

MoMA's Problematic Provenances

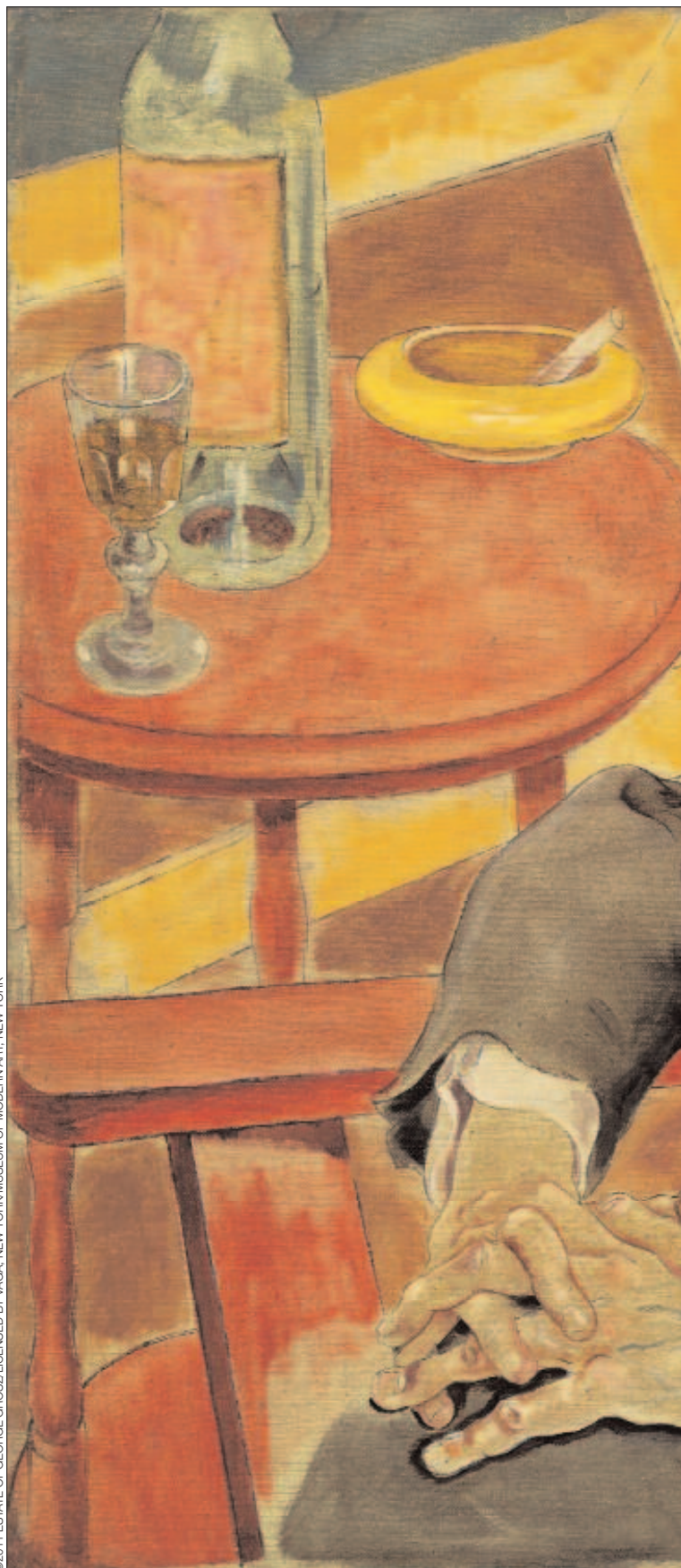
Behind a lawsuit brought against the Museum of Modern Art by the heirs of George Grosz lies a troubling history of acquiring works seized by the Nazis and sold to support the German war effort **BY WILLIAM D. COHAN**

THE ARTWORK that confronts visitors approaching the sculpture garden from the ticket desk of New York's Museum of Modern Art is Auguste Rodin's massive bronze sculpture of Honoré de Balzac. It was cast in 1954, and a year later, on May 3, 1955, at a ceremony in the museum's sculpture garden, it was presented to MoMA by the "friends of Curt Valentin," a New York art dealer who had died of a heart attack the previous year while traveling in Italy. Valentin had been one of the most influential dealers of modern art in the world, and 130 of his friends had joined together to buy the Balzac and donate it to the museum as a gift in his memory.

Alfred H. Barr Jr., MoMA's founding director, was a long-time friend of Valentin's and had had many business dealings with him. He told the museum's patrons that day that he was "deeply grateful" and "greatly touched" by the gift of the Rodin and the honor it bestowed on the museum to be "the custodian of this memorial to Curt Valentin." He said that

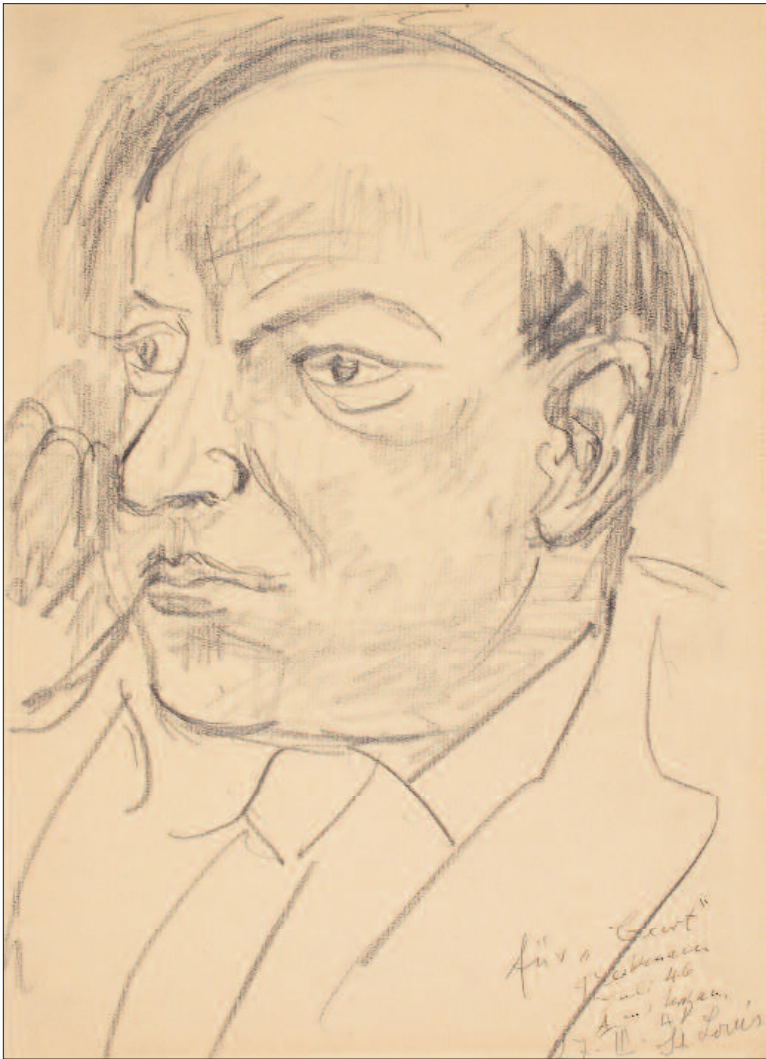
William D. Cohan, author of Money and Power: How Goldman Sachs Came to Rule the World (Doubleday), is a columnist for Bloomberg View and writes for many publications.

**George Grosz,
The Poet Max
Herrmann-
Neisse, 1927.**



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Max Beckmann, *Portrait of Curt Valentin*, 1946. Many artworks seized or stolen by the Nazis passed through Valentin's hands to American buyers.

MoMA, more than any other museum, was “indebted” to Valentin.

That MoMA would prominently display a monumental Rodin sculpture is hardly surprising. Far more intriguing, though, is the question of why MoMA would pay such an enormous public tribute to this controversial art dealer.

Curt Valentin, who was Jewish, fled Nazi Germany in 1937 and moved to New York, where—with authorization from the Third Reich, according to a November 14, 1936, letter from the Reich Chamber of Fine Arts—he opened a gallery, first on West 46th Street and two years later, as his fortunes improved, on West 57th Street, to sell what the Nazis considered “degenerate art.” Valentin funneled the proceeds of the art sales back to Germany, which needed foreign currency to support its war economy. He was one in a group of Jewish art dealers in Germany and Austria who were allowed safe passage to New York in order to sell confiscated artworks and send the foreign currency they

garnered back to the Third Reich. According to Stephanie Barron, senior curator at the Los Angeles County Museum of Art and organizer of the landmark 1991–92 exhibition “Degenerate Art: The Fate of the Avant-Garde in Nazi Germany,” records kept by the propaganda ministry in Berlin prove that many works were sold to Valentin so that he could resell them abroad.

Museum officials such as Barr at MoMA and Hilla Rebay at the Museum of Non-Objective Painting (precursor of the Guggenheim Museum) bought artworks from Valentin, usually at below market prices, by German artists such as George Grosz and Paul Klee that were confiscated or stolen by the Nazis before and during World War II. Those works are still in the permanent collections of both MoMA and the Guggenheim.

New York attorney Raymond J. Dowd, a partner in the firm Dunnington, Bartholow & Miller, and Jonathan Petropoulos, chair of the history department at Claremont McKenna College in Claremont, California, and author of *The Faustian Bargain: The Art World in Nazi Germany*, contend that artwork stolen by the Nazis before and during World War II passed through Valentin’s Manhattan art gallery and ended up in MoMA’s permanent collection without compensation being paid to the artists or to the collectors from whom it had been stolen.

On behalf of two heirs of the artist George Grosz—Martin Grosz, his son, and Lilian Grosz, the wife of his late son Peter—Dowd sued MoMA in federal court in the Southern District of New York, in May 2009, to compel the museum to return to the heirs two works by Grosz in the museum’s collection: two paintings, *The Poet Max Herrmann-Neisse* (1927) and *Self-Portrait with a Model* (1928), and a watercolor, *Republican Automaton* (1920). In response to Dowd’s suit, the museum claimed that it had proper title to all of the disputed works.

In January 2010, Judge Colleen McMahon tossed out the Grosz lawsuit on the grounds that the three-year statute of limitations for making the claim against MoMA had run its course. The United States Court of Appeals for the Second Circuit upheld that decision. Dowd petitioned the Supreme Court to hear the case, but this past October the high court turned it down.

Dowd contends that the courts ruled in MoMA’s favor on a technicality—the statute of limitations—and failed to examine the underlying evidence.

Charles A. Goldstein, counsel to the Commission for Art Recovery, is not involved in the Grosz case but has reviewed the suit’s numerous filings. He says he is appalled by MoMA’s failure to make its files available to researchers trying to figure out the provenance of the Grosz works

and others in the museum's collection. "It's really a cover up," Goldstein says. "We don't know whether they should have them or they should not have them. But we know from their behavior that there's a cover up."

Goldstein says that MoMA director Glenn Lowry, as a member of the Association of Art Museum Directors, should follow AAMD guidelines that urge museums to comply with the Principles on Nazi-Confiscated Art established by the State Department-sponsored Washington Conference on Holocaust Era Assets in 1998 and agreed to by representatives of 44 nations.

"The Washington Principles said, 'Look at your collections, examine them, make public the information you have, and if claims are made, deal with them,'" Goldstein says. "'Reach a just and fair result.' This museum has agreed that if a claim is made, it should reach a just and fair result. Now what does it do? It seeks to cut off claims by taking claimants into court."

The general approach of MoMA and other museums, including the Museum of Fine Arts in Boston, of dragging potential claimants into court to resolve provenance disputes, rather than trying to settle them privately between the parties or through binding arbitration, has had a chilling effect on the claims process, Goldstein adds. "If you're a claimant, if you want to talk to a museum, you've got to know that if you walk in the door and say 'I want to talk to you about grandpa's painting,' that you may be a defendant in federal court," he says. "That'll give you a second thought, wouldn't it?"

Citing his travel schedule, Ronald Lauder, a former chairman of the Museum of Modern Art and founder and chairman of the Commission for Art Recovery, declined to comment on the matter to *ARTnews*.

In an e-mail to *ARTnews*, a MoMA spokesperson wrote, "The Museum rejects any implication that it is not in compliance with the guidelines established by the Association of Art Museum Directors with regard to the Washington Principles."

MoMA also stated that "staff across six curatorial departments is engaged in provenance research on an ongoing basis. Museum staff conducts research on all incoming and outgoing loans, new acquisitions, and on works in MoMA's collection. When new information is found, it is shared with the appropriate parties, and if it concerns works in MoMA's collection, it is added to the Museum's records and to the Provenance Research Project web site."

In another statement, the museum said that it had "worked closely with the [Grosz] estate for nearly six years on the provenance of the works. . . . The Museum vigorously rejects any implication that it takes claims regarding spolia-

tion of World War II art with anything other than utmost seriousness, and it is confident that its efforts in responding to each such claim far surpass even the highest ethical and legal obligations demanded by such extraordinary circumstances. . . . Based on its extensive research in this case, with the full understanding of and respect for the sensitivities involved in claims of this type, the Museum concluded that it held good title to the Grosz works, and advised the estate accordingly in 2005. . . . It is important to note that the statute of limitations that the courts have found to preclude the estate's claims have nothing to do with obscuring the historical record with regard to World War II or its aftermath. . . . Thus any suggestion that the passage of time or the assertion of the statute put the estate at a disadvantage is not credible."

NINETY BOXES of Curt Valentin's papers, documenting his 17 years in the United States, are archived at MoMA. According to an index of the documents on MoMA's website, there is little material in the archive dating from the 35 years of Valentin's life in Germany. The biographical

Alfred H. Barr Jr., MoMA's founding director, in the museum's sculpture garden. He purchased many works from his friend Curt Valentin.



information about Valentin on MoMA's website is truncated. "After completing his education, Valentin became a modern art dealer in Berlin," it says. There is no mention of Valentin's work as assistant to Alfred Flechtheim, a prominent Jewish art dealer with galleries in both Berlin and Düsseldorf.

Flechtheim was born into a family of wealthy Rhineland grain merchants, but he soon left the family business to follow his passion, after spending his wife's entire dowry on art. In the 1920s, he had galleries in many German cities, showing at various times Max Beckmann, Rudolf Belling, George Grosz, and Karl Hofer, as well as Picasso, Braque, Chagall, and Renoir.

The ordeal of Grosz and his involvement with Flechtheim, Valentin, and MoMA was described by Dowd in court filings with the help of Petropoulos, among other experts. In 1923, Grosz had his first exhibition at the Galerie Flechtheim in Berlin, which helped to establish his artistic reputation. Two years later, the artist agreed to make Flechtheim his exclusive dealer in exchange for a monthly stipend of between 300 and 800 reichmarks. In 1927, Grosz painted *The Poet Max Herrmann-Neisse*, a haunting por-

George Grosz.
He claimed that his
portrait of Max
Herrmann-Neisse had
been stolen from him.



trait of his friend; in April 1928 he consigned it to Flechtheim. The next month the painting was exhibited at the Prussian Academy of Arts.

In March 1931, MoMA held an exhibition of German painting and sculpture. Seven of Grosz's paintings were included, four of which were on loan from the Flechtheim Gallery, including both *Herrmann-Neisse* and *Self-Portrait with a Model*.

By December 1931, Flechtheim and his galleries were in financial distress, and the dealer cancelled Grosz's monthly stipend, although he continued to try to sell his paintings. In 1932, Flechtheim's financial situation improved marginally and he tried to reestablish the arrangement. By this time, he had hired Valentin as his assistant and, in May 1932, dispatched him to New York to meet with Grosz, who was teaching for a semester at the Art Students League. The artist, however, rejected the proposed exclusive arrangement.

Although Grosz and his wife returned briefly to Berlin from New York, he had decided to flee the country. Grosz was not Jewish, but he was an outspoken critic of the Nazis. On January 12, 1933, he left Berlin for New York for good. Eighteen days later, Hitler became the Chancellor of Germany. The next day, Nazi storm troopers raided Grosz's apartment and his studio. "I have reason to believe that I would not be alive, had they found me there," the artist later wrote in his autobiography.

Within months of Hitler's assumption of power, the well-documented process of Aryanization—the confiscation of property from Jews—began in earnest. In March 1933, an art dealer named Alexander Vömel confiscated Flechtheim's Düsseldorf gallery. "Vömel was a member of the SA (Sturm Abteilung, or Brown Shirts)—the violent Nazi paramilitary organization," Petropoulos wrote in a report he filed in the Grosz lawsuit. "Vömel's takeover of Flechtheim's Düsseldorf gallery should be viewed as a kind of 'Aryanization.' Transfer of the Düsseldorf branch away from Flechtheim under duress is a strong indication that something similar occurred with regards to his Berlin gallery."

Indeed, by November 1933, Dowd wrote in his complaint, before he fled Germany, Flechtheim hired Alfred Schulte, a German "tax adviser," to take control of his galleries and liquidate them, presumably to pay the so-called "flight taxes" required of Jews seeking to leave the country. "The Galerie Flechtheim is closed," Schulte wrote to Grosz in New York. He was liquidating its business and trying to avoid bankruptcy. He demanded that the artist send to him the 16,255 reichsmarks he believed Grosz owed the gallery, but, according to Grosz, he did not owe the gallery any money because the

payments made to him over the years were in the nature of a nonrefundable advance.

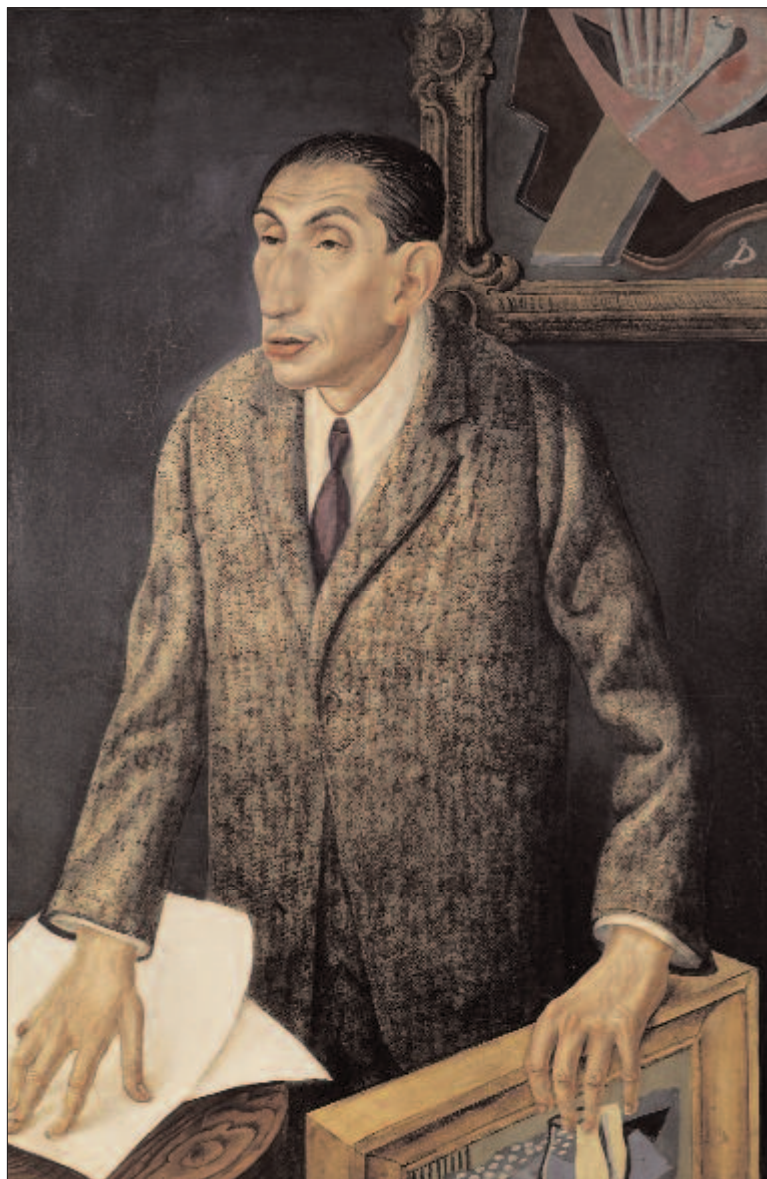
Schulte also reminded Grosz that the gallery still had a number of his paintings on consignment. But, he added, "such art is definitely not saleable at the present time. Whatever the circumstance I have [to] get cash from you." In the end, Schulte got Flechtheim's creditors 20 cents on the dollar and avoided a bankruptcy filing but did not get any money from Grosz.

Around the same time, Flechtheim left Berlin for London, bringing with him a number of the paintings he had on consignment, and went to work for the James Mayor Gallery. He wrote Grosz in April 1934 that some of Grosz's paintings were now at the Mayor Gallery, including *Republican Automats*, and some were at the Galerie Billet in Paris, including *Self-Portrait with a Model*. He, too, asked Grosz for money. "In Germany everything is over for me and to be in a foreign country these days without money!" he lamented. His wife, Betti, had stayed behind in Berlin in an eight-year, ultimately fruitless, effort to sell her real estate to raise the cash needed to pay the exit tax.

Alfred Barr was well aware of Flechtheim's difficult circumstances. On August 8, 1935, Flechtheim wrote Barr a letter informing him, "I lost all my money and all my pictures," adding that "nearly the only thing" he had been able to save was a Wilhelm Lehmbruck sculpture, which he urged Barr to buy. "He seems to be in pretty dire straits." Barr then wrote to a museum trustee. "I think he might possibly take as little as \$2,000 for this really great modern figure. We might offer him even less." Lehmbruck's *Standing Youth*, as it is now called, is a 1936 gift of Abby Aldrich Rockefeller to MoMA.

Flechtheim's situation quickly deteriorated. The dissolution of his Berlin gallery was completed by February 1937. He and Betti had divorced in 1936, on the theory that her life would be easier if she were no longer formally associated with him. (They intended to remarry.) In March 1937, in London, Flechtheim stepped on a rusty nail and developed gangrene. Both of his legs were amputated, to no avail. He died soon thereafter. In late 1941, told that she was about to be sent "to the East," a euphemism for the concentration camps, Betti committed suicide by overdosing on sleeping pills.

VALENTIN left the Flechtheim Gallery in 1934 and began working in the Berlin gallery of Karl Buchholz, who was not Jewish and who would later, around 1938, become one of four Nazi-authorized art dealers engaged in marketing massive amounts of art being removed from museums, according to Petropoulos and



other experts on the art history of the Nazi era.

By November 1936, Valentin had made his deal with the Nazis that would allow him to emigrate to New York and to sell "degenerate art" to help fund the war effort. "The President of the Reich Chamber of Fine Arts instructed me to tell you that it would be of no objection to him if you make use of your connections with the German art circle and thereby establish supplementary export opportunities, if [this is done] outside Germany," according to the authorization letter. "Once you are in a foreign country, you are free to purchase works by German artists in Germany and make use of them in America."

In January 1937, with financing from Buchholz, Valentin left for New York and set up the Karl Buchholz Gallery at 3 West 46th Street. According to Buchholz's daughter Godula, who

Otto Dix, *Portrait of the Art Dealer Alfred Flechtheim*, 1926. "In Germany everything is over for me," Flechtheim wrote to Grosz in 1934.



Before destroying or selling “degenerate art,” the Nazis exhibited it (here, at the Haus der Kunst, Berlin, 1938) under mocking banners.

wrote a biography of her father, Valentin arrived in New York supplied with “degenerate art” from Germany. Normally, Jews allowed to leave Nazi Germany were permitted to take with them only ten reichsmarks, if that. But Valentin carried “baggage containing sculptures, [p]aintings, and drawings from the Galerie Buchholz in Berlin,” Godula Buchholz wrote. Her account, published in 2005, contrasts dramatically with Valentin’s own assertion, echoed by Barr, that he came to New York virtually destitute.

Valentin later told the FBI, which during the war investigated him for violating the Trading with the Enemy Act (and seized paintings sent to him by Buchholz), that he had started his gallery with the help of both the banker E. M. Warburg, who was on MoMA’s board, and someone from Cassel & Co., a small investment firm. He made no mention to the FBI of his financial support from Buchholz. Nor did Barr mention it in a letter he wrote in June 1942 supporting Valentin’s application for U.S. citizenship. “Mr. Valentin is a refugee from the Nazis both because of Jewish extraction and because of his affiliation with free art movements banned by Hitler,” Barr wrote. “He came to this country in 1937, robbed by the Nazis of virtually all possessions and funds.” But MoMA’s website tells a version of events closer to that of Buchholz’s daughter than to Barr’s. “In 1937 Valentin immigrated to the United States with a sufficient number of modern German paintings to open a gallery under the Buchholz name in New York City,” it reads.

Barr knew all about Valentin’s relationship

with Buchholz and the Nazi regime, and he wanted to use Valentin as a conduit for the purchase of art seized by the Nazis, as their correspondence makes clear. Beginning in 1937 the Nazis had seized more than 17,000 artworks from German museums. After taking the ones Hitler preferred, the Nazis piled up most of the remainder, about 4,000 works, in front of Berlin’s central fire station and torched them, on March 20, 1939.

A further 700 of the artworks stolen by the Nazis were given to art dealers to sell in order to raise foreign currency. One such sale of 126 paintings and sculptures took place at the Fischer Gallery, in Lucerne, Switzerland, on June 30, 1939. In addition to works by Braque, Chagall, Gauguin, Klee, Matisse, Modigliani, and Mondrian, there were also works by German and Austrian Expressionists, including Otto Dix, Ernst Ludwig Kirchner, Oskar Kokoschka, Franz Marc, Max Pechstein, and Emil Nolde.

This was a major ethical dilemma for museum directors around the world. Here was a once-in-a-lifetime opportunity to acquire priceless works of art at auction; unfortunately, the works had been confiscated from German museums. This fact was enough to persuade most U.S. museums to stay away, a decision reinforced by the horrific March conflagration. Others believed that participating in the Fischer auction was preferable to watching the artworks possibly be destroyed.

In any event, private collectors did participate in the auction, including the Saint Louis publisher Joseph Pulitzer Jr. and the New York banker Maurice Wertheim. With the help of then-*ARTnews* editor Alfred Frankfurter, Wertheim purchased van Gogh’s 1888 *Self-Portrait Dedicated to Paul Gauguin* for 175,000 Swiss francs (about \$40,000), the highest price paid at the auction. The painting had been confiscated from the Neue Staatsgalerie in Munich and is now in the Fogg Art Museum of Harvard University. Pulitzer’s adviser was Pierre Matisse, the art-dealing son of Henri.

Barr secretly enlisted Valentin as his agent in the Fischer auction, with funds supplied by his trustees. The museum acquired five artworks that day: Kirchner’s *Street Scene* and Lehbruck’s *Kneeling Woman*, both confiscated from the Berlin National Gallery; Klee’s *Around the Fish*, from the Dresden Gallery; Matisse’s *The Blue Window*, from the Folkwang Museum in Essen; and Derain’s *Valley of the Lot at Vers*, from the Cologne Museum. The day after the auction, Barr wrote to a MoMA colleague from Paris: “I am just as glad not to have the museum’s name or my own associated with the auction. . . . I think it very important that our releases on our own German acquisitions should state that [the works]

have been purchased from the Buchholz Gallery, New York.”

That is exactly what happened. Two months later, MoMA announced that it had purchased the five paintings through Valentin’s gallery, which by then he owned in full, having bought out Buchholz. (He changed the name in 1951 to the Curt Valentin Gallery.) Art publications hailed the acquisition as a repudiation of the Nazi regime and its policies toward so-called degenerate art.

Charles Goldstein says that the museum should have stayed away from the Fischer auction. He adds that any number of State Department directives after World War II put MoMA “on notice” to be on the lookout for stolen art. “Having been specifically warned, they bought all of this stuff in the ‘50s and ‘60s without looking into provenance, or found the provenance incomplete,” Goldstein says.

Many collectors did boycott the Fischer auction, according to Barron. She wrote that museums and private collectors “were understandably ambivalent about participating in the sale. On the one hand, many of the works to be auctioned were of such quality and rarity that they commanded attention; on the other, sympathy for a boycott ran high, given the commonplace assumption . . . that the proceeds were destined to further Hitler’s nefarious intentions.” Barron believes, however, that the purchasers, whatever their motives, “saved these works from probable destruction.”

VALENTIN’S role on behalf of MoMA at the Fischer auction was revealed in Alice Goldfarb Marquis’s 1989 biography, *Alfred H. Barr, Jr.: Missionary for the Modern*. Marquis wrote that “Barr handsomely repaid Valentin for his services by sending trustees to shop in his gallery and by stopping there himself about once a week. When the dealer applied for American citizenship, in 1943, Barr vouched for his good character.”

Other researchers have dug more deeply into the link between Valentin and MoMA. In 2000, Laurie Stein, an independent art historian and provenance expert in Chicago (and for two years the director of the Pulitzer Foundation for the Arts in Saint Louis), researched the connection between art seized by the Nazis and the galleries in Switzerland that sold it. (In the late 1990s, Stein wrote several articles for *ARTnews* about the German art scene.)

Some of Stein’s findings were published in the Bergier Report, the Swiss government’s voluminous effort—the first volume of which was published in 2001—to explain the role the nation played in the sale of seized and stolen art during



World War II. “The highest concentration of works of degenerate art from Germany [to] come to an American museum through Valentin’s influence and connections with Buchholz in Germany and Bernoulli”—art dealer Christophe Bernoulli, a longtime Valentin friend—“in Switzerland, can be found today at the Museum of Modern Art in New York,” Stein concluded.

She wrote that the 15-year “close” relationship between Valentin and Barr produced for MoMA any number of “confiscated” artworks and “works of undetermined provenance.” Stein noted the cooperation she had received from MoMA’s prints and drawings department and thanked its professionals for their “extraordinary openness.” In the first part of her two-part study, she listed, in addition to the five works bought at the Fischer auction, the following artworks in MoMA’s collection that have questionable provenances: Max Beckmann’s *The Prodigal Son*, a series of four gouaches, from the Folkwang Museum, Essen; Paul Klee’s *Twittering Machine*, from the National Gallery in Berlin; Emil Nolde’s *Magicians*; Vasily Kandinsky’s *Untitled (Abstrakte Komposition)*, from the Kunsthalle Mannheim; and Otto Dix’s *Café Couple*.

According to a letter Dowd wrote to Theodore H. Katz, the magistrate judge involved in his lawsuit, the second part of Stein’s study for the Swiss government “contains a case study of records at the MoMA showing how Curt Valentin brought Nazi-looted artworks through Switzerland to the United States,” reflecting the research Stein herself wrote she had done in part one of her report. The Swiss government turned over the first part of Stein’s study to Dowd but

Among the “degenerate” artworks on display was James Ensor’s *Death and the Masks*, 1897, confiscated from the Kunsthause Mannheim in 1937 and sold at the Fischer auction to the Museum of Modern and Contemporary Art in Liège, Belgium.



George Grosz,
Self-Portrait with a
Model, 1928.

not the second part, which contained Stein's case studies of works in MoMA's collection with sketchy provenances. Dowd asked Katz to force MoMA to make available to him the second part of Stein's report. But that didn't happen before Judge McMahon threw out the case, and then it became moot.

Dowd wrote to Katz that the museum had refused his request to help him procure the second part of Stein's report. MoMA declined a request to make it available to *ARTnews*.

In any event, Stein, who worked for MoMA as an expert in the Grosz case, has changed her evaluation of Valentin. When Dowd took Stein's deposition in the Grosz case, in November 2009, she also declined to share the second part of her report, citing her confidentiality agreement with the Swiss government. In her depo-

sition with Dowd, a copy of which was reviewed by *ARTnews*, Stein contradicted what she had written in the Swiss report and asserted that Curt Valentin was a "reputable art dealer" and that "the liquidation of Galerie Flechtheim was an orderly professional process." But Dowd pointed out to Katz, in arguing why he needed to see the second part of Stein's report, that Stein's comments in her deposition were "directly contrary to the conclusion reached in the Bergier Report [for] which she was a contributing historian specifically charged with analyzing Alfred Flechtheim and his gallery." Citing her confidentiality agreement with MoMA, Stein also declined, in an e-mail message, to speak with *ARTnews*.

In an e-mail to *ARTnews*, a MoMA spokesperson said, "Ms. Stein remains under on-going confidentiality obligations to the Museum. We decline your request" to speak to her.

ON MAY 29, 1944, proceeding under the Trading with the Enemy Act, the U.S. government seized 401 artworks that Buchholz had shipped to Valentin. According to MoMA's website, at least one of the seized paintings, August Macke's *Lady in a Park*, found its way into MoMA's collection. Valentin later sold the painting to Henry Pearlman, whose foundation donated it to MoMA in 1956.

Over the years, the museum has occasionally acknowledged that artworks in its collection have "provenance gaps" (MoMA's words). A 1965 MoMA document lists 29 paintings in the collection by 16 artists "which were formerly in German collections and were designated 'degenerate art' under the Nazis." Three of the paintings—by Beckmann, Klee, and Nolde—bought at the Fischer auction were on the list, as was Matisse's *The Blue Window*, a gift from Abby Aldrich Rockefeller, which had been in the Folkwang Museum in Essen.

Another MoMA list, titled "European Paintings in the Collection of the Museum of Modern Art: Provenance Gaps 1933–1945," was created in April 2000 as part of the testimony given by Lowry to the Presidential Advisory Commission on Holocaust Assets. It states that another 15 artworks in the collection—one or two of which are duplicates with the earlier list—have provenance issues. This second list includes Braque's *Road Near L'Estaque*, which was bought through Valentin; Bonnard's *The Bathroom*; and Picasso's *Still Life: "Job."* "We have no reason to believe that any of these pictures were looted by the Nazis before or during the Second World War," Lowry testified in 2000, "but we have included them because we do not yet know where they were during all or

part of the Nazi period.” Two of the three paintings by Grosz which are in dispute—*The Poet Max Herrmann-Neisse* and *Self-Portrait with a Model*—are on both lists.

Asked to comment on a list of 17 paintings in MoMA’s collection with questionable provenances, the museum responded that all of the works are listed in the museum’s Provenance Research Project website. “Their listing reflects the fact that the Museum . . . has identified them as works created before 1946 and acquired by the Museum after 1932 that may have been in Europe between these dates and for which there may be gaps in provenance. . . . [T]he museum is aware of no particular information that would make the provenance of these works questionable.”

ALL THREE works by Grosz were on consignment with Flechtheim at the time his galleries were seized by the Nazis and he was forced to flee Germany. Dowd’s contention is that the paintings were then stolen from Flechtheim’s galleries—and thus from Grosz, because the artist had never ceded ownership of them—and then found their way to MoMA, without any compensation to Grosz, who had literally become a struggling artist in Manhattan.

In his numerous court filings, Dowd argues that *Max Herrmann-Neisse* was stolen by Charlotte Weidler, a German art dealer and critic who became the curator of the Carnegie Institute in Pittsburgh after emigrating from Berlin to New York in December 1939. Dowd also argues that Weidler was a “Nazi agent.”

One of Weidler’s clients was the art collector Paul Westheim, who fled Berlin in 1933 for Paris, leaving his collection of about 50 modernist works with Weidler. The collection evidently survived the war and was in Weidler’s possession in the United States, but Westheim was not able to reclaim it from her. “The question of the whereabouts of my collection, which I left with Dr. Weidler when I left Berlin, is entangled in a mysterious secret,” Westheim wrote to a friend in June 1959. “The behavior of Dr. Weidler in this matter, is, to say it moderately, embarrassing. Until 1945 we had a vivid correspondence. When I asked her about my collection after the war, she broke off all correspondence abruptly.”

In any event, on April 12, 1937, while they were still in touch, Weidler wrote Westheim an odd letter, in which she claimed that she had “inherited” from Flechtheim, who had died a few weeks earlier, nine paintings by George Grosz, including “an early, very exquisite one,” *Max Herrmann-Neisse*. According to Dowd, it is unlikely that Flechtheim would have left her

these paintings as an inheritance, not only because he did not own the paintings (they were on consignment), but also because on January 18, 1936, he had made a will naming his nephew, Heinz Hulisch, as his sole heir.

Weidler, however, acted as if she owned the nine works by Grosz that were in her possession. What to do with them was a question. “Selling will hardly be an option,” she wrote in her 1937 letter to Westheim. “Anyways, it really pleased me. Please don’t publish this, because otherwise I will only get in trouble, will have to pay inheritance taxes and they will say, how come you are still in contact with the Flechtheim Family.”

Weidler resurfaced in February 1950. That month, she wrote Barr a letter on her Carnegie Institute stationery, announcing that she was going to Europe to visit artists’ studios and hoped that he would be interested in buying some of the artworks she expected to find. She also mentioned that she had “been lucky” that

**George Grosz,
Republican Automatons,
1920.**



“some” of her art collection “in Germany” had been “saved” and had “partly arrived in New York already.” One of the paintings she was trying to sell to Barr was a “strong early Grosz which once had belonged to the Kronzprinzen Palais and has been ousted by Hitler.”

According to Dowd, “Barr clearly knew Weidler was trying to sell a stolen Grosz to him.” In his complaint, Dowd states that “sometime during 1952, Weidler asked Valentin to sell *Portrait of the Poet Herrmann-Neisse* for her.” Valentin contacted Barr, and MoMA bought the painting on April 10, 1952, for \$775. The museum paid another \$75 to restore the painting, which had been damaged. Barr did not ask Grosz, who was living full-time in Huntington, New York, and teaching in New York City, to do the restoration work (as he had asked other artists to do). Nor did MoMA invite Grosz to the first exhibition of the

painting. On MoMA’s website, the provenance of the painting goes from Flechtheim to Weidler to Valentin and then to the museum.

It is the contention of Dowd (and Petropoulos) that the painting was stolen and that Grosz never received compensation for it. Grosz himself believed that the painting had been stolen from him. MoMA started exhibiting *Max Herrmann-Neisse* in 1952, and Grosz wrote his brother-in-law in early January 1953, “Modern Museum exhibited a painting that was stolen from me. (I am powerless against that). [T]hey bought it from someone, who stole it.” The next day, Grosz wrote a friend, “Modern Museum bought a painting that was stolen from me. . . (one cannot do anything) old affair.”

Dowd argues (and Petropoulos agrees) that both *Self-Portrait with a Model* and *Republican Automaton* were also stolen after Flechtheim’s death. Dowd says that a Dutch art dealer, Carel van Lier, brought a collection of Grosz’s art to Amsterdam after Flechtheim’s death “for a purported ‘auction’” to take place at the beginning of February 1938. Van Lier had previously tried to sell the collection for Flechtheim, but it had failed to sell. The new “auction” also failed,

Dowd argues, and van Lier decided to buy *Self-Portrait* for himself, for around \$10. “Van Lier never obtained Grosz’s consent as the owner of the artwork, before engaging in this void transaction,” Dowd wrote in his complaint. Van Lier resold the painting two months later, for around \$95, to Leo Lionni, the art director of *Fortune* magazine. Lionni donated the painting to MoMA in 1954.

Likewise, at the February 1938 auction, van Lier sold *Republican Automaton*, along with four other works, to Paul Brandt, another art dealer, for around \$16. Later that year, Brandt sold the painting to a third dealer, Herbert Tannenbaum, who soon sold it to Dr. William Landman, a Toronto physician. MoMA bought the painting from Landman in 1946. “MoMA’s files show no evidence that MoMA investigated the provenances of *Model* and *Republican Automaton* prior to acquisition,” Dowd wrote in his Supreme Court brief.

IN HIS April 2000 testimony before the Presidential Advisory Commission, Lowry emphasized MoMA’s ongoing support for and compliance with the AAMD’s 1998 guidelines on handling Nazi-looted art, which formed the basis for the Washington Conference Principles on Nazi-Confiscated Art. The guidelines in turn created a mechanism for restituting artworks stolen by the Nazis and urged that legal systems the world over “facilitate just and fair solutions with regard to Nazi confiscated and looted art, and . . . make certain that claims to recover such art are resolved expeditiously and based on the facts and merits.”

Lowry also said that MoMA’s provenance research “has been and will continue to be part of our ongoing work” at the museum. To that end, MoMA created what it calls the Provenance Research Project. “The Museum of Modern Art owns approximately 800 paintings” created between 1932 and 1946 “that were or could have been in Continental Europe during the Nazi era,” according to the MoMA website. “Researchers at the Museum have examined, and are continuing to research, the ownership, or provenance, records for works that fall within this category.”

Before Dowd’s case was dismissed, he deposed Christel Hollevoet-Force, the main researcher assigned by MoMA to do provenance research on the collection. She was hired in 2001 to “make sure that in the collection of the museum none of the paintings had any episodes of art looting or illegal transfer.” She estimated that during her four years at MoMA she opened provenance research files on 500 of the approximately 600 works in the collection that might have had controversial provenances, with priority given to paintings only. She said



MoMA director Glenn Lowry. The museum says that it holds good title to the three Grosz paintings involved in the recent lawsuit.

she was aware that MoMA had “bought works that were formerly in German museums” through Valentin, although she put these artworks in a “different category” than those stolen from victims of the Holocaust.

Asked if MoMA ever concealed its ownership of artworks that came from the Nazis, she replied, “I honestly don’t think so.” But she also conceded repeatedly that she was under a lot of pressure to post provenance information on MoMA’s website as quickly as possible. If she was not completely sure of a work’s provenance, she placed the information in brackets to indicate that more work needed to be done. (Many of the works listed in the Provenance Research Project have bracketed information in their provenances.) “My mandate was not to spend six months and have a completely ironed-out provenance for every single work in the collection,” she said. (She now works at the Metropolitan Museum of Art as a researcher.)

The history of the three Grosz paintings was brought to light not by a MoMA researcher but by art historian Ralph Jentsch, who was hired by the Grosz family in 1994 to figure out what had happened to the works. After almost ten years of digging, Jentsch, managing director of the George Grosz estate and author of *George Grosz: Berlin-New York*, had discovered the connections among Grosz, Flechtheim, Buchholz, Valentin, and Barr. In 2003, he wrote MoMA asking that the three paintings be returned to the Grosz family. For the next three years, the family and the museum “shared research” and “engaged in extensive settlement communications,” Dowd wrote in his Supreme Court brief. But by January 2006, Jentsch had become concerned that MoMA was going to reject the claim. On February 8, Peter Grosz wrote Lowry, “George Grosz’s work *Max-Her[r]mann Neisse* was stolen from George Grosz. Grosz is not a liar. Ergo, this work belongs to the estate of George Grosz.”

On March 22, 2006, MoMA’s trustees received the final report of an investigation into the provenance of two of the three Grosz paint-



ings conducted by Nicholas Katzenbach, the former U.S. Attorney General. It was brief and to the point. Katzenbach argued that Grosz’s own letters prove that he knew his works in the museum were stolen but that he chose to remain silent about that fact and never contacted the museum to complain or ask for the paintings back or in any way seek a settlement.

“Accordingly,” Katzenbach concluded, “I recommend that the claim of the Grosz Estate be rejected.” On April 11, 2006, MoMA’s trustees voted not to return the paintings to the Groszes, a decision that led nearly three years later to the filing of Dowd’s lawsuit against MoMA.

“This will not be the last word on the fate of Alfred Flechtheim’s 1933 inventory,” Dowd says, “and I predict that when the full truth comes out, we will be back in court, one way or another.” ■

Otto Dix, *Café Couple*, 1921, was recently shown in MoMA’s exhibition “German Expressionism: The Graphic Impulse.”