



RETURN TO AN ADDRESS OF THE HONOURABLE THE HOUSE OF COMMONS
DATED 28 MARCH 2025 FOR THE

**REPORT OF THE SPOILIATION ADVISORY PANEL IN RESPECT OF
THE PAINTING “AENEAS AND HIS FAMILY FLEEING BURNING
TROY” BY HENRY GIBBS IN THE POSSESSION OF THE TATE
GALLERY**

The Right Honourable Sir Alan Moses

*Ordered by the House of Commons
to be printed 28 March 2025*

CORRECTION SLIP

Title: **REPORT OF THE SPOLIATION ADVISORY PANEL IN RESPECT OF THE PAINTING “AENEAS AND HIS FAMILY FLEEING BURNING TROY” BY HENRY GIBBS IN THE POSSESSION OF THE TATE GALLERY**

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Correction:

Pg. 9 Paragraphs 2 and 3

Amendments to an appendix which contains the Constitution and Terms of Reference for the Panel. This is personalised for each claim when published and on this occasion, the information from the previous claim considered by the Panel was included.

Text currently reads:

2. The Secretary of State has designated the expert advisers referred to above, to be known as the Spoliation Advisory Panel ("the Panel"), to consider the claim received from Messrs Pinsent Masons on behalf of Mondex Corporation which was mandated by heirs of the late Robert Bing on 22 October 2021 for the painting La Ronde Enfantine by Gustave Courbet in the collection of the Fitzwilliam Museum.
3. The Secretary of State has designated Sir Donnell Deeny as Chairman of the Panel.

Text should read:

2. The Secretary of State has designated the expert advisers referred to above, to be known as the Spoliation Advisory Panel ("the Panel"), to consider the claim made on behalf of the Sonia Klein Trust for the heirs and great-grandchildren of Samuel Hartveld on 10 May 2024 for the painting “Aeneas and his Family Fleeing Burning Troy” by Henry Gibbs in the collection of the Tate Gallery.
3. The Secretary of State has designated Sir Alan Moses as Chairman of the Panel.

Date of correction: 25 April 2025



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REPORT OF THE SPOLIATION ADVISORY PANEL IN RESPECT OF THE PAINTING “AENEAS AND HIS FAMILY FLEEING BURNING TROY” BY HENRY GIBBS IN THE POSSESSION OF THE TATE GALLERY

INTRODUCTION

1. This is a Report containing the recommendation of the Spoliation Advisory Panel (the Panel) appointed by the Secretary of State to consider a claim by the heirs of Samuel Hartveld (the Heirs) for restitution of a painting by Henry Gibbs called “Aeneas and his Family Fleeing Burning Troy” (see Appendix 1), in the collection of the Tate Gallery (the Tate) in London. The Tate has written saying it accepts that the claimant’s evidence is “compelling,” confirmed that it is in possession of the painting, that it does not wish to dispute the claim, and wishes to leave its disposal to the Secretary of State on the advice of the Panel.

2. The task of the Panel is to consider claims from anyone who lost possession of a cultural object during the Nazi era (1933-1945), or their heirs, if the object is now in the possession of a United Kingdom national collection or other museum or gallery established for the public benefit. It is required to advise the claimant, the institution and, where it considers it appropriate, the Secretary of State for Culture, Media and Sport on what action should be taken in relation to the claim (see Panel’s Constitution and Terms of Reference at Appendix 2). The paramount purpose of the Panel is to achieve a solution which is fair and just to both parties.

3. The claim was made on 10 May 2024 on behalf of the Sonia Klein Trust for the heirs and great-grandchildren of Samuel Hartveld. In making this report the Panel has considered the submissions and the evidence submitted on behalf of the claimant and reached its own view as to whether it agrees with the Tate that the evidence advanced on behalf of the claimant is compelling.

THE LOOTING OF SAMUEL HARTVELD’S PROPERTY

4. The painting is said to have been one of 66 paintings in a gallery owned by Samuel Hartveld in Antwerp. He and his second wife Claire Melboom lived in Antwerp but left before the German occupation on 10 May 1940. With a visa obtained from the USA, the couple sailed via Lisbon to New York on 15 August 1940. They left behind their property, including the gallery containing their paintings. Their property was safe until 1942 because Samuel Hartveld and his wife were of Belgian nationality and Belgian Jews were not persecuted until that year.

5. Their son, Adelin Hartveld, had remained in Belgium. He joined the Resistance but, in January 1941, when about to leave for London to become a pilot, was caught by the Nazis. He was executed by the Nazis on 21 January 1942.

6. On 26 March 1942, Heinrich Kunst was appointed as administrator (“Verwalter”) of Samuel Hartveld’s gallery. He was of German nationality but obtained a Belgian visa in 1929 and worked as an office clerk in Antwerp. Later investigation by the Belgian security services showed that he was a member of the Nazi party (NSDAP)

and was described as “fiercely Nazi.” He prepared a financial audit of the gallery and an inventory of paintings, furniture, porcelain, carpets and a library. He concluded that there was no interest or possibility of continuing the Hartveld business and applied for immediate liquidation.

7. On the recommendation of an auction house in Antwerp, an art dealer, Arthur de Heuvel, was invited to prepare a list of the 66 paintings and estimate their value. On the second page of a list dated July 1942, he refers to Item 169 “Ecole italienne 17me siècle incendie de Troye, Enée et Anchyse”. He valued that painting at 2000 Belgian Francs and the total value of all the paintings at 250,000 Belgian francs.

8. Kunst asked the opinion of the looting department of the Einsatzstab Reichsleiter Rosenberg (ERR) as to disposal of the paintings and a library of 2000 art books. After the war, the Belgian recuperation services described that library as one of the most important in Belgium. The ERR was not interested in the paintings, which they had inspected on a visit to the gallery, but they confiscated Samuel Hartveld’s entire library. Kunst was allowed to sell the paintings.

9. In an interview on 5 April 1945, recorded in a report dated 10 April 1945, the concierge, a Mrs Jeanne Roelants said that the Hartvelds’ property was confiscated by the Germans and placed under administration and “the room with the paintings in it was bought by Mr Van den Broek and continued to be operated by him”.

10. He was interrogated by the Military Prosecutor four times between September 1944 and October 1946. His interrogators discovered evidence of close ties with Nazis; he had crossed borders to the Netherlands and France on behalf of the leader of the Belgian fascist movement; he was described by the Nazis as “particularly well known to us and offers every guarantee from a National Socialist point of view”. During his investigation he admitted taking over the hall (the Hartveld gallery), including the paintings, at the invitation of Kunst and said that he had paid 200,000 francs, which he thought reflected full value. Despite a recommendation that he be brought before a Belgian court after the end of the war, Van den Broek was never prosecuted.

11. The painting of “Incendie de Troye” was sold by Van den Broek to the Aramex Shipping Company. The Tate acquired the painting it calls “Aeneas and his Family Fleeing Burning Troy” in 1994 not from the Aramex Shipping Company but from the Belgian Galerie Jan de Meere. It was of interest to them because it was the only known work by Gibbs, until then an unrecorded English artist from Canterbury. Its attribution to Henry Gibbs was described in the Burlington Magazine in 1998. In its frank and helpful email, the Tate told the Panel that the painting formed part of a list it had prepared of paintings with an incomplete provenance during the period 1933-1945. It had been alerted by a journalist Geert Sels to research the fate of the Hartveld catalogue but received notice of this claim before its research was complete. It does not dispute that the painting it acquired was the same painting looted from the Hartveld collection of paintings by the Verwalter Kunst and bought by Van den Broek. The absence of any evidence as to the chain of ownership between the Aramex Shipping Company and the Belgian Galerie Jan de Meere, makes it all the more important that the Panel is satisfied that the painting which was owned by Hartveld and the painting acquired by the Tate are one and the same.

PROVENANCE OF THE PAINTING IN THE TATE'S COLLECTION

12. Despite the concession by the Tate, it is, of course, necessary for the Panel to reach its own conclusion as to whether the two paintings are the same. For three reasons the Panel concludes that the painting currently in the Tate's collection is the same painting listed as a painting in the Hartveld collection of 66 paintings: first, the similar titles which provide a fair description of the scene in the picture, second, the fact that the painting was acquired by Van den Broek in Belgium and then acquired in Belgium by the Tate, third the Tate's prior acknowledgement of doubts as to provenance. These factors seem to the Panel to establish the identity of the painting as asserted by the claimant. The Panel is satisfied on the balance of probabilities that the painting in the Tate's collection came from the Hartveld gallery.

13. The claimant supports their claim by contending that the painting was bought at under-value. They point out that Van den Broek only paid 200,000 Belgian francs for the property and all 66 paintings, although he sold one painting from the collection to the museum of Ghent for 50,000 francs. Moreover, the building alone had been mortgaged by Hartveld for 800,000 Belgian francs. Despite this strong evidence of a paltry sum being paid for the looted paintings, determination of the price paid does not seem to the Panel to be a relevant feature or one that is necessary to determine for the purpose of its advice. The painting was looted. Hartveld received not one franc for it.

RECOMMENDATION AS TO DISPOSAL

14. There remains the question of the consequences of our conclusions as to the identity of the painting. There is ample evidence as to the right of this claimant to make a claim for restitution. Samuel Hartveld was married twice. His first wife died, leaving two children. He married again. His second wife was Clara, and they had two children, Sonia and Adelin, who, as the Panel recalled, was shot after his father and mother had escaped to the USA. Samuel Hartveld died in London on 1 September 1949 designating Clara as his sole heir and leaving bequests of USD 3,000 to all three of his surviving children.

15. Clara, Samuel Hartveld's surviving widow, died on 23 May 1951, while visiting Antwerp. Her will, probated by the Surrogate Court of the County of New York, named her daughter, Sonia Klein as her sole heir and her executrix. Sonia died on 6 October 1997; her daughter, Eliane Floersheimer, had predeceased her. The Trust, on behalf of which this claim is made, was established by Sonia Klein in Florida on 27 May 1986. She was settlor and trustee. The beneficiaries are named as her three grandchildren, Daniel Floersheimer, Mark Floersheimer and Barbara Floersheimer and the trust document appoints them as successor trustees on the death, incapacity, resignation or discharge of Sonia Klein as Trustee. It specifies that should one or more of the grandchildren die, resign or be unable to serve, the remaining trustees shall serve as sole trustees without replacement.

16. The lawyer acting for the trust says that he is acting for the trustees Daniel Floersheimer and Barbara Floersheimer Rothschild. Under Section 5(2)(b) of the Sonia Klein trust instrument, action may be taken by a majority of the trustees, and thus Daniel and Barbara Floersheimer were entitled to bring this claim without the

consent of the third trustee Mark Floersheimer. We have been assured that should the claim be successful, Mark Floersheimer will be entitled to his share.

17. The Panel is satisfied that the claimant is entitled to make the claim.

THE PANEL'S RECOMMENDATION

18. It is the Panel's duty to advise as to restitution in light of its findings as to provenance. We should record our gratitude to the Tate for its open and honourable reaction to this claim. We also note its helpful offer to assist in what it describes as a "meaningful and appropriate recognition" of the painting's history. The legal and moral claims to restitution of this painting by the great-grandchildren and heirs of Samuel Hartveld who was forced to flee his homeland, leaving behind his property, books and art collection, are obvious. The property, library and the paintings in his gallery were looted as an act of racial persecution. Accordingly, we advise the Secretary of State that the heirs are entitled to restitution of the painting, "Aeneas and his Family Fleeing Burning Troy," currently located in the Tate's collection.

28 March 2025

The Rt Hon Sir Alan Moses - Chairman
The Rt Hon Sir Donnell Deeny
Christopher Baker
His Honour Judge Tony Baumgartner
Professor Sir Richard J Evans
Professor Miranda Fricker
Martin Levy
Peter Oppenheimer
Ms Anna Southall
Oliver Urquhart Irvine

Appendix 1: Image of "Aeneas and his Family Fleeing Burning Troy"

Appendix 2: Constitution and Terms of Reference



Aeneas and his Family Fleeing Burning Troy by Henry Gibbs

SPOILIATION ADVISORY PANEL
CONSTITUTION AND TERMS OF REFERENCE

Designation of the Panel

1. The Secretary of State has established a group of expert advisers, to be convened as a Panel from time to time, to consider claims from anyone (or from any one or more of their heirs), who lost possession of a cultural object ("the object") during the Nazi era (1933-1945), where such an object is now in the possession of a UK national collection or in the possession of another UK museum or gallery established for the public benefit ("the institution").

2. The Secretary of State has designated the expert advisers referred to above, to be known as the Spoliation Advisory Panel ("the Panel"), to consider the claim made on behalf of the Sonia Klein Trust for the heirs and great-grandchildren of Samuel Hartveld on 10 May 2024 for the painting *Aeneas and his Family Fleeing Burning Troy* by Henry Gibbs in the collection of the Tate Gallery.

3. The Secretary of State has designated Sir Alan Moses as Chairman of the Panel.

4. The Secretary of State has designated the Panel as the Advisory Panel for the purposes of the Holocaust (Return of Cultural Objects) Act 2009.

Resources for the Panel

5. The Secretary of State will make available such resources as he considers necessary to enable the Panel to carry out its functions, including administrative support provided by a Secretariat ("the Secretariat").

Functions of the Panel

6. The Panel shall advise the claimant and the institution on what would be appropriate action to take in response to the claim. The Panel shall also be available to advise about any claim for an item in a private collection at the joint request of the claimant and the owner.
7. In any case where the Panel considers it appropriate, it may also advise the Secretary of State:
 - (a) on what action should be taken in relation to general issues raised by the claim, and/or
 - (b) where it considers that the circumstances of the particular claim warrant it, on what action should be taken in relation to that claim.
8. In exercising its functions, while the Panel will consider legal issues relating to title to the object (see paragraph 15(d) and (f)), it will not be the function of the Panel to determine legal rights, for example as to title;
9. The Panel's proceedings are an alternative to litigation, not a process of litigation. The Panel will therefore take into account non-legal obligations, such as the moral strength of the claimant's case (paragraph 15(e)) and whether any moral obligation rests on the institution (paragraph 15(g)).
10. Any recommendation made by the Panel is not intended to be legally binding on the claimant, the institution or the Secretary of State.
11. If the claimant accepts the recommendation of the Panel and that recommendation is implemented, the claimant is expected to accept the implementation in full and final settlement of his claim.

Performance of the Panel's functions

12. The Panel will perform its functions and conduct its proceedings in strictest confidence. The Panel's "proceedings" include all its dealings in respect of a claim, whether written, such as in correspondence, or oral, such as at meetings and/or hearings.
13. Subject to the leave of the Chairman, the Panel shall treat all information relating to the claim as strictly confidential and safeguard it accordingly save that (a) such information which is submitted to the Panel by a party/parties to the proceedings shall normally be provided to the other party/parties to the proceedings in question; and (b) such information may, in appropriate circumstances, including having obtained a confidentiality undertaking if necessary, be communicated to third parties. "Information relating to the claim" includes, but is not limited to: the existence of the claim; all oral and written submissions; oral evidence and transcriptions of hearings relating to the claim.
14. In performing the functions set out in paragraphs 1, 6 and 7, the Panel's paramount purpose shall be to achieve a solution which is fair and just both to the claimant and to the institution.
15. For this purpose the Panel shall:
 - (a) make such factual and legal inquiries, (including the seeking of advice about legal matters, about cultural objects and about valuation of such objects) as the Panel consider appropriate to assess the claim as comprehensively as possible;
 - (b) assess all information and material submitted by or on behalf of the claimant and the institution or any other person, or otherwise provided or known to the Panel;
 - (c) examine and determine the circumstances in which the claimant was deprived of the object, whether by theft, forced sale, sale at an undervalue, or otherwise;

- (d) evaluate, on the balance of probability, the validity of the claimant's original title to the object, recognising the difficulties of proving such title after the destruction of the Second World War and the Holocaust and the duration of the period which has elapsed since the claimant lost possession of the object;
- (e) give due weight to the moral strength of the claimant's case;
- (f) evaluate, on the balance of probability, the validity of the institution's title to the object;
- (g) consider whether any moral obligation rests on the institution taking into account in particular the circumstances of its acquisition of the object, and its knowledge at that juncture of the object's provenance;
- (h) take account of any relevant statutory provisions, including stipulations as to the institution's objectives, and any restrictions on its power of disposal;
- (i) take account of the terms of any trust instrument regulating the powers and duties of the trustees of the institution, and give appropriate weight to their fiduciary duties;
- (j) where appropriate assess the current market value of the object, or its value at any other appropriate time, and shall also take into account any other relevant circumstance affecting compensation, including the value of any potential claim by the institution against a third party;
- (k) formulate and submit to the claimant and to the institution its advice in a written report, giving reasons, and supply a copy of the report to the Secretary of State, and

- (l) formulate and submit to the Secretary of State any advice pursuant to paragraph 7 in a written report, giving reasons, and supply a copy of the report to the claimant and the institution.

Scope of Advice

- 16. If the Panel upholds the claim in principle, it may recommend either:
 - (a) the return of the object to the claimant, or
 - (b) the payment of compensation to the claimant, the amount being in the discretion of the Panel having regard to all relevant circumstances including the current market value, but not tied to that current market value, or
 - (c) an ex gratia payment to the claimant, or
 - (d) the display alongside the object of an account of its history and provenance during and since the Nazi era, with special reference to the claimant's interest therein; and
 - (e) that negotiations should be conducted with the successful claimant in order to implement such a recommendation as expeditiously as possible.
- 17. When advising the Secretary of State under paragraph 7(a) and/or (b), the Panel shall be free to recommend any action which they consider appropriate, and in particular may under paragraph 7(b), recommend to the Secretary of State the transfer of the object from one of the bodies named in the Holocaust (Return of Cultural Objects) Act 2009.

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