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German State Claims a Treasure Here

BY JOSEPH GOLDSTEIN - Staff Reporter of the Sun

March 19, 2007

URL: <http://www.nysun.com/article/50691>

A German state government is suing to reclaim a valuable book of 16th-century German drawings, accusing a deceased American officer of stealing the artwork in the closing days of World War II. The suit, brought by the southwestern German state of Baden-Württemberg, is raising questions about what right Germany has to demand the return of its cultural treasures even as it is criticized for stonewalling victims of Nazism who seek the recovery of their looted artwork. The lawsuit had delayed for two years a planned sale of the book by the New York auction house Sotheby's. The German legal claim in this case, "is in the mold of prior stolen-art cases decided in New York," a lawyer for the German state of Baden-Württemberg, Thomas Kline, wrote in a court motion filed earlier this year. But World War II looted-art suits typically come from the victims of Nazism, not — with a few notable exceptions — from the German government. The German suit relies, in part, on legal precedent involving a woman from Belgium who successfully sued to recover a Chagall painting seized by the Nazis as "decadent Jewish art." In that case, the defendant was an innocent buyer. In New York courts, "whether it is the loss of a Jewish family or of a German museum, it is really just one chapter in the same

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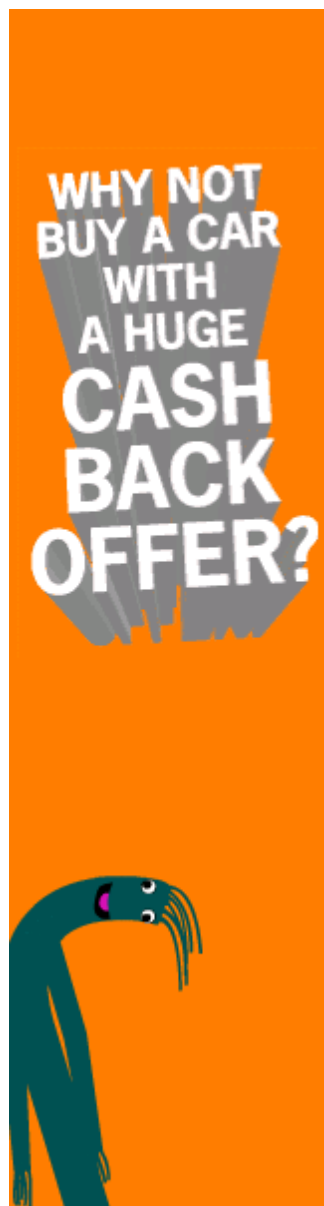
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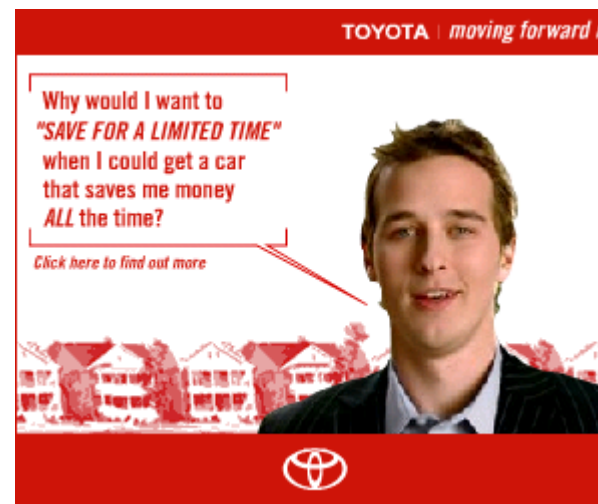
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book," an art investigator hired by Baden-Württemberg for the case, Willi Korte, said in an interview. In contrast, a lawyer, John Cahill, who represents the St. Louis bookdealer who now possesses the 16th-century book, said it was "unseemly" for a German state to be following the legal footsteps made by victims of Nazism. "It strikes me as outrageous that they are riding the crest of a well-deserved sympathy for the families of war victims," Mr. Cahill said in an interview. Mr. Cahill added, "They've come in like gangbusters without any recognition of the fact they started the war." German institutions have won similar suits before. In 1981, a federal judge in Brooklyn ordered a New York lawyer to return two portraits by Albrecht Durer he had purchased in 1946 from a returning veteran. Nearly two decades ago, a German church sued in Texas to recover a trove of manuscripts and jeweled treasure taken by an American officer. The book of drawings at the center of the current case is known as the Augsburg Book of Nobles. It contains 96 drawings and prints that depict the coats of arms of various Augsburg patricians. The book is something of an illustrated "Who's who" for the medieval nobility of the Bavarian city. The book is expected to fetch \$600,000, Mr. Cahill, of Friedman Kaplan Seiler & Adelman LLP, said of Sotheby's appraisal. The sketches date back to 1545, a decade before a famous treaty was signed at Augsburg, allowing the prince of each region to declare whether Catholicism or Lutheranism would be the local religion. During World War II, the Augsburg book was moved with other pieces from Stuttgart to a castle in nearby Waldenburg, for safekeeping. The circumstances that resulted in this vellum bound book spending four decades in a St. Louis duplex belonging to Captain John Hewitt Doty of the United States Army are unclear. At the time of his death, in 1993, Mr. Doty possessed an entire shelf of antique German books brought home from the war. Doty, a Mayflower descendent, served as an aerial photo analyst during World War II, according to court records. In later years, he told his nephew, according to court documents, that he had rescued several books from a bonfire in Germany. It was routine, Doty once told his nephew, for soldiers to throw everything into a fire when they occupied a building, according to the affidavit by the nephew, Peter Brown. In life, Doty had collected old bottles and pewter trinkets, according to the affidavit. After a career as a furniture salesman, Doty opened a lamp shop that soon carried over 10,000 lights. In legal papers, Mr. Cahill criticizes the German government for depicting the "seemingly admirable Captain Doty" as a "lowly thief who stole the Book." Perhaps the books were perfect souvenir material. Perhaps not. "It is well established that the taking of art during wartime, even by an occupying owner is improper and, therefore, a theft," Mr. Kline, of the Washington D.C. office of Andrews Kurth LLP, wrote in court papers. "The key point legally was that whatever he did it wasn't authorized," Mr. Kline, who has represented both German cultural institutions and Holocaust victims and their heirs in recovering artwork, said in an interview. Indeed, there is even a theory of motive in the



case. Mr. Korte, the art investigator, said he believes Doty's interest in interior design is behind the fact that the German books Doty took generally depicted people in historical costumes. The Augsburg book displays elaborate suits of armor; another book that Doty possessed was on stage set design. "He was an interior designer by profession," Mr. Korte said in an interview. "All these books are illustrated. My personal sense is that Mr. Doty was collecting for a particular interest he had. That's what drove him. I don't think he simply picked up books that he rescued from the flames." The Stuttgart museum has already recovered at least some of Doty's collection. Doty's nephew Mr. Brown and another heir returned two of the books in 2005. The accompanying press release sent by the German Embassy did not accuse Doty of any theft. Instead, it says that Doty's unit "found some secret cultural treasures" and praises the handover as a "gesture of American-German friendship." By that time, the Augsburg book was no longer with Doty's family. It had fallen into the hands of a St. Louis book collector, Rod Shene, who purchased it at a book auction for \$3,900. When he brought it to Sotheby's attention, the auction house contacted the Stuttgart museum, whose stamped imprint is on each page of the book. In a 2004 letter to Sotheby's, a curator for the Staatsgalerie Stuttgart, Hans-Martin Kaulbach, said that "we try to buy back this sort of war loss." Nonetheless, when discussions over a purchase price faltered — Mr. Shene offered to sell for \$500,000, Mr. Cahill said — the matter ended up in U.S. District Court in Manhattan, where Judge Thomas Griesa is considering a motion by the German state for summary judgment. The suit was first reported in 2005 in the Art Newsletter.

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