

# NORTON SIMON ART FOUNDATION

Thank you for your interest in the lawsuit concerning the ownership of Lucas Cranach's *Adam* and *Eve* paintings. On July 30, 2018, the Ninth Circuit Court of Appeals unanimously affirmed summary judgment in favor of the Norton Simon Art Foundation. The judges reviewed the facts and legal arguments submitted by opposing sides of the litigation and decided that the Norton Simon Art Foundation has proper title to the Cranach paintings. On May 20, 2019, the United States Supreme Court denied a petition to review the Ninth Circuits' decision, thereby finally putting an end to this lawsuit.

## *Some background:*

*Adam* and *Eve* were put up for sale by the Soviet Union's Stalinist government in 1931 at an auction in Berlin entitled "Stroganoff Collection." Members of the Russian Stroganoff family protested the auction and it was widely reported to be unlawful before it took place. Despite this protest, the Dutch art dealer Jacques Goudstikker, father-in-law to plaintiff Marei von Saher, participated in this auction and purchased *Adam* and *Eve*. (In her lawsuit against the Norton Simon, Ms. von Saher contends that these paintings were not looted from the Stroganoff family, but rather were confiscated by the Bolsheviks from a church in Kiev.) In describing the Soviet auction of confiscated art at that time, Goudstikker remarked that "financial and political catastrophes sometimes give opportunity" to acquire "previously unattainable" artwork.

In 1940, *Adam* and *Eve* were taken by the Nazis from Mr. Goudstikker's art dealership in a forced sale to Hermann Göring. However, unlike much of the art looted by the Nazis, these paintings did not disappear. In fact, in the immediate post-World War II period, U.S. Armed Forces found *Adam* and *Eve* and returned them, along with other recovered paintings, to the Netherlands as part of the restitution policies jointly adopted by the Allied governments.

Jacques' widow Desi Goudstikker (Jacques had died in a shipboard accident while fleeing to England in 1940) returned to the Netherlands following the war and, as a director of the Goudstikker firm, decided to pursue restitution of valuable real estate and other assets, but not to pursue restitution of the inventory of artworks sold to Goring, including the Cranachs. Advised by prominent attorneys and consultants, the Goudstikker firm made a carefully considered decision that it would be in its best interest to pursue this *selective* restitution approach given their assessment of the value of these assets and the amounts they had received in the forced sales. Although the Dutch government initially objected to this selective approach, the Goudstikker firm was allowed to obtain restitution of the valuable real estate and other assets pursuant to a settlement agreement in 1952, and chose *not* to pursue a claim for

the Göring artworks that included the Cranachs. The paintings were then legally transferred to the Dutch national art collection.

In the 44 years between the 1952 settlement agreement and her death in 1996, Desi Goudstikker never sought to assert any claim against the Dutch government for any of the Göring artworks. She was fully aware that the Goudstikker firm had knowingly waived and abandoned that claim. (Unfortunately, Ms. von Saher and her husband burned many of Desi's papers after her death, most likely destroying additional evidence demonstrating that Desi acknowledged she had no rights to the Göring artworks after the 1950s proceedings.) Indeed, in 1998, when Ms. von Saher asserted a claim in the Netherlands for the Göring artworks, the Court of Appeals at The Hague rejected it. Not surprisingly, the Court found that the Goudstikker firm had "made a conscious and well considered decision in the 1950s to refrain from asking for restoration of rights with respect to the Göring transaction" based on the advice of its attorneys and consultants at that time.

By then, however, the Cranach paintings were no longer part of the Dutch national art collection. In 1961, Naval Commander George Stroganoff-Scherbatoff, son of Princess Stroganoff-Scherbatoff and the last heir of the Stroganoff family, made a claim to the Dutch government for restitution of paintings he asserted had been unlawfully taken from his family, including *Adam* and *Eve*. Ultimately, a decision was made and approved by the Dutch Minister of Culture and Minister of Finance to transfer *Adam* and *Eve* to Commander Stroganoff in 1966.

In the early 1970s, Commander Stroganoff sold *Adam* and *Eve* to the predecessor of the Norton Simon Art Foundation. Since that time, the Norton Simon has carefully restored, preserved, studied and interpreted the paintings. For nearly 50 years, they have been on view at the Norton Simon Museum and will continue to be accessible to the public for years to come.