ While it is unknown how much the University of Oklahoma and the Board of Regents spent on litigation, or how much their attorney Thaddeus Stauber was compensated for

⁷³ O'Donnell, *A Tragic Fate*, 253-4.

⁷⁴ "Family Can Seek Return of Nazi-Looted Pissarro in Court, 9th Circuit Rules," *LA Times* online, 10 July 2017, <https://www.latimes.com/local/lanow/la-me-painting-nazi-20170710-story.html>.

⁷⁵ "Weitzenhoffer Family College of Fine Arts," University of Oklahoma Weitzenhoffer Family College of Fine Arts online, accessed 31 October 2018, http://www.ou.edu/finearts/about_us/weitzenhoffer_family.

⁷⁶ Kimberly Querry, "Oklahoma Lawmaker Criticizes OU's Handling of Painting Stolen by Nazis," Oklahoma's News Channel 4 online, 25 April 2017, <https://kfor.com/2017/04/25/oklahoma-lawmaker-criticizes-ous-handling-of-painting-stolen-by-nazis/>.

representing them, it certainly wasn't a small amount. We do know that the Weitzenhoffer art collection was valued at \$50 million at the time of Clara Weitzenhoffer's bequest⁷⁷, and that the family exerts a sizable influence on university policy-making and decisions. The university's fine arts college, attached to the Fred Jones Jr. Museum, is even named the Weitzenhoffer Family College of Fine Arts.⁷⁸ While conducting research about the Weitzenhoffer family, the author of this essay reached out to the University of Oklahoma's Office of Development to inquire about the financial gifts that members of the family have given to the university over the years. Although the department could not provide any concrete details related to top donors and their financial gifts, they did provide a link to a news article from October 2000, immediately after the Weitzenhoffer estate's bequest, that more or less confirmed that the Weitzenhoffer family, or perhaps an individual member of the family, was inducted into what is known as the Seed Sower Society, an honor only bestowed to the university's most generous donors.⁷⁹ The Weitzenhoffers' generous contributions to the university and the museum over the years could have affected how its leadership handled the case. It could certainly explain their reluctance to turn over a university asset, donated by a member of the Weitzenhoffer family, that is worth a fortune itself.

Max Weitzenhoffer, the son of Clara Weitzenhoffer, had been a member of the University of Oklahoma Board of Regents for 11 years at the time Meyer filed her lawsuit⁸⁰; he

⁷⁷ Vogel, "INSIDE ART."

⁷⁸ "Weitzenhoffer Family College of Fine Arts," University of Oklahoma Weitzenhoffer Family College of Fine arts online.

⁷⁹ Peggy Gandy, "OU Family Celebrates Campaign's Success," NewsOK online, 8 October 2000, <https://newsok.com/article/2714761/ou-family-celebrates-campaigns-success>.

⁸⁰ Mack Burke, "OU Board of Regents Elect New Officers," *The Norman Transcript* online, 9 March 2016, https://www.normantranscript.com/news/university_of_oklahoma/ou-board-of-regents-elect-new-officers/article_58e7feca-3e0e-52c8-bb9c-c3ad72f7fb4d.html.

was elected Vice Chairman of the Board in March 2015⁸¹, in the middle of the court battle, and became Chairman of the Board the following year⁸², which coincidentally followed the announcement that the university had reached a settlement with Léone Meyer a few weeks before. It is possible that Weitzenhoffer anticipated a second public backlash in the event that he became Chairman and the Board of Regents continued a legal battle over a painting that his own mother's estate had donated to the university, and therefore consented to negotiations prior to the meeting in which he was named Chairman. Unfortunately, we can only speculate as to the discussions that were held behind closed doors in regards to the Board of Regents' stance on the Pissarro painting. The recorded minutes of the Board of Regents' meetings are publicly available on the OU Libraries website⁸³, but the minutes transcripts from January⁸⁴ and March⁸⁵ 2016 (immediately before and immediately after the settlement was announced) contain no mention of Meyer, the Pissarro painting, the lawsuit, or the settlement. The Fred Jones Jr. Museum of Art is mentioned in the minutes from March 9th, but only in regards to the outgoing Chairman's role as a member of its Board of Visitors.⁸⁶ Coincidentally, both David Boren and

⁸¹ "OU Board of Regents Elects Stuart, Weitzenhoffer as Officers," University of Oklahoma Public Affairs online, 10 March 2015, <http://www.ou.edu/publicaffairs/archives/OUBoardOfRegentsElectsStuartWeitzenhofferAsOfficers>.

⁸² Burke, "OU Board of Regents."

⁸³ "Regents' Minutes," OU Libraries online, accessed 15 November 2018, <https://digital.libraries.ou.edu/regents/>.

⁸⁴ University of Oklahoma Board of Regents, Minutes of a Regular Meeting, 28 January 2016, OU Libraries online, accessed 15 November 2018, https://digital.libraries.ou.edu/regents/minutes/2016_01_28.pdf.

⁸⁵ University of Oklahoma Board of Regents, Minutes of a Regular Meeting, 9 March 2016, OU Libraries online, accessed 15 November 2018,

https://digital.libraries.ou.edu/regents/minutes/2016_01_28.pdf.

⁸⁶ Ibid.

Max Weitzenhoffer are also members of the museum's Board of Visitors⁸⁷, but no minutes from this other Board's meetings are publicly available like those of the Board of Regents. Without any official records to suggest how, when, or why the attitudes of the university's leadership evolved over the course of the lawsuit, it is difficult to determine what impact public opinion or public scrutiny could have had on their decisions. However, it is perhaps reasonable to assume that as the lawsuit dragged on, as criticism began to grow beyond the campus and the Oklahoma legislature, and as Max Weitzenhoffer prepared to accept his role as Chairman of the Board of Regents, the Board members may have sought to begin a new term controversy-free, if at all possible.

The controversy over the *Shepherdess* and the University of Oklahoma's actions was stoked, in part, by social media, although it is unclear just how much influence the Facebook and Twitter posts of Oklahoma residents and OU students had on the university's behavior. The viral nature of Twitter posts with headlines such as "University of Oklahoma continues fight in Nazi-looted art case"⁸⁸ certainly did not help the university's reputation, nor did the numerous statements that Representative Wesselhoft posted on his Facebook page. Beginning in 2014, Wesselhoft had numerous Facebook interactions with residents in Oklahoma regarding the controversy over the *Shepherdess* painting. Although some commenters angrily suggested (in all caps) that he had said "ENOUGH ABOUT THE PAINTINGS"⁸⁹ and that he should return to dealing with "a more pressing agenda" in the Oklahoma legislature⁹⁰, the majority of responses

⁸⁷ "Board of Visitors," Fred Jones Jr. Museum of Art online, accessed 15 November 2018, <http://www.ou.edu/fjjma/about1/board>.

⁸⁸ NewsOK profile, Twitter post, 4 May 2015, 12:30 p.m., <https://twitter.com/NewsOK/status/595309448257671168>.

⁸⁹ Luis Kirkham, Facebook comment, 7 August 2015, <https://www.facebook.com/wesselhoft>.

⁹⁰ Ibid.

to Wesselhoft's posts were supportive of his message and his efforts to bring attention to Léone Meyer's case. In the aftermath of the tailgate flyover protest, Wesselhoft insisted that his own actions and those of engaged OU students were "attracting attention and money,"⁹¹ and after the painting returned to Paris in 2017 he suggested that it was due to the "public pressure" that he and his supporters put on the university.⁹² He is only partially correct. The social media-based activism of Wesselhoft and the students provoked some reactions, but likes, shares, and retweets can only go so far. Although they were very passionate about their cause, it is obvious that the university only truly felt the pressure when the story gained nationwide media attention in outlets like *Newsweek* and the *Los Angeles Times*,⁹³ and only agreed to negotiate the return of the painting once Ronald Lauder and the World Jewish Congress intervened.

Why was the World Jewish Congress successful in negotiating a deal between the university and the Meyer family when media scrutiny, student protests, and even an Oklahoma House of Representatives' resolution all failed? A simple answer is that the WJC has worked tirelessly to identify stolen artworks and advocate for their restitution, and that the WJC was in the best position to mediate between OU and Meyer. In 1998, the WJC published a list of 2,000 people who allegedly collaborated with the Nazis in their efforts to loot the art collections of Jewish families.⁹⁴ This document was a major catalyst for 1998's Washington Conference on Holocaust Era Assets, which sought to establish a series of principles that all countries affected

⁹¹ Paul Wesselhoft, Facebook comment, 5 September 2015, <https://www.facebook.com/wesselhoft>.

⁹² Paul Wesselhoft, Facebook post, 26 April 2017, <https://www.facebook.com/wesselhoft>.

⁹³ Mike Boehm, "University of Oklahoma Fights Claim to a Nazi-Looted Pissarro Painting," *Los Angeles Times*, 15 March 2015, <http://www.latimes.com/entertainment/arts/culture/la-et-cm-nazi-looted-pissarro-painting-university-oklahoma-20150314-story.html>.

⁹⁴ "France Publishes Catalogue of Looted Nazi Art," CNN online, 10 November 1998, <http://www.cnn.com/WORLD/europe/9811/10/nazi.art/>.

by Nazi-era looting could follow in order to resolve lingering legal issues.⁹⁵ Ronald Lauder himself has been described as “one of the driving forces behind the 1998 Washington Declaration.”⁹⁶ Since that time, Lauder and the WJC have worked to ensure that the Washington Principles are taken seriously by the 44 governments⁹⁷ who sent delegates to the conference two decades ago, and recently renewed the call for “countries to step up when it comes to Nazi restitution.”⁹⁸ When the controversy surrounding the *Shepherdess* painting began, the World Jewish Congress was the organization best suited to advocate for the painting’s return. A more complicated explanation of the University of Oklahoma’s actions is that once Lauder wrote directly to David Boren in late 2015 and urged the return of the painting, university leadership may have realized that to reject Lauder’s offer of mediation might have greatly offended the entire Jewish community, effectively signaling that OU cared more about the interests of major donors than the continued plight of Holocaust victims and their families. Recognizing that continued litigation was negatively impacting the university’s reputation, Boren and the Board of Regents finally relented. Of course, the effects of all of these efforts to call attention to OU’s actions may have been cumulative. Media reactions to the lawsuit itself, negative public opinion and student protests, and the intervention of the World Jewish Congress all played a role in the

⁹⁵ “Washington Conference Principles on Nazi-Confiscated Art,” U. S. Department of State online, accessed 30 November 2018, <https://www.state.gov/p/eur/rt/hlcst/270431.htm>.

⁹⁶ “WATCH LIVE: Ronald S. Lauder Speech on Nazi-Looted Art,” World Jewish Congress online, 2 February 2016, <http://www.worldjewishcongress.org/en/blog/rsl-speech-nazi-looted-art-2-2-2016>.

⁹⁷ Stuart Eizenstat, “Briefing on the Washington Conference on Holocaust-Era Assets and Release of Proceedings of the Conference, Washington, DC, May 20, 1999,” Florida Center for Instructional Technology online, accessed 30 November 2018, <https://fcit.usf.edu/holocaust/resource/assets/heac.htm>.

⁹⁸ Sarah Cascone, “It’s Been 20 Years Since the Creation of the ‘Washington Principles’ to Return Nazi-Looted Art. But How Effective Have They Been?” Artnet News online, 27 November 2018, <https://news.artnet.com/art-world/washington-principles-nazi-looted-art-agreement-turns-20-1403614>.

university's ultimate decision to resolve the case. Whether or not university leadership was completely satisfied by the agreement, it is evident that they could have saved themselves from much embarrassment and public scrutiny had they agreed to negotiate earlier.

The story of the *Shepherdess* painting begs the question: does controversy actually change anything? Has the Fred Jones Jr. Museum of Art made any significant changes since Meyer's lawsuit began? One thing that has changed is the museum's leadership. Soon after Léone Meyer filed her suit against the university, one of Paul Wesselhoft's colleagues in the Oklahoma House of Representatives pressured the American Alliance of Museums to reconsider the Fred Jones Jr. Museum's accreditation status on the grounds that the museum failed to perform thorough research in regards to the provenance of the *Shepherdess*.⁹⁹ State Representative Mike Reynolds also helped draft a letter sent by the Oklahoma House Government Modernization and Accountability committee to Emily Neff, the director of the Fred Jones, in October 2014, in which the committee raised concerns about the museum's handling of the Meyer case.¹⁰⁰ Neff resigned the next day, and Reynolds told the media that he believed that her resignation had something to do with the controversy over the painting.¹⁰¹ He would later go so far as to suggest that the university forced her out, stating that the public should consider her resignation to be "possibly [a] firing."¹⁰² Mark Andrew White, the senior curator under Neff, was named interim director in her absence (he had also briefly served as

⁹⁹ Silas Allen, "Oklahoma Lawmaker Calls for Investigation into OU Art Museum's Handling of Nazi-Looted Painting," NewsOK online, 1 November 2014, <https://newsok.com/article/5362372/oklahoma-lawmaker-calls-for-investigation-into-ou-art-museums-handling-of-nazi-looted-painting>.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Alexander Forbes, "American Association of Museums Goes Easy on Nazi Loot," Artnet News online, 13 November 2014, <http://news.artnet.com/art-world/american-association-of-museums-goes-easy-on-nazi-loot-167679/amp-page>.

interim director before Neff was hired¹⁰³), and he was therefore tasked with guiding the museum through the controversy as awareness of the Meyer lawsuit began to grow. White was later officially appointed the Director in 2016, a position he holds to this day.¹⁰⁴ Hadley Jerman, a graduate of and doctoral candidate at the university, replaced White as Assistant Curator in 2016.¹⁰⁵ These relatively drastic changes in the museum's leadership over a short period of time reflect the uncertainty surrounding the possession of the contested Pissarro painting, as well as the museum's possible negligence and potential culpability in regards to the provenance research required (but apparently not performed) at the time of the 2000 bequest. Considering all of these changes, it would be difficult to believe that the university did not take this opportunity to "right the ship." The eventual nomination of Mark Andrew White as Neff's permanent replacement was an attempt to encourage a more harmonious institutional environment and a new operational continuity, so that the mistakes of previous directors, curators, and collections-related staff members will never be repeated.

Something else that the institution has definitely changed is its own website. A few references to *La bergère rentrant des moutons* can still be found on certain pages of the Fred Jones Jr. Museum's website, and links even exist that would have taken Internet users to the painting's catalogue entry¹⁰⁶, but no explanations of the painting's history, the lawsuit, the controversy, or the painting's current absence from the Weitzenhoffer rooms are to be found on

¹⁰³ K. S. McNutt, "University of Oklahoma Art Museum Director Stayed Only Nine Months," NewsOK online, 17 November 2014, <https://newsok.com/article/5367774/university-of-oklahoma-art-museum-director-stayed-only-nine-months>.

¹⁰⁴ "Fred Jones Jr. Museum of Art in Norman Appoints Assistant Curator," NewsOK online, 21 July 2016, <https://newsok.com/article/5510404/fred-jones-jr-museum-of-art-in-norman-appoints-assistant-curator>.

¹⁰⁵ Ibid.

¹⁰⁶ "European Art" [sic], Fred Jones Jr. Museum of Art online, accessed 19 November 2019, <http://www.ou.edu/fjjma/collections0/europeanArt/pissarroEragny>.

the site, and anyone who clicks the links to the painting's entry in the online collection will be taken to a page with the following message: "You seem to have taken a wrong turn."¹⁰⁷ It should be noted that the webpage containing the link to the *Shepherdess* entry, titled "Euorpean [sic] Art,"¹⁰⁸ seems to have been somewhat neglected, and that this page was probably meant to be edited or deleted altogether after the painting was removed from the museum's gallery in an effort to scrub all mention of the *Shepherdess* from the museum's website. Additionally, a thumbnail image of the *Shepherdess* painting has been removed from a webpage about the Weitzenhoffer Collection.¹⁰⁹ It is the museum's right to delete information about such a controversial object from its own website after such an object has been removed from the collection. In fact, it is to be expected, as most museums would probably have taken a similar course of action to prevent any long-term embarrassment. However, in this case, one could be forgiven for thinking that the Fred Jones Jr. Museum missed an opportunity to apologize for questionable institutional practices, to educate their visitors, and to raise awareness that Nazi-looted art is still an important issue and that the museum will do more to confront the issue in the future. It will be quite interesting to learn what information will be provided for visitors (both online and in the gallery) when the *Shepherdess* painting returns to OU's campus after its first stint at the Musée d'Orsay. Suffice it to say that it will be difficult for the museum to avoid the elephant in the room at that time.

¹⁰⁷ "You seem to have taken a wrong turn," Fred Jones Jr. Museum of Art online, accessed 19 November 2018, <http://www.ou.edu/fjjma/collections0/europeanArt/pissarroBergere>.

¹⁰⁸ "Euorpean Art" [sic].

¹⁰⁹ "Aaron and Clara Weitzenhoffer Collection," Fred Jones Jr. Museum of Art online, accessed 19 November 2019, <http://www.ou.edu/fjjma/collections0/featured-collections/WeitzenhofferCollection1>.

What about the institutional behavior and ethical standards of the museum? Now that the painting has been returned to Léone Meyer's possession, the lawsuit has ended, and journalists are no longer writing articles critical of the university's actions, has the University of Oklahoma's (and the Fred Jones Jr. Museum of Art's) attitudes toward provenance research and potentially looted artifacts changed at all? Mark Andrew White, director of the Fred Jones Jr. Museum, graciously agreed to be interviewed for this essay, and he answered several questions related to the controversy and its aftermath that shed a new light on the decisions that were made at the time and those still to be made. Most surprisingly, White told the author of this paper that no policy changes have been made to address the failures of the early 2000s, and that nothing has changed in regards to the way in which collections staff members are trained.¹¹⁰ Instead, he insisted that the museum has devoted more resources towards improved provenance research of the objects already in the museum's collection.¹¹¹ He went on to say that "considerable progress" has been made in an effort to address the gaps in provenance research related to the other objects in the Weitzenhoffer collection.¹¹² According to the director, an independent provenance researcher has taken on this exhaustive process; while they have identified three or four paintings with connections to "dubious figures," no major provenance-related problems have been found so far, and since 2013 the museum has received no gifts that could possibly have been connected to the Nazis.¹¹³

In regards to the museum's failure to properly research the painting's history, Dr. White said that proper provenance research was "something that always should have been done, and for

¹¹⁰ Mark Andrew White (Director of the Fred Jones Jr. Museum of Art), interviewed by the author, Norman, OK, 18 December 2018.

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ *Ibid.*

whatever reason, when [the *Shepherdess* painting] was accepted, it was not a priority.”¹¹⁴ He continued: “It would be difficult to say what the discussions were at the time as to why [the provenance research] didn’t proceed,” although he did suggest that “outside discussion” among individuals familiar with the Weitzenhoffer Collection led the museum administration to believe that the *Shepherdess* had a clear, Nazi-free provenance.¹¹⁵ Unfortunately, he did not elaborate on this remark any further. However, he ultimately blamed the university’s leadership and its relationship with top donors for the lack of provenance research conducted at the time of the Weitzenhoffer bequest. He stated that although his predecessors at the museum were competent professionals, there were “political reasons, other reasons behind a gift” that might have dictated certain actions.¹¹⁶ In other words, since the Weitzenhoffers were such generous donors to the university, the bequest was accepted *prima facie* and without any investigation into the histories of the objects, which would have been seen as an unnecessary waste of resources at the time, and potentially disrespectful to the Weitzenhoffer family. David Boren and the Board of Regents surely regretted these errors in later years.

Dr. White was also willing to discuss the museum’s relationship with university leadership, and how it had changed since the Meyer lawsuit began. Having an insider’s perspective on the discussions that were going on behind closed doors in the mid-2010s, he has a very different view of the university’s actions than those who criticized the university and the museum in the media. At the time of the Meyer lawsuit, White asserts that President Boren’s administration “wanted to...act in everybody’s best interest” in order to resolve the case swiftly

¹¹⁴ Mark Andrew White, interviewed by the author, 18 December 2018.

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*

and fairly.¹¹⁷ “What was required,” he stressed, “was not to necessarily rush to action.”¹¹⁸ Even though he had expressed disappointment in certain actions that the university had taken, he ultimately defended its decisions, and he stated that the controversy had little effect on the relationship between the administration and the museum.¹¹⁹ However, when asked whether or not Boren’s successor, James Gallogly, was committed to provenance research and the museum’s long-term goals, Dr. White hesitated to answer. He eventually stated that the research would continue, but his strange reaction to the question perhaps indicates that the relationship between the museum and the administration is not as secure as when Boren was in office.¹²⁰ What seemed to frustrate Dr. White the most was not the university’s actions, but the response by members of the media and the state government. He suggested that the media mischaracterized the specifics of the case and the efforts that were being made by university leadership to work with the Meyer family, and complained about media outlets that had, in his view, omitted certain information in an effort to portray the museum as the villain in some sort of black-and-white moral tale.¹²¹ His criticisms of state legislator Paul Wesselhoft and others, however, were his most pointed. At the end of the interview, Dr. White stated that what troubled him most about the Meyer case is that “it became a tool for partisan politics in Oklahoma,” and that certain politicians had opportunistically used the case to generate publicity for themselves or to further their own careers instead of taking the time to understand the nuances of the case or to understand the actions that the university had already taken.¹²²

¹¹⁷ Mark Andrew White, interviewed by the author, 18 December 2018.

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² *Ibid.*

As of today, it is unclear how the museum will address the controversy once the painting returns to Norman in 2022. Dr. White revealed during the interview that the staff of the Fred Jones Jr. Museum has not yet made decisions about publicity or how the painting will be displayed, but they will begin to make those decisions as the date approaches.¹²³ However, he stated that the museum *will* acknowledge the controversy to some degree on the museum's website and in other promotional materials.¹²⁴ He also stated that the painting will definitely not return to the Weitzenhoffer rooms to be displayed alongside the other items in the collection.¹²⁵ Instead, it will be displayed elsewhere in the museum, and the text panel that will eventually accompany the painting will include "language that was settled in the agreement."¹²⁶ He did not go into detail about what that means, but perhaps the museum will use the opportunity to tell its own version of events and correct certain assumptions that were made by the media and public figures in Oklahoma during the lawsuit.

Now that we have a more complete understanding of the Meyer case, we must answer the following question: How could the Fred Jones Jr. Museum of Art and the University of Oklahoma have prevented the mess that they found themselves in? It is easy to point out the museum's mistakes and to say that the University of Oklahoma obviously should have done this or that, but perhaps we should be more specific in our criticisms. Let us consider, for example, a resolution approved by the American Association of Museums' Board of Directors in November 1999, mere months before the Weitzenhoffer bequest, that included a set of guidelines for member institutions to follow when dealing with objects possibly looted by the Nazis. This

¹²³ Mark Andrew White, interviewed by the author, 18 December 2018.

¹²⁴ *Ibid*

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

document, which would have been available to the staff at the Fred Jones Jr. Museum at the time, clearly states “that museums should take all reasonable steps to resolve the Nazi-era provenance status of objects before acquiring them for their collections—whether by purchase, gift, bequest or exchange.”¹²⁷ The guidelines also state that before acquisition, museums must conduct extensive research “to produce information that will help to clarify the status of objects with uncertain Nazi-era provenance,” and that this research “may involve consulting appropriate sources of information, including available records and outside databases that track information concerning unlawfully appropriated objects.”¹²⁸ It is clear that the museum was not following these guidelines at the time of the Weitzenhoffer bequest. If it had, perhaps the fact that the *Shepherdess* painting had already been the subject of a Swiss lawsuit would have been discovered sooner, and the painting might never have been accepted into the Fred Jones Museum’s collections. The resolution also includes guidelines for dealing with claims of ownership. It states that “museums should address claims of ownership...openly, seriously, responsively and with respect for the dignity of all parties involved,” and that “If a museum determines that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution, the museum should seek to resolve the matter with the claimant in an equitable, appropriate and mutually agreeable manner.”¹²⁹ By failing to seriously consider Léone Meyer’s claim when she first contacted the university, and by hiding behind “good faith” arguments once she filed her lawsuit, President Boren and the Board of Regents failed to respect Meyer’s dignity. Preferring a lawsuit to mediation, the university’s leadership brought more

¹²⁷ “Unlawful Appropriation of Objects During the Nazi Era,” American Alliance of Museums online, accessed 1 March 2019, <https://www.aam-us.org/programs/ethics-standards-and-professional-practices/unlawful-appropriation-of-objects-during-the-nazi-era/>.

¹²⁸ Ibid.

¹²⁹ Ibid.

attention to Meyer's claim and ensured a very public battle; they may have settled this "battle" on paper, but they lost in the press and in the minds of most OU students, Oklahoma residents, and activists who continue to fight to return Nazi-stolen works to their rightful owners. The university also brought embarrassment and criticism to the Fred Jones Jr. Museum and its staff.

Of course, the University of Oklahoma and the Fred Jones Jr. Museum are not the only organizations to receive criticism for their handling of the Meyer case. The American Alliance of Museums (known as the American Association of Museums until 2012¹³⁰) also came under fire for its refusal to punish the Fred Jones Jr. Museum of Art once its failure to conduct provenance research on the Weitzenhoffer collection became public knowledge. In 2014, the World Jewish Restitution Organization (WJRO) sent a letter to former AAM President Ford W. Bell "condemning his unwillingness to investigate the Fred Jones Jr. Museum's accreditation status."¹³¹ While President Bell defended AAM's non-action by stating that the museum's accreditation status could not be reviewed while the lawsuit was still ongoing, Oklahoma Representative Mike Reynolds pointed out that AAM had recently taken action against the Delaware Museum of Art for ethics violations (the museum lost its accreditation status because it deaccessioned and sold objects from its collections "for purposes other than acquisitions or direct care of collections"¹³²), and Reynolds told the media that "AAM does not get to choose when it wants to enforce its Code of Ethics. Either it does, or it does not."¹³³ These remarks may be

¹³⁰ "American Association of Museums Is Now the American Alliance of Museums," American Alliance of Museums online, 5 September 2012, ww2.aam-us.org/about-us/media-room/2012/the-association-is-now-the-alliance.

¹³¹ Forbes, "American Association of Museums Goes Easy on Nazi Loot."

¹³² "Statement on the Deaccessioning by the Delaware Art Museum and the Action Taken by the AAM Accreditation Commission," American Alliance of Museums online, 18 June 2014, <https://www.aam-us.org/2014/06/18/statement-on-the-deaccessioning-by-the-delaware-art-museum-and-the-action-taken-by-the-aam-accreditation-commission/>.

¹³³ Forbes, "American Association of Museums Goes Easy on Nazi Loot."

another example of what Mark White characterized as opportunistic politics, but Reynolds' point is valid. There are serious questions to be asked in regards to the AAM's failure to act.

Now that the painting has been returned to France, it is unlikely that the university will face anymore punishment, but that doesn't mean that the museum should relax in its ongoing efforts to confront the issue of Nazi-looted art. There are certain steps it can take to guarantee that proper protocols are followed in the future and that this situation never happens again. The first step that the museum and university leadership can take is to establish a clearer line of communication between the Board of Regents and the office of the museum's Director. Hugh H. Genoways and Lynne M. Ireland, in their textbook *Museum Administration 2.0*, state that "In highly functioning museums, the relationship between the board and the director is a partnership, not a top-down or parent-child relationship," and that the board's "understanding of the organization and its operations will largely come from the director."¹³⁴ It is obvious that when the Weitzenhoffer bequest was made, the Board of Regents did not fully understand the responsibility that the museum has under AAM guidelines. Clear communication between the Director and the Board may ensure that Board members have a better understanding of the importance of following ethical standards and accessioning protocols. The next step that the museum can take is to establish a committee to review the collections policy, provenance research procedures, and the museum's approach to training collections-related staff members. Dr. White's decision not to make changes to the ways in which staff members are trained is quite baffling, and although he blamed the university's cozy relationships with big donors for the museum's previous mistakes, such an excuse may not be viable next time. A third step that the

¹³⁴ Hugh H. Genoways and Lynne M. Ireland, *Museum Administration 2.0* (Lanham, MD: Rowman & Littlefield, 2017), 166.

museum can take to prevent future controversies is to make the entire acquisitions process more transparent. One simple way to do this is to make the collections policy available to the public via the museum's website. The Archaeological Institute of America has published a document titled "Principles for Museum Acquisitions of Antiquities," in which it is written that "Greater transparency and openness are needed" to confront the "twilight zone of uncertain legality and ambiguous policies and procedures," and that a "written policy will inform the public that the museum has given careful consideration to the legal and ethical issues raised by the acquisition of...objects."¹³⁵ Although the document was written in regards to the possibility of acquiring recently looted antiquities, it could just as easily apply to artworks with potential Nazi-era provenance. The Fred Jones Jr. Museum does not currently provide a link to its collections policy on its website, but doing so could help repair the public's faith in the museum's ability and initiative to identify Nazi-connected objects before they are accessioned. The fourth and final step should be obvious to the Board of Regents and the museum: in the event that another claim is made on an item in the museum's collection in the future, they should immediately contact the World Jewish Congress, the World Jewish Restitution Organization, or similar organizations and seek to mediate if there is any actual evidence that the item in question was stolen by the Nazis. The university can avoid future controversies if it chooses this course of action as an alternative to long, costly, and very public court battles. Obviously, this list of recommendations is not exhaustive, but by following these simple steps the museum and the

¹³⁵ "Principles for Museum Acquisitions of Antiquities," Archaeological Institute of America online, accessed 14 March 2019, https://www.archaeological.org/pdfs/archaeologywatch/museumpolicy/AIA_Principles_Museum_Acquisition.pdf.

university can begin to forge a new path, one that places renewed emphasis on ethics, transparency, and accountability.

Wander the halls of the Fred Jones Jr. Museum of Art today and you will find little mention of Pissarro's *La bergère rentrant des moutons*. The wall upon which it once was displayed is now decorated with another artwork, Pierre-Auguste Renoir's 1878 oil painting *Roses*. The room has barely changed, and yet the absence of the Pissarro work hangs over it, felt deeply by those who know the full story. Ironically, when the author of this essay recently returned to the museum, he found a full entry about the *Shepherdess* painting in a catalogue on a bench just outside the room; the book was published by the University of Oklahoma Press just a few years after the Weitzenhoffer bequest, long before the Meyer lawsuit.¹³⁶ The catalogue is still available in the museum's gift shop, although mention of the *Shepherdess* will inevitably be removed if the catalogue is ever updated. It is obvious that the museum wishes to move on from the controversy that surrounded the Léone Meyer lawsuit and the university's past mistakes. However, one wonders if the right lessons were learned. It is important to keep in mind that while the Meyer family eventually found closure, it took decades, multiple court battles, and an incredible amount of resources; unfortunately the outcome of the Meyer case is not guaranteed to all families whose artworks were stolen by the Nazis, and it certainly wasn't guaranteed to the Meyer family at first. The University of Oklahoma now has a better understanding of the threat of Nazi-stolen art, and it wants to avoid further controversies if at all possible, but whether its renewed efforts to confront this problem are founded in respect for the victims and families or are merely an attempt to preserve the museum's reputation is another matter. Considering the vast amount of Nazi-connected artworks yet to be identified or returned to their rightful owners,

¹³⁶ Lee and Canaan, *The Fred Jones Jr. Museum*, 46-9.

perhaps questioning the university's motives is a pointless endeavor. After all, even the tiniest amount of progress is better than no progress at all.

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