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REVIEW OF THE REPATRIATION OF HOLOCAUST ART ASSETS IN THE UNITED STATES

HEARING

BEFORE THE

SUBCOMMITTEE ON
DOMESTIC AND INTERNATIONAL
MONETARY POLICY, TRADE, AND TECHNOLOGY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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REVIEW OF THE REPATRIATION OF HOLOCAUST ART ASSETS IN THE UNITED STATES

Thursday, July 27, 2006

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC AND
INTERNATIONAL MONETARY POLICY,
TRADE, AND TECHNOLOGY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:00 a.m., in room 2128, Rayburn House Office Building, Hon. Deborah Pryce [chairwoman of the subcommittee] presiding.

Present: Representatives Pryce, Leach, Kennedy, Maloney, Sherman, Wasserman-Schultz, and Frank.

Also present: Representatives Kelly, Israel, and Berkley.

Chairwoman PRYCE. The Subcommittee on Domestic and International Monetary Policy, Trade, and Technology will come to order. Without objection, all members' opening statements will be made a part of the record.

Mr. FRANK. Madam Chairwoman?

Chairwoman PRYCE. Yes.

Mr. FRANK. Could I ask unanimous consent to have participation by one Member who is on the Full Committee, but not on the subcommittee, and one Member who is not on the committee, both of whom have a great interest in and knowledge of this subject, the gentleman from New York, Mr. Israel, and the gentlewoman from Nevada, Ms. Berkley.

Chairwoman PRYCE. Without objection, so ordered.

Mr. FRANK. Thank you.

We will begin by thanking all of you who are here at this hearing to review the Repatriation of Holocaust Art Assets in the United States.

I would like to thank Ranking Member Frank and Ranking Member Maloney for their work on the hearing, and for bringing to the subcommittee's attention the need to review this very important issue.

I would also like to recognize the efforts of Mr. Leach over the years in keeping the focus on this, and he will be presiding later on in the morning.

In 1993, and continuing through the second world war, countless pieces of art were looted throughout Europe. After being seized by the Nazis, some of the art made its way to the United States, fun-

neled into American collections through various undetectable methods. In addition, some art remained in Europe, arriving in the United States several years after they were stolen.

This committee held a series of hearings, led by then-Chairman Leach, from 1997 until 2000, to discuss the progress of returning the looted property to the victims of the Holocaust.

At those hearings, witnesses from various organizations such as the American Jewish Committee, the Department of the Treasury, and museum representatives testified on the process of searching for the art and the difficulties in returning it.

Although much progress was determined to have been made at that point, little attention since those hearings has been given to the restitution of the Holocaust artwork and other properties.

It is my hope that this hearing can bring us up-to-date on efforts made by museums, and examine issues involving the ease of transporting art across international borders, such as the lack of public records documenting original ownership, the difficulty of tracing our transactions over many decades, and the lack of a central authority to arbitrate the claims for artwork.

The struggles of the Jewish people affected by the Holocaust continue to this day, as survivors and their families struggle with governments and museums to recapture their heritage and their culture.

Art is very personal, and each piece that is returned is a way to bring what was lost in those years back to them.

So much of their lives, families, and homes were destroyed in the war that returning this art allows them to throw off the vestiges of the Holocaust in some small way. Each piece of art is a symbol of hope, a freeing of the spirit, and a healing of the soul.

Many survivors spend years working to get their property returned, dogged by foreign governments and museums who will try to wait them out until they resign in defeat or pass from this world.

The efforts of the U.S. museums who have such a rich and treasured history of support by the Jewish people has been inspirational.

I commend the yeoman's work of the Museum Associations, the Conference on Jewish Claims, and the—New York to set up its own claims office.

Although American museums hold but a small percentage of art that would qualify, they work tirelessly, using vital time and resources to research the problems of the art in their collections and build a searchable database.

I appreciate the witnesses being here with us today, discussing this important issue, and I look forward to your testimony.

Chairwoman PRYCE. The ranking member of the Full Committee, Mr. Frank, is recognized.

Mr. FRANK. Thank you, Madam Chairwoman. I appreciate your having this hearing, and I want to again note the work that the former chairman of the Full Committee, the gentleman from Iowa, who joins us today, has done on this.

I am very pleased to be having this hearing, and I do want to say at the outset that I think we should make it clear to everyone

that this is not, in my mind, and I hope in the minds of our colleagues, anything adversarial, and certainly not prosecutorial.

There are times when people on Congressional committees regard witnesses as opponents or potentially uncooperative. I think, as a result, in part, of some of the urging that members of this committee did under the gentleman from Iowa's leadership, but also because of the goodwill of people here, that we have made progress in working together.

I was pleased in reading the summary that just came out of the Claims Conference, dated just a couple of days ago. Basically, what they said is, in summary, there has been some progress, but there is still a lot to do, and they acknowledge that, in principle, there was broad agreement here, and we need to work to keep it up, and I am pleased that is the spirit.

Something uniquely terrible in human history happened 60 years ago and more, and we are still dealing with the consequences of that, not just of the lives lost but of the lives scarred, and those of us who are Jewish, particularly, feel scarred, also, indelibly by this experience. So, we come together to do what we can, not to undo what happened—that would be ridiculous to even talk about, but to the extent that it is humanly possible to mitigate the terrible effects, and I think it is important to recognize that yes, we are dealing with as emotional a subject as has existed in human history, and anyone who does not deeply feel this emotion is flawed, and our job is to make sure that the deep emotions we feel—that all of those things are kept in context and that they do not become reasons that we turn on each other, and the people here engaged in this are not each other's opponents.

We are, I hope, people who are going to be working together on this small part of the task of addressing on an ongoing basis the terrible history of the Holocaust.

So, I appreciate that sentiment.

I want to acknowledge that the gentleman from New York, Mr. Israel, who is here, who has joined us, has had a particular interest in this, and as a member of our committee, the Committee on Financial Services, has been one of the ones taking the lead.

I know our colleague, Ms. Berkley, has a particularly relevant situation in her own district with regard to an individual who was so tragically involved in this.

Others who are here, the gentlewoman from New York, Ms. Maloney, and the gentleman from California, Mr. Sherman, have had an ongoing interest.

So, I think this is a chance for Congress to be at its constructive best, to help be a catalyst to get people of good will together to work on a task which is both intellectually challenging and emotionally wrenching, and I hope we will all be able to go forward in that spirit.

Thank you, Madam Chairwoman.

Chairwoman PRYCE. Thank you, Mr. Frank.

Mr. Leach?

Mr. LEACH. Thank you, very much.

First, I want to commend you for holding this hearing, and for your thoughtful opening statement. Also, Mr. Frank's words, I think, were as wise as any I have heard in this committee.

In the late 1990's, this committee undertook a task of reviewing history, which is a very unusual thing for any Congressional committee. We worked closely with the Clinton Administration and particularly with one extraordinary figure in that Administration, who is with us today, Stuart Eizenstat, and I do not know of anyone on any issue who dedicated more effort, with greater professionalism, than Mr. Eizenstat did at that time.

We all know of the depth of the Holocaust, as Mr. Frank has indicated.

The committee attempted to undertake the examination, not just of the largest mass murder in history, but also the greatest mass theft in history. We looked at the dimensions of the holocaust from a mass theft dimension, which is our committee's jurisdiction, and we began with Swiss and other bank accounts. We looked at issues of gold, life insurance, and the whole spectrum of issues, of which, in one sense, art is a subset, and maybe even a footnote, but it is not a small footnote. Art is part of culture. Preceding the Holocaust, we had international law that suggests as much. One of the great quotations comes from a sculpturist named Emmerich de Vattel who wrote in the Law of Nations in the 18th century, "For whatever cause a country is ravaged, we ought to spare those edifices which do honor the human society and do not contribute to increase the enemy's strength, and it is to call oneself an enemy to mankind to deprive people of monuments of art," and I think that is part of the aspect of why art is important. We all know there were the Nuremberg trials, which held, symbolically, a very few people accountable for genocide.

These Congressional hearings have been duplicated and quite possibly precipitated by this committee's action in a dozen other countries in Europe and elsewhere. Each of these hearings has raised the notion of accountability, and the precept that there is not a statute of limitations on genocide. There are also monetary implications: there was a multi-billion-dollar recompense that Stuart Eizenstat negotiated. The settlement may be minuscule compared to the losses, but it is symbolic and profoundly significant. I will just conclude with this: WWII caused the greatest displacement of art in history. The notion that avarice might have played a small role in the mass genocide has to be looked at as more than a monetary issue. Genocide and theft go hand in hand, and that is why this committee entered this field. It is also why I think the Clinton Administration should be commended most highly for its effort to end this all by the end of the 20th century, which it largely succeeded in doing. But we are looking at elements that go beyond that, which is why this hearing is today.

Thank you.

Chairwoman PRYCE. Our ranking member, my good friend, the gentlelady from New York.

Mrs. MALONEY. I would like to thank Deborah Pryce, the chairwoman and my good friend, for calling this incredibly important hearing.

I also want to publicly congratulate Stuart Eizenstat for his commitment and really effective work with the Swiss bank accounts, with the art, with so many areas, and thank him for the support that he gave me with the Nazi War Crimes Disclosure Act, which

has now been turned into a book, and is probably the biggest opening of records during that period for scholars, and I was proud to have authored it and passed it.

I also particularly want to mention that one of my constituents, Catherine Lillie, is here from New York. Catherine is the director of the Holocaust Claims Processing Office of the New York State Banking Department, and she is representing Diana Taylor, our banking commissioner, and for 10 years, they have been assisting claimants, and do a very, very fine job.

In the interest of time, I am going to place my comments in the record, but I do want to know that the Claims Conference noted that about a third of the museums did not respond to the survey, and those that did did not provide complete information, which is discouraging, and we need to work on that, but I am proud of one of the institutions that I represent, the Metropolitan Museum of Art, which was cited in a New York Times article, and I would like permission to place it in the record.

Not only do we have to work to make museums and institutions comply, but we should also applaud those that have transparency and have obeyed the law and have responded to it and have worked hard on it.

Chairman Leach, you played a very vital role in this, in creating this legislation in 1998, the Presidential Advisory Committee on Holocaust Assets, and I am indebted to you, as are many of my constituents, some of whom are Holocaust survivors.

I often associate my comments with the distinguished ranking member of this Committee on Financial Services, Barney Frank, but today, I particularly would like to associate my feelings and support of his comments and be associated with them.

Again, we have several panelists here. I thank the chairwoman for responding to the minority's request for representatives on this panel, and I request permission to place my long statement in the record, but I am really anxious to hear what our panel has to say today. Thank you for being here on this important issue.

I yield back.

Chairwoman PRYCE. Without objection.

We will recognize members for opening statements, and realize that your full statements can be submitted for the record, and because we have such a large panel, just ask you to be brief, if possible.

Mr. Sherman.

Mr. SHERMAN. Thank you for holding these hearings. They are important.

I served with our distinguished witness, Stuart Eizenstat, on the Presidential Advisory Commission on Holocaust Assets in the United States, and as others have said, his tremendous work on this shows a real dedication.

With 600,000 pieces of artwork stolen by the Nazis and their collaborators, obviously stolen art during the Holocaust is a very important problem, but an even greater problem are the other assets stolen during the Holocaust, during World War II, and even during World War I and the Armenian genocide that followed.

We should recognize that in terms of a family portfolio, even in Europe last century, art would have been, for most families, a

small percentage of their total assets, and that art, unlike almost everything else that you would invest in, is not centrally recorded. There are bad records or no records as to who owns all but the most valuable paintings.

So, to put a value for restitution we would be able to achieve even if we worked diligently is modest compared to the total value of all the assets stolen in the Holocaust in World War II and the Armenian genocide.

We are the Financial Services Committee, and I hope that we will focus on financial institutions, as well as brokerage accounts, bank accounts, and insurance policies. Right now, we have seen some restitution from the banks, but I have been very concerned about life insurance companies who have said that they sold policies to Armenians in the 1800's or the first decade of the last century and no one has made a claim, so they do not have to pay, or they sold policies in Poland to gentiles and Jews in the 1930's, and no one has made a claim, and they have not heard from the families, so they do not owe any money.

I have introduced legislation, and I hope that we can move forward to hearings and markup on legislation that would require every insurance company doing business in this country and its European affiliates to simply post on a central Internet site a list of insurance policies, life insurance policies, where the insured is over 100 years old, where it is likely that the insured perished in the great tragedies of Europe and west Asia of the last century, and where families could come forward and show that they are the next of kin.

The same steps should be taken with regard to bank accounts and brokerage accounts.

I think it is important that we have these hearings on artwork, but the records are available, the power is in this committee.

Every one of those major European companies wants to do business through affiliates here in the United States, and it is about time that we protect American consumers from companies so rapacious that they would sell policies and then hide behind the Holocaust so that they do not have to pay.

Chairwoman PRYCE. The gentleman's time has expired.

I ask unanimous consent that Ms. Kelly be permitted to deliver an opening statement.

No objection.

So ordered.

The gentlelady is recognized.

Ms. KELLY. Thank you very much, Chairwoman Pryce, for allowing me to come to the hearing. Your commitment to ensuring that the victims of Nazi tyranny can reclaim the possessions that were stolen from them so long ago is really to be commended.

As all of our witnesses know, the Nazi leadership had a unique relationship with the artistic world.

Their hatred of modernity and the work of Jewish artists and writers did not stop them from illegally acquiring some of the largest art collections in the world, not only for resale but for personal display in such places as Hermann Goering's Carin Hall and Hitler's planned Nazi Art Museum in Linsk.

Specific orders were issued to military and paramilitary forces entering occupied territories to seize, survey, and transfer collections of art and music to the Third Reich. This pillage, unseen since the fall of the Roman Empire, stripped tens of thousands of Jewish families of their possessions.

Many have not been recovered and are still in the hands of private collectors and art museums worldwide.

This committee has an important responsibility to ensure that not only do we return this art to its rightful owners and their heirs but that we do more to stop the smuggling of art, and especially the use of art as a means of moving value between nations.

Thanks to the diligent work of Chairman Oxley and others on the financial offenses against terrorists using our banking system, we are stronger than we have ever been. Unfortunately, terrorists and money launderers have responded and are increasingly using the smuggling of cash, gold, and diamonds.

Of particular interest to this subcommittee will be the fact that they are also using the movement of higher value goods such as art to move terrorist money. Items of high value and high density store a value that has a ready market worldwide.

Numerous reports exist that money launderers are using the art world as a safe way to do business. I would ask each of the witnesses from the art and curatorial industries to discuss what procedures they have in place to detect money laundering in the sale and purchase of art.

Again, I compliment you on holding this important hearing, and thank you for allowing me to sit in.

Chairwoman PRYCE. The gentleman from New York, Mr. Israel, is recognized.

Once again, members can put their entire statements in the record, and please be brief.

Mr. ISRAEL. Thank you, Madam Chairwoman. That is exactly what I intend to do, and to repay you for the courtesy of allowing me to sit in on this hearing, although I am not a member of the subcommittee—the reason I asked to participate in the hearing is because this issue, for me, is personal.

Before my election to Congress, I founded and organized the Institute on the Holocaust and the Law, which explored the role of judges, lawmakers, lawyers, and law schools in advancing the Holocaust.

Prevailing up to recent times was that the Holocaust was an act of lawlessness.

It was not an act of lawlessness, it was an act of law, and it was a collective act of law and decrees and decisions organized, created, and codified in order to discriminate, annihilate, and confiscate, and that involved not just lawmakers but art dealers, museums, businesses, and insurance companies.

Throughout my experience with the Institute on the Holocaust and the Law, I often asked myself, what would I have done then if I were in a position of power to help?

Well, there is nothing that I could do about what happened then. This venue gives me an opportunity to do something now.

This is one of those lingering issues that still requires justice and still requires an aggressive response by the U.S. Congress and the

Administration, and that is why I have asked to participate in this hearing. Again, I want to thank the chairwoman and our ranking member, Mr. Frank, for their support.

I was pleased to join the letter requesting this hearing, and I look forward to hearing the views of our panelists.

Thank you, Madam Chairwoman.

Chairwoman PRYCE. Thank you. We welcome your participation.

Ms. Wasserman-Schultz, do you have a statement?

All right.

Mr. Kennedy?

Okay.

Ms. Berkley?

Ms. BERKLEY. Thank you, Madam Chairwoman, and I appreciate the courtesy that you and Mr. Frank have extended me to allow me to participate.

When we talk about this issue as being very personal and emotional, I certainly believe we can all agree on that. I want to share with you very briefly a story that is very personal to me.

I have been in Congress now for 8 years.

During my first year, I received a visit from a woman whose family lives in my Congressional district, and this is her story.

She is a Czechoslovakian Jew.

In February of 1943, this woman, at the age of 20, was shipped to Auschwitz, along with her mother and 3,600 other Czechoslovakian Jews.

By the time the war was over, there were only 22 Czechoslovakian Jews left, and Deena Babbott and her mother were 2 of the 22 that managed to survive.

The way she managed to survive is that Deena Babbott, at the age of 20, was a very talented artist, and she had painted a Disney character or a few of the characters on the barrack walls of the children's barrack at Auschwitz.

Josef Mengele saw her art, and he asked her, told her, ordered her to start drawing pictures of the gypsy inmates. What he would do—the reason he could not take photos of them is because he could not capture in the photos of those times the skin tone of the gypsies, and he wanted Deena Babbott to do this.

What he would do is point out gypsy inmates at Auschwitz and have her draw them.

When she completed the drawing, he would have the gypsy killed.

Now, Deena drew—there are seven of her drawings that remain.

When she was liberated, obviously she and her mother left Auschwitz rather quickly, like everybody else. She did not take her art with her.

It was not hers at the time, although she had created it, to take with her.

Many years later, in the 1970's, Deena Babbott was contacted by the Polish Government.

They had discovered her art in a broom closet at Auschwitz, and they asked her to come and authenticate the art. She was under the impression that she was going to Poland to reclaim her art.

She is absolutely convinced that the only thing that kept her and her mother alive was the fact that Mengele thought she was of some value. It is these pictures that saved her life.

The Polish Government has refused to give Deena Babbott her artwork back.

Now, when I was part of the delegation that Mr. Israel and I, I guess, were a part of that, that represented Congress at the 60th anniversary of the liberation of Auschwitz, we, in fact, saw Mrs. Babbott's art, and what they told me—there are seven pictures remaining, and I've got them here, if you're interested. I would like to submit them for the record.

I think she is entitled to her art back.

Now, she has agreed to compromise with the Polish Government and only take three of the seven, at her selection, and we still cannot get them.

I have gotten a resolution from Congress saying that this art is her artwork.

We have put something in the Authorization Act saying that the Polish Government ought to return this art. I am at my wit's end, and I think this woman is entitled to her art as much as any family that lost their art and had it confiscated. There is nothing more personal than something that was created by her hand.

Chairwoman PRYCE. The gentlelady's time has expired.

Ms. BERKLEY. I would appreciate any guidance you could give me to make this happen for this woman before she passes away.

Thank you very much.

Chairwoman PRYCE. Thank you.

Now, the reason we are here is to hear from you, and I would like to introduce our panel at this time, and we will start to my left, and that is the order in which you will testify.

Mr. Stuart Eizenstat is a former commissioner for the Presidential Advisory Commission on Holocaust Assets in the United States, and we have already heard much about your good work, sir.

Mr. Gideon Taylor is the executive vice president for the Conference on Jewish Material Claims Against Germany.

Welcome.

Mr. Edward Able is the president and CEP of the American Association of Museums.

Mr. Able, welcome.

Mr. Gilbert Edelson is the administrative vice president and counsel at the Art Dealers Association of America.

Mr. Jim Cuno is the president and director of the Art Institute of Chicago. He is here today on behalf of the Association of Art Museum Directors.

Mr. Timothy Rub is the director of the Cleveland Art Museum in the great State of Ohio.

Our final witness, Catherine Lillie, is the director the Holocaust Claims Processing Office in the State of New York Banking Department.

Mr. FRANK. Madam Chairwoman, I have to leave, but I just wanted to commend the majority and minority, and particularly our staffs, who do all this work, for putting together really a first-rate panel.

I am just impressed, as you read off the names, of how well we have represented that spectrum. It is always a pleasure to have Mr. Eizenstat, who has contributed so much, but to all of you, I am grateful for your being here, and I think we have really achieved what we would like to, which is a very balanced and thoughtful panel, and while I have to leave, I want to express my appreciation to all of them for joining us.

Chairwoman PRYCE. Thank you, Ranking Member Frank.

Without objection, all of your written testimonies will be made a part of the record.

Each of you will be recognized for 5 minutes for a summary of your testimony, and we will begin with Stuart Eizenstat.

STATEMENT OF STUART E. EIZENSTAT, FORMER COMMISSIONER, PRESIDENTIAL ADVISORY COMMISSION ON HOLOCAUST ASSETS IN THE U.S., COVINGTON & BURLING

Mr. EIZENSTAT. I want to thank the leadership of the committee for holding these hearings and the Claims Conference for championing them.

The hearings will bring renewed attention to the restitution of art looted by the Nazis during World War II, which, after a burst of activity in the late 1990's, has lost momentum and threatens to fall off the pages of history, particularly abroad, where most nations lack the continued commitment shown by the American Association of Museums.

At a time when almost all other Holocaust-related restitution and compensation matters have been completed, or are nearing completion, Holocaust-era art recovery remains a major unresolved challenge.

There is a certain art restitution fatigue that has set in, particularly in many foreign countries, and I hope these hearings will change that process.

Our work on art restitution in the Clinton Administration was part and parcel of our negotiations over the recovery of bank accounts, property, insurance, and slave-enforced labor compensation.

While the looting of artworks is as old as war, like the Holocaust itself, the efficiency, brutality, and scale of the Nazi art theft was unprecedented. As many as 600,000 paintings were stolen, of which 100,000 are still missing some 60 years later.

There was nothing casual about this massive plunder; it was well organized.

Hitler viewed the amassing of art as a necessary project in his creation of an Aryan master race, and the cultural centerpiece of his Thousand Year Reich was to be a Fuhrermuseum in Linz, Austria, where he was raised.

In my lengthy written statement, I have provided, as I was asked by the committee, a history of how the issue of art restitution, long forgotten for decades, suddenly thrust itself on the world's agenda. Suffice it to say here they were doing the work of four academics, a barred college seminar in 1995, the adoption of principles of art restitution by the American Association of Museum and Museum Directors, under the part of Chairman Leach at the 1999 hearings, our work in the Clinton Administration, leading to the adoption by 44 countries of the Washington principles of art at the 1998 Wash-

ington conference on Holocaust-era assets, which, in effect, internationalized the AAM principles.

Congressman Leach was part of our team. He presided over the art portion of that conference, and deserves our unwavering thanks.

I also want to thank Ed O'Donnell and John Becker of the State Department's Holocaust Era Assets Office for their continuing interest.

These Washington principles, Madam Chairwoman, changed the way in which the art world did business. They required museums, governments, auction houses, and others to cooperate in tracing looted art through stringent provenance research to put the results in an accessible form, to be lenient in accepting claims, and to adopt a system of conflict resolution to avoid protracted litigation.

I'll spend the bulk of my testimony, as I did in my written testimony, on developments abroad, but let me say the following, in a paragraph or two, at home.

Under the leadership of the AAM and the AAMD, many American museums and virtually all major American museums have demonstrated a real commitment to implementing our Washington principles, as well as their own. They have created, for example, a Nazi era provenance information Internet portal, a tremendously important, searchable central registry, so people can go to one place that will then connect to over 150 museums.

There are now 18,000 objects from 151 participating museums on that portal, but as the Claims Conference survey indicates, there is still much work to be done, with half of the AAM membership not yet participating and with a potential universe of at least 140,000 covered objects.

I also want to applaud the work of the New York State Holocaust Claims Processing Office, created by Governor Pataki, which has led to the return of 12 pieces of art. I want to note that litigation since the U.S. Supreme Court case of Maria Aldman is another potential avenue.

In the United States, the focus should be on art dealers, since it is in the commercial art market where most Holocaust-era art is sold.

Art auction houses like Christy's and Sotheby's, which have to publish their catalogs and they have public auctions, have done a commendable job of implementing the Washington principles, with dedicated full-time experts at Sotheby's and Christy's on the restitution effort.

I am pleased to learn from Mr. Gil Edelson that the Art Dealers Association of America has, contrary to my understanding in my written statement, adopted principles and best practices for the art dealers.

I would say to you, Gil, that this is a well-kept secret, and I hope that it will be published. I have relied on some of the best experts in the world who are unaware of this.

I think it is a tremendously important thing that you have done, and I would only ask that you make more public use of it and implement it thoroughly. So, I congratulate you on the fact that you did, and I hope that they will be better published.

Let me make the following concrete suggestions for the Congress in the U.S. area:

First, encourage all American museums that belong to the AAM to complete and regularly update their databases and to have all 140,000 covered objects on the central portal within 3 years.

Second, encourage American museums who litigate cases to do so on the merits rather than on technical defenses like the statute of limitations.

Third, encourage the Art Dealers Association to give the widest publication and the broadest implementation to the guidelines which, again, I am pleased, Gil, to learn this morning that you have published in 1998, and importantly, to pass bipartisan legislation to create a federally funded memory foundation.

There is a bill pending to do this, to assist U.S. citizens in pursuing Holocaust-era claims, including for art, as the New York State office is doing.

And suggestions for abroad:

While American museums still have additional work to do, their progress is light years ahead of other countries abroad, who are signatories to the Washington principles.

There are bright spots, like Austria and the Netherlands, but the vast majority have done no provenance research at all, or only on a limited basis, and have large quantities of looted art or cultural property in Europe that is unidentified.

Where countries have published databases abroad of potential Holocaust looted art, it is in inaccessible languages, lacks the detail necessary for each identification, and is not based on any comprehensive provenance standards.

There is no international centralized database like the one the U.S. museums have created.

Only four countries have national processes for resolving claims, and most, including the U.K., Italy, Hungary, and Poland, have absolutely no restitution laws, so that even if art is identified, there is no realistic way to have it returned, as well as strict time limits on claims.

I have detailed the status, Madam Chairwoman, and members of the committee, of implementation of the Washington principles on a country-by-country basis in my testimony. Suffice it to say here that the real focus should be on a few key countries which have the largest quantity of Holocaust looted artworks: Russia, Germany, France, Hungary, Poland, the Czech Republic, and Switzerland.

Russia, for example, has refused to follow through on their commitments or to follow their own law, which is actually, on its face, a positive law for restitution. German museums have ignored repeated pleas from the German Government at the federal, provincial, and municipal levels to do basic provenance research. Where it has been done by a few museums, it has been a great treasure trove of identifying art.

Some of my recommendations for what I would ask you to do for the countries abroad:

One, convene an international conference in 2007 for the 44 countries who signed the Washington principles to encourage foreign governments to implement the principles by doing serious

provenance research based on internationally accepted standards to publish an accessible database, to work cooperatively with claimants, and to avoid using technical defenses to block claims.

Second, for the Executive Branch, at senior levels, to work bilaterally with Russia, Germany, in particularly, but also with France, Poland, Hungary, and Switzerland, to make progress and open up their archives.

Third, to work to create an international Internet art restitution portal managed by a neutral intergovernmental body into which all nations, museums, art dealers, and auction houses could place their provenance research. This would be the single most effective step, Madam Chairwoman, for restitution abroad.

And finally, to urge foreign governments to develop transparent procedures to handle claims fairly, justly, and on the merits, without technical defenses.

In conclusion, if the U.S. Government and this Congress does not take the lead, as Chairman Leach did before, and as we did in the Clinton Administration, then, indeed, art restitution abroad will revert to the dormant status it had 50 years ago, and art fatigue will continue.

[The prepared statement of Mr. Eizenstat can be found on page 104 of the appendix.]

Chairwoman PRYCE. I really thank you for your testimony, and we will read it in its entirety, and we will continue on with Mr. Gideon.

Thank you.

STATEMENT OF GIDEON TAYLOR, EXECUTIVE VICE PRESIDENT, CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, INC.

Mr. TAYLOR. Thank you, Chairwoman Pryce, and members of the subcommittee.

Art is about family, it is about memory, and it is about history.

It is about the history of paintings and drawings and sculptures, but more importantly, it is about the history of people.

For many, it is the last tangible connection with a past that was destroyed and with a family that was lost.

The looting of art by the Nazis was a systematic, widespread, unrelenting extension of their racial theories. The Jews who were to be exterminated in body were also to be plundered of all their assets.

During the past decade, this committee has established itself as a leading force in the attempt to secure a measure of justice for Holocaust victims and their heirs.

On their behalf, we applaud your continuous efforts. Without information regarding looted artworks, survivors and their heirs will not know where to look, and the last opportunity we will have to right a historic injustice will be gone.

The average age of Holocaust survivors is over age 80. The generation of the survivors is slipping away, and with them will go the personal recollections and memories that may help connect a family with its past.

The report of the Presidential Advisory Commission, as well as other experts, have described how, despite efforts to prevent it,

some looted art made its way to the United States during and after the war.

The Washington Conference on Holocaust Era Assets, initiated by Deputy Secretary Eizenstat and hosted by the State Department, at which the Claims Conference participated, established a set of international principles. The common thread that runs through those international commitments is the need, firstly, to identify looted art; secondly, to publicize such items; and thirdly, to resolve the issue of its return in an expeditious, just, and fair manner.

Guidelines were adopted by the American Association for Museums.

We applaud the AAM and the AAMD for undertaking this major effort.

In an important development, a special Web site was established by the AAM to provide a searchable registry of objects.

Seven years have now elapsed since the Washington conference. In order to obtain an overview of what has been achieved, in February 2006, the Claims Conference sent a survey to 332 art museums throughout the United States. All responses were made publicly available on a Web site.

In general, while some museums had made excellent progress, others had lagged behind. We welcome the progress that has been made, and look forward to the rapid completion of this task.

In many cases, looted art is in the hands of private individuals, and often, the only time it is known to the general public is when it changes hands.

We also, at last, learned today of guidelines for art dealers on these issues, and would urge that they be made publicly and widely available so the claimants will be aware of their contents.

We also would request that procedures regarding how provenance research is done, in what way and in what manner, be adopted by the appropriate organizations of dealers and also be made publicly and widely available.

When dealers learn that an object may have been looted, we believe that there should be an obligation, rather than a discretion, as included in the guidelines presented today, to inform the appropriate authorities. This would be the most effective step to ensure that looted items do not become part of the U.S. art market.

In addition, although purchases often involve client confidentiality issues, we believe that the restitution of looted art raises sufficient moral questions that, for this small group of transactions, records of previous and prospective purchases and sales should be fully and completely accessible to claimants.

In light of the unique concerns related to Holocaust-era restitution issues, we believe that ways to deal with claims need to be found outside of the courts, and perhaps through a central panel system, especially given the age of the claimants.

The Claims Conference is also creating a limited database on looted items based on Nazi records. This will certainly not obviate the need for provenance research from museums and art dealers, but we believe that it can be a significant additional component of the steps to be taken when provenance of artwork is researched.

In conclusion, while there has been significant progress, there is clearly more to do.

Since the Washington conference, a number of other countries have been dealing with the Holocaust-era looted art, as we have heard.

The progress in this area varies greatly from country to country, but generally has been disappointing. We urge greater efforts in this area.

The United States has in the past, and can in the future, show leadership in this field.

In view of its distinguished role in reviewing these issues in the past, we respectfully urge this committee to take the following steps in the future:

First, to maintain its oversight of the progress in the United States in carrying out the agreed national and international principles; second, to strongly encourage the private art community in the United States to implement these principles with regard to provenance research and handling of claims; and finally, to encourage the U.S. Government to make a renewed effort regarding this issue in its discussions with governments in Europe and around the world.

We also believe that an international conference on this subject would be tremendously important.

We thank this committee for its efforts in the past, and request your involvement in the future.

Thank you.

[The prepared statement of Mr. Taylor can be found on page 149 of the appendix.]

Chairwoman PRYCE. Thank you very much for your testimony.

Mr. Able.

STATEMENT OF EDWARD H. ABLE, JR., PRESIDENT AND CEO, AMERICAN ASSOCIATION OF MUSEUMS

Mr. ABLE. Chairwoman Pryce, Representative Maloney, and members of the subcommittee, I'm Ed Able, president and CEO of the American Association of Museums. The topic of today's hearing is one that is complex and difficult to distill into a 5-minute presentation, but as you indicated, Madam Chairwoman, my entire statement and many attached documents are at your disposal.

First, I would like to be clear that we share with the Claims Conference a strong passion for, and commitment to, correcting the injustices to the victims of the Holocaust. The museum community has taken thoughtful and aggressive steps befitting the seriousness with which we take this issue.

Briefly, today, there are four key areas that I would like to focus on in my oral testimony. At the end of the statement, I will respond to two additional questions raised in your invitation.

First, guidelines for museums.

After extensive consultation with the museum field, legal experts, and the President's Advisory Commission on Holocaust Assets, AAM published its guidelines in the fall of 1999, and amended them in the spring of 2001.

This document and the Association of Art Museum Directors report in spring 1998 represent the standards for the museum community.

Second, technical information and training.

It is very important to understand that, in 1999, there were very few museum professionals trained in the highly specialized and unusual research skills necessary to conduct Nazi-era provenance research, and few people with the experience and language skills required to investigate recently opened archives and other information sources.

AAM commissioned three of the world's leading experts to write a 300-page state-of-the-art how-to manual which immediately became the "bible" for the field.

AAM also embarked on a multi-year training program designed to spread technical information throughout the field.

We have conducted seminars at the National Archives, convened an international research colloquium, presented education sessions at all of our annual membership meetings, and launched an online discussion forum for museum professionals conducting provenance research.

Third, let us talk about research.

It is expensive.

For objects with no prior indication of Nazi looting, the costs range anywhere from $40 to $60 per hour, and the time needed to document just one object can vary enormously, from a week to a year, and if initial research suggests an object has a history that may include unlawful appropriation by the Nazis, time and expense can double or triple.

One museum spent $20,000 plus travel and expenses over the course of 2 years to have a researcher resolve the history of just three paintings.

Fourth, sharing the results with the public.

Parallel with our training efforts and technical information, AAM fulfilled the museum community's commitment to create a central, searchable, online database for publicly sharing collections information and provenance research.

In September 2003, AAM publicly launched the Nazi-era provenance Internet portal, which has been broadly reported in the media.

The portal now includes more than 150 participating museums that have collectively registered more than 18,000 objects from their collections that meet the definition of covered objects, a comprehensive and objective definition recommended by the claimants' advocates. That is, any object that may have changed hands in continental Europe between 1932 and 1946 under any circumstances.

Thus, finding an object on the portal simply means that it may have been in continental Europe between 1932 and 1946, and may have changed hands one or more times.

It is important to have a clear understanding of this definition, which is easily misunderstood and can unintentionally taint thousands of objects as, "Nazi loot."

To illustrate, I will offer an example.

A photographer working in Paris in 1934 takes a picture and makes 20 prints.

He sells those prints to 20 customers, one of which is a U.S. museum.

Even though the photo has an ironclad provenance and no taint of looting, it is, and always will be, a "covered object."

The willingness of museums to work with this broad definition for covered objects is a testament to our commitment to public transparency.

So, how many potentially looted objects are located in U.S. museums?

Prior to the 1970's, the entire art trade was conducted on a centuries-old tradition of handshake deals and little or no paperwork, resulting in enormous provenance gaps. However, after several years of intensive activity by the museum field, I can state with confidence, not many.

After 8 years of museum research and more than 100,000 searches through the portal, there have been 22 public settlements concerning Nazi-era looting claims for works of art found in American museums, and six pending cases.

Our greatest concern for completing provenance research is financial resources, particularly for small and medium-size museums.

AAM encourages Congress to consider appropriating additional funding to the Institute of Museum and Library Services aimed specifically at provenance research.

Finally, with respect to the claims process, experience with previously settled cases clearly demonstrates that direct respectful engagement between museums and claimants leads to the most rapid settlement of meritorious claims with the least cost to all, and there is, in our view, no better system.

I thank you for your attention, and I am happy to respond to any questions during the colloquy.

[The prepared statement of Mr. Able can be found on page 40 of the appendix.]

Mr. LEACH. [presiding] Thank you, Mr. Able.

Mr. Edelson.

STATEMENT OF GILBERT S. EDELSON, ADMINISTRATIVE VICE PRESIDENT AND COUNSEL, ART DEALERS ASSOCIATION OF AMERICA

Mr. EDELSON. I thank the committee for its invitation to appear this morning, and I hope that my testimony will be helpful to you.

I have submitted written testimony which I suggest be made part of the record.

We deal today with a very serious problem, a serious and difficult problem, the looting of art during the Nazi era, one of the most horrible periods in the history of mankind. For many years, we did not face this problem, but in the 1990's, as a result of the efforts of some really outstanding people, one of whom, Stuart Eizenstat, is seated here today, we began to deal with the problem with the seriousness and intensity that was previously lacking.

This committee held hearings in 1998 on the subject. The hearings were chaired by Congressman Leach, who won the respect of the art community for his deep and sympathetic knowledge.

I was one of the witnesses then.

Now, as I understand it, we are dealing with a follow-up to those hearings.

The ADAA is a not-for-profit organization of dealers in works of the fine arts—paintings, sculpture, and works on paper.

It is selective in its membership; it has 165 members across the country.

We are, and have been, concerned about the problem of art looted during the Nazi period.

Shortly after the committee's hearings in 1998, the association, after consulting with its members, issued its guidelines regarding art looted during the Nazi era. They were, we thought, publicized and made widely available, but not everybody was interested, and it appears that memories are short.

Having heard the testimony this morning, I think we will reissue the guidelines, and we will send copies to Christy's and Sotheby's, the auction houses, who have become very important dealers through their private transactions, and we hope that the guidelines would cover the auction houses, as well.

The guidelines are recommendations. They set a standard for professional behavior, but they are really based on common sense. I have attached a copy of the guidelines to my written testimony so that you will have them in full. In summary, they deal with two situations; what a dealer should do with respect to consignments and sales, and what a dealer should do with respect to claims of ownership that may be asserted in connection with objects they have for sale or may have sold.

The guidelines say that, when the Nazi-era provenance is incomplete, the dealer should do the necessary research. The problem here, of course, is that the necessary research is time consuming and could be very expensive.

If there is sufficient evidence of looting, the dealer should not acquire the work or offer it for sale, and should notify the seller.

Depending on the facts, additional steps may be necessary, such as notifying others of the dealer's findings.

All claims of ownership should be handled promptly and with seriousness and respect.

If the work is presently being offered for sale, it should be withdrawn until the claim is resolved. If the dealer has sold the work in the past, the dealer should make available such records as will serve to clarify issues of ownership.

Finally, when reasonable and practical, dealers should seek equitable methods other than litigation to resolve claims. This makes good sense.

Litigation, I can tell you from my personal experience, is time consuming and can be very costly. There are alternative methods of dispute resolutions, such as mediation, which I strongly recommend. I have mediated several disputes in this area, and the results have been more than satisfactory.

I believe that dealers have been careful in what they offer for sale.

I know at least one litigation involving an ADAA member, now retired, who sold a work many years ago that was now claimed to have been looted.

Although the dealer was advised that he had a number of solid defenses, he settled the matter promptly and satisfactorily.

I can also testify that I have personal knowledge of a number of situations where dealers declined to sell works, not because they knew that the works were looted but because they were not certain that the works were not looted, because there were unanswered questions about the works.

No responsible dealer wants to sell a looted work. First, it is not the right thing to do; and second, it is not good business. You do not want to sell a possible problem to someone who is spending a great deal of money, especially in an industry where people love to talk.

As I have said, many problems of provenance will never be solved. We may never know for sure.

For the reasons I have set forth in my written testimony, many works have gaps in their chains of title. Provenance research, as I have said, is difficult, and all too frequently, it is unrewarding, but it is the only tool we have.

Finally, there are no records to quantify the number of looted works that have been sold in this country over the years.

There are not even any Census Bureau figures on how much art is sold every year.

The Census Bureau does not gather information in this field, although it does in other industries.

Whatever we may guess, the problem exists. ADAA's position is simple and straightforward: Looted art should be returned to its rightful owners, and dealers should cooperate, to the extent possible, in these efforts.

Thank you.

[The prepared statement of Mr. Edelson can be found on page 94 of the appendix.]

Mr. LEACH. Thank you very much, Mr. Edelson.

Before turning to Mr. Cuno, let me place on the record that I am personally very indebted to Mr. Cuno for his museum's generosity in lending America's Gustav Klimt—that is, the Grant Wood's American Gothic—to a museum here in Washington. Your museum has led the country in the area that we are discussing today in terms of the provenance research on Holocaust-era work. It has also led the country in generosity, and I am very appreciative to the Art Institute of Chicago.

Mr. Cuno.

STATEMENT OF JAMES CUNO, PRESIDENT AND DIRECTOR, ART INSTITUTE OF CHICAGO, ON BEHALF OF THE ASSOCIATION OF ART MUSEUM DIRECTORS

Mr. CUNO. Thank you, Congressman.

My name is Jim Cuno, and I am president and director of the Art Institute of Chicago. I testify today on behalf of the Association of Art Museum Directors, where I served as president of the board in 2000 and 2001, and on behalf of the Art Institute, where I have been president and director since 2004.

I thank the committee for holding these hearings. It is important that Congress and the American people have periodic updates on the work U.S. art museums are doing to research the provenance

records of works of art in our collection, especially those which may have been looted during World War II and not restituted to their rightful owners.

It is my understanding that today's hearing is the second such hearing since the committee's initial hearing under then-Chairman Congressman Leach 8 years ago. In addition, AAMD testified before the Washington Conference on Holocaust Era Assets in 1998.

I am a child of a 30-year career U.S. Air Force officer. My father served in World War II, the Korean War, and the Vietnam War. He was taken prisoner during the Korean War, and for the greater part of a year, we did not know if he was alive or dead.

I am aware of the physical and psychological trauma of warfare, and like everyone, I deplore the circumstances during World War II that resulted in the unjust deaths of millions of people and the illegal taking of their personal property.

All of us want to resolve any and all legitimate claims against U.S. art museums regarding the possible existence within our collections of works of art looted during World War II and not restituted to their rightful owners. To that end, we have been diligently researching our collections since and even before this committee first met on the subject in 1998.

AAMD, which has approximately 170 members and was founded in 1916, has been a consistent champion of the highest standards for art museums, standards that enable art museums to bring important works of art to the public we serve.

Since 1973, AAMD has included in its professional practices in art museums the admonition that museums must not acquire works that have been stolen or removed in violation of a treaty or convention to which the United States is a party.

In 1998, AAMD published its much-praised report of the AAMD task force on spoliation of art during the Nazi World War II era, which gives specific guidance regarding provenance research and how to handle claims. I was pleased to have served on the committee that drafted those guidelines.

As early as 1999, 100 percent of the AAMD members who had collections that could include Nazi stolen art reported that they had begun in-depth research required by the AAMD report.

That research is now available on each museum's Web site, which, in turn, is linked to the AAM portal.

Of all of the art museums in the United States, approximately half have no permanent collection or have collections of only contemporary art. By definition, these hundreds of art museums cannot have Nazi-era looted art in their possession.

Thirty percent of the AAMD's 170 member museums fall into this category.

The 120 AAMD member museums that may have Nazi-era looted art in their collections have collections comprising 18 million works of art, many thousands of which were acquired before World War II.

Unlike eastern and western Europe, the United States was never a repository for any of the 200,000 works of art recovered after the war. Any Nazi-era looted art that may be in U.S. art museums is there as a result of second-, third-, or even fourth-generation good-faith transactions.

I mention this only to remind us of the scale of the potential problem in this country.

The likelihood of there being problems in U.S. art museums is relatively low.

Nevertheless, the amount of research to be undertaken on the tens of thousands of works of art that, by definition, may have Nazi-era provenance problems is significant, requiring large allocations of staff time and money, allocations U.S. art museums have made, and will make, until the job is finished.

Of the tens of thousands of potential problems in U.S. art museums' collections, only 22 claims have resulted in settlements of the restitution of works of arts from U.S. art museums since 1998, some of these at the initiative of the museums themselves, others in response to claims on works of arts by their rightful owners, and I refer to Appendix A in my written testimony.

In the most recent case of restituted art, the Kimbell Art Museum in Fort Worth, Texas, returned its only painting by the celebrated and important English landscape painter, Joseph Mallord William Turner to the heirs of a legitimate owner.

The Kimbell, which purchased the painting in 1966, was contacted by one of the heirs in September 2005, after the heirs' decade-long search to restore to his family works of art that had been part of a forced sale. After reviewing the documentation of the heirs and conducting its own research, the Kimbell Art Museum determined that the painting had been part of a forced sale and that the heirs did represent the legitimate owner.

On May 17, 2006, the Kimbell agreed to restore the painting to the heirs, who have since taken physical possession of it.

In another case in 2002, the Detroit Institute of Art had a painting shipped from a dealer in London for further study pending acquisition.

In researching the work, the museum suspected that it may have been looted during the Nazi era and not restituted to its rightful owner.

The museum contacted the London dealer. After 18 months of intensive examination of archives in several countries, it was determined that the work had, indeed, been looted by the Nazis.

Incurring substantial legal fees for a painting it did not own, the museum continued its efforts to locate the heirs of the original owner. It eventually found the owner, who then sold the painting to the museum for full market value.

Let me now testify quickly on behalf of the Art Institute of Chicago, if only as further illustration of how U.S. art museums are addressing this important issue.

Our permanent collection includes some 250,000 works of art in 10 curatorial departments.

Our efforts focused especially on Holocaust-era provenance questions began with a survey of our collection in 1997, even before the AAM issued its guidelines and before the AAMD report and the Washington conference principles of 1998.

Our 1997 survey sought to determine the number of paintings, sculptures, and drawings in our collection that were created before 1946 and acquired by the museum after 1932.

Our survey thus exceeded the expectations established in the AAM and AAMD guidelines, which suggested that the initial focus of research should be European paintings and Judaica.

At present, based on our current database search capabilities, we estimate that our collection includes 7,481 works of art made before 1946 and acquired by the museum after 1932.

Our curatorial staff has analyzed whether, in addition to being made before 1946 and acquired by the museum after 1932, the work of art underwent a change of ownership between 1932 and 1946, and was or might reasonably have been thought to have been in continental Europe between those dates.

This is the definition of a covered object, as you know very well.

Although our research is constantly ongoing, our curatorial staff has determined that 2,832 of the 7,481 works of art fall within this definition.

All of the objects of the provenance research project pages of our Web site are accessible through the AAM's Nazi-era provenance Internet portal.

Nearly 2,000 of the 2,832 works of art in our collection that meet the terms of our inquiry will be posted in full on our Web site, together with all of their provenance information in which we are confident, this September, in a much improved searchable database, and I refer again to my written testimony which has pages from the Web site, so you can see exactly how that is.

In addition to providing information about our collection, our Web site contains information on provenance bibliography to help guide people in their own research in their own collections or other museums in their research.

Provenance research is an integral part of the work of the Art Institute of Chicago's staff and all curatorial departments.

Such research is performed on a daily basis. In addition to ongoing research efforts in the departments, we maintain an inter-departmental provenance committee comprising curators, researchers, library staff, and other staff with relevant skills and knowledge that meets to share information and focus efforts specifically on Nazi-era provenance research.

Funding for provenance research comes from our operating budget, department funds, gifts from individual donors, and grants for projects that include provenance research as a fundamental, but not sole, piece of the project. All together, since 1998, we have spent well over half-a-million dollars researching our provenance records, not to mention the annual operating funds we use for the salaries of permanent professional staff, including conservatives, curators, registrars, photographers, Web masters, and lawyers, who spend a part of each year on this project.

We have hired long-term researchers and project researchers.

We have sent them to Europe to consult archives, and we have purchased copies of archival materials.

The Art Institute strives to resolve claims of ownership in an equitable, appropriate, and mutually agreeable manner. We are pleased that, in those cases that have arisen to date, the Art Institute has resolved the claims amicably. There have been only two, and I refer again to my written testimony, to the particulars of those instances.

Like many museums and art museums in the United States, our institute has received a letter from the Claims Conference inviting us to participate in the survey.

The letter was dated February 27, 2006, and instructed us to answer 24 detailed questions and to return the survey by April 14th, 7 weeks later. We responded with a detailed five-page letter answering, we believe, the survey's questions in full.

In conclusion, let me say that the U.S. art museums will continue to respond to claims made against works in their collection, as they have done in the past.

We will continue to work diligently to provide as much provenance information on our Web sites as soon as it becomes available.

By continuing to link our Web sites to the AAM portal, potential claimants may go to one source for information, but again, I stress that, after more than 8 years of intensive investigation, we have been able to verify very few claims.

I do not expect that to change dramatically, for the reasons that I have mentioned. There are few Holocaust looted works of art in American museums, but even one such work is one too many.

U.S. art museums will continue to do everything we can to restore that work to its rightful owner.

Thank you again for holding this important hearing, and thank you for allowing me to submit this testimony and my written testimony.

[The prepared statement of Mr. Cuno can be found on page 61 of the appendix.]

Mr. LEACH. Thank you, Mr. Cuno.

Mr. Rub.

STATEMENT OF TIMOTHY M. RUB, DIRECTOR, CLEVELAND MUSEUM OF ART

Mr. RUB. Thank you, and good morning.

I am Timothy Rub, the director of the Cleveland Museum of Art, and I speak to you today on behalf of the Association of Art Museum Directors and the trustees of the Cleveland Museum of Art. I would like to express our thanks for this opportunity you've given me to share with you the significant efforts that American museums have undertaken since the subcommittee first held hearings on this important subject in February 1998, but before I do, I should pause and encourage this group, following on the Congressman's suggestion, to see the Grant Wood exhibition nearby, and to see the greatest Grant Wood collections in Ohio, Daughters of the Revolution, in the collection of the Cincinnati Art Museum. It is a wonderful picture.

Over the past 8 years, a considerable amount of progress has been made by the many museums whose collections might have included works that were illegally appropriated during the Holocaust.

Even though provenance research is time consuming and costly, the several institutions I have had the privilege to lead during this period, the Cleveland Museum of Art today, and before this, the Cincinnati Art Museum, and the Hood Museum of Art at Dartmouth College, as well as the members of the AAMD, all have made a firm commitment to undertake this work and to make the results of their research available to the public.

In doing so, we have complied with the guidelines articulated in the AAMD's June 1998 report on the spoliation of art during the Nazi World War II era.

Notably, in terms of the work that has been done thus far, we have focused our initial efforts on our collections of European paintings.

American museums embraced this responsibility and acted upon it quickly and with great resolve, in my opinion. For example, the AAMD surveyed its members in 1999, and determined that 100 percent of those whose collections included art that might have been looted during the Holocaust period had, in fact, completed or were in the process of undertaking provenance research. Furthermore, in that survey, 100 percent of AAMD members indicated that access to their provenance records was open.

While we consider provenance research to be critically important, and have made a broad commitment to undertake this work, it is vital for you, the members of the subcommittee, to understand how complicated and labor intensive such research can be.

It requires a detailed review of primary and secondary documents, often scattered in many different places throughout the world, and in many instances where such documents do not exist or cannot be found, substantial inferential analysis. In many cases, we have not been able to fill all the gaps, and must recognize that we may never be able to do so.

Others can help, and for this reason, the posting of provenance records on our Web sites and on the portal maintained by the AAM is an essential tool.

It is also important for the members of the subcommittee to understand that a gap in the provenance of a work of art during the Holocaust period does not mean that this work was seized illegally by the Nazis or was the subject of a forced sale and not restituted.

Rather, a gap in provenance indicates that we have been unable to find documentation or other evidence that allows us to determine the ownership of a particular work of art during a certain period of time. In other words, this means, quite literally, the absence of information on an object, not the presence of information that gives rise to or may constitute a justification for a claim that it was illegally taken and not restituted.

Given the extensive research that has been done by American museums, without, it should not go unremarked, any appreciable public funding, the number of claims received by American museums, as my colleagues have mentioned, has been very small. To date, only 22 works have been restituted by American museums because they were looted by the Nazis and not returned to their rightful owners after the war.

For those who claim that hundreds or even thousands of spoliated works remain in the collections of American museums, the work done during the last decade, as a statistical point, simply indicates otherwise.

In this regard, I would not suggest that the extensive efforts that have been undertaken to research the provenance of Holocaust-era works has been inappropriate or that they should be curtailed, but our experience indicates the magnitude of this problem does not match the sometimes often strongly emotional appeal made on oc-

casion by those who seek to recover art that is believed to have been lost and not restituted.

Furthermore—and I think this is the important point—it confirms that the course taken by American museums, who hold their collections in trust for the benefit of the public, is fair and designed to achieve the best possible outcomes for both our institutions and those who may have valid claims on works of art that were confiscated or illegally taken from them or their families during the Holocaust.

Finally, some critics have questioned the wisdom of continuing the Federal immunity that is granted or accorded to works of art that are in the United States on loan to American museums, and whether such a protection should apply when there might be a Holocaust issue.

Please note the emphasis I have placed on the possibility of a Holocaust-related issue, such as a gap, as opposed to an outstanding claim that may be valid but is, as yet, unresolved.

If this issue comes before the subcommittee in the future, I urge you to continue to support the Federal immunity program.

The immunity program is a time-honored and valuable instrument that enables American museums to present to the public great works of art from around the world. Absent such protection, many foreign-owned works might not be made available to American museums because of the fear that such works will become encumbered with litigation in the United States courts, and here I should add that we have all agreed—we, the American museum community—that we must carefully evaluate all loan requests to make sure that we are not requesting illegally confiscated or Holocaust-era art, and this is a part of the immunity process, as well.

When museums apply for immunity for loans, they are required to address Holocaust issues as part of the application process. I should also add in this regard that the very fact of exhibiting a painting with a gap in its provenance can, in fact, help the process of restitution, because the public presentation of this work in the United States can bring to the attention of a claimant its existence or make available information that an individual would need in order to make a claim.

Let me conclude by stating once again that the 8 years since the subcommittee's first hearings on this subject have witnessed significant progress in the development of a broader knowledge of provenance information that has now been made available to potential claimants and the public at large.

While this work is not yet complete, research regarding most of the works of art that may be at issue has certainly been undertaken, and America, as many of my colleagues have said, can be very proud of the leadership role that its art museums have played in this effort.

Thank you.

[The prepared statement of Mr. Rub can be found on page 145 of the appendix.]

Mr. LEACH. Thank you, Mr. Rub.

Ms. Lillie.

STATEMENT OF CATHERINE A. LILLIE, DIRECTOR, HOLOCAUST CLAIMS PROCESSING OFFICE, NEW YORK STATE BANKING DEPARTMENT

Ms. LILLIE. Thank you.

Good morning, Mr. Chairman, Ranking Member Maloney, and members of the subcommittee. Thank you for this opportunity to testify before you today on Holocaust-era asset restitution.

The New York State Banking Department has 10 years of hands-on experience working with, and advocating on behalf of, claimants seeking the return of assets lost, looted, or stolen during the Holocaust.

The Banking Department's involvement in these issues goes back to 1996, when the world finally began to pay attention to the fate of assets deposited in Swiss financial institutions.

Governor Pataki, at the urging of then-Superintendent Neil Levin, encouraged the Banking Department to use its influence, expertise, and international reach to rationally resolve these emotionally charged and politically complex estates.

The department has been actively committed ever since, first with our investigation into the war-time activities of the Swiss banks' New York agencies and then by establishing the Holocaust Claims Processing Office as a separate and unique division.

Our involvement was extended further still with the establishment of the International Commission on Holocaust Insurance Claims, also a legacy of the late Neil Levin, and ultimately, the department took on the task of assisting claimants in their quest for works of art lost, looted, or stolen during the Holocaust.

The HCPO has a long tradition of quality and substance. It remains the only government agency in the world to offer Holocaust survivors or the heirs of Holocaust victims and survivors assistance with a vast array of multinational claims processes.

To date, the HCPO has received approximately 5,000 claims from 48 States and 37 countries, and has secured the return of more than $55 million to claimants, as well as 13 works of art.

The knowledge and assistance of the HCPO staff have alleviated burdens and costs often incurred by claimants who attempt to navigate the diversity of international claims processes by themselves.

Our successes are a direct result of the importance attached to, and attention paid by, the HCPO to individualized analysis.

Many of the claimants we work with have lost everything and everyone, resulting in the need for archival and genealogical research to confirm family relationships and to uncover details regarding the fate of many original owners. All of our services are provided free of charge.

The HCPO has, over the past decade, worked directly and intimately with almost all restitution and compensation processes in existence today.

As a result, we have close working relationships with archival and historical commissions, financial institutions, trade associations, and our colleagues in federal, state, and local governments in Europe.

At the same time, many claims processes have sought the HCPO's advice.

Put another way, almost all paths to restitution and/or compensation for Holocaust-era assets have converged at the HCPO at one point or another.

Throughout, the HCPO has had a single purpose: to resolve claims as promptly as possible, and in a sensitive manner, given the singularity of the events that preceded them.

The passage of time, the ravages of war, the lack of documentation that you heard about, and the mortality of claimants make this a complex task.

The HCPO owes its success to a dedicated team of multilingual and multi-talented professionals. Possessing a broad and long traditional legal, historical, economic, and linguistic skill set, coupled with the ability to communicate with, and conduct research in, a vast number of European government and private offices, the HCPO staff research, investigate, and secure documentation, building upon the foundation provided by claimants.

Let there be no mistake about it. Even claims with documentation are a time-consuming task, and the paucity of published records often complicates matters further. For significant works of art, the odds of there being academic publications which serve as vital tools in our research efforts are high, but the Nazis did not limit their spoliation to museum-quality pieces. Ordinary middle-class collections, second-tier painters, decorative arts, tapestries, and antiquities, as well as Judaica, were looted. In some of these areas, the art historical literature is anything but deep.

To complicate matters further, information, much like the objects themselves, have often ended up scattered all across the globe.

Claimants seeking the return of such low monetary value but high emotional and spiritual value items face daunting hurdles, given the lack of historical significance, not to mention the enormous logistical and legal challenges. The HCPO, earlier this year, successfully completed the return of a Torah cover from the Jewish Museum in Vienna. The obvious inestimable emotional value is without question, but without the HCPO, where would claimants have gone for help, given its limited monetary value?

Overall, art claimants, as you have heard, are piecemeal work, which unlike financial assets such as bank accounts or insurance policies, do not lend themselves to wholesale centralized settlements.

Instead, given the individualized nature of these cases, they must be painstakingly resolved painting by painting, object by object, and Torah cover by Torah cover.

The publication of provenance information is critically important to our endeavors, as is the ease of access to such information.

As we work piece together each claims complex mosaic, accessibility is paramount.

The AAM's Web portal is an excellent illustration of what is possible.

While far from perfect, it is a major step in the right direction, currently allowing 151 museums to make their provenance research available via a single point of entry, with more museums joining all the time, as evidenced by the Claims Conference's recent report.

There remains, of course, a significant difference between the work done by museums and public collections and such information as is available for private collections in the art market as a whole.

The issue becomes trickier once claimants locate items in private collections or, indeed, in the market.

Sale rooms have learned much in the past decade, and certainly, the large auction houses have dedicated staff who have worked well with the HCPO and our claimants to determine whether items submitted to auctions have a problematic provenance.

Smaller sale rooms both in the United States and Europe still need encouragement and education.

Not all are as willing to pull lots from sales when questions arise. Few of them are sensitive to the labor-intensive, and therefore time-consuming, research these cases require. As a result, the HCPO still finds more resistance to clarifying title in these contexts than we would like to see.

So, continued education of active market participants remains a critical piece in all this if buyers and sellers are to understand and ultimately accept that transactions conducted in seemingly good faith many years ago may nonetheless be questionable.

In closing, I would like to share the following thought.

We have a unique challenge in a complex market, but we also have the potential to help so many. If we are to achieve our mission, we must encourage open, transparent cooperation both internally and in the larger universe of Holocaust-era restitution and compensation programs. Cross-functional and interagency dialogue between such claims processes encourages new perspectives, expands and enhances coalitions, fosters partnerships, and ensures a more comprehensive approach.

By finding creative solutions and mechanisms, agencies can work together to streamline the prolonged claims processes for claimants, many of whom are in their 80's and 90's, and for whom time is a disappearing luxury.

Finally, let me return briefly to the Torah cover I mentioned earlier.

Marpe Lanefesch, the name of the congregation that was in effect the Torah cover's birthplace, translates to "the healing of the soul."

How better to summarize what I think our collective intent is: the attempt by a few people committed to doing what is right, rather than what is easy, to repair, to the extent possible, a lasting rend in the fabric of life.

Thank you.

[The prepared statement of Ms. Lillie can be found on page 125 of the appendix.]

Mr. LEACH. Thank you very much, Ms. Lillie, and thank you all for extraordinary testimony.

I want to begin briefly with Mr. Eizenstat. Stuart, your testimony was extraordinary and comprehensive. As principally a lawyer, I think you symbolize the best "lawyer" approach in terms of not only the law, but in the legal way of thinking. One of the interesting legal issues that exists, as you note the problems in Europe, is the difference between the Napoleonic codes and the common law on the issue of theft. That is, in common law countries like ours and Great Britain, if a thief sells an item to a party and the party

sells that item to a third party, if the original owner has a claim, that owner can make a claim directly to the current owner, whereas under the Napoleonic codes, if there was a good faith process at any point, the original owner only has a claim against the thief. This means that, theoretically, if you have a piece of art with dubious provenance, you would rather sell it in Europe than in the United States. Thus, it is very difficult to return stolen art in Napoleonic code countries unless there is will. What you have suggested is that several countries have exhibited will and others have not. Could you comment on this?

Mr. EIZENSTAT. Mr. Chairman, this is really an excellent point, and you are quite correct about the difference in the legal structures. We tried to overcome that with the Washington principles, but as you will remember, in the late hours of negotiation, only partially, because in order to get over 40 countries to ascribe to the principles, which were based on the AAMD principles, with some modifications, we needed to put in language that assured countries that they could apply their only law. It is the only way we could get that done.

But the principles are there, and they are meant, and some of them say very clearly, to facilitate claims resolution, to have nonlitigable ways to do so, and a number of countries—for example, Austria has passed a specific law recognizing that the Napoleonic issue—that Holocaust looted art should be treated differently, and they passed a law which has permitted hundreds and hundreds of pieces to be returned.

The Netherlands has done the same.

Russia, theoretically, has done the same, but it has not applied it.

So, what we need to do is to get countries to apply special restitution laws for this area, so that you do not have the kind of complication that you have just indicated. One of the advantages of trying to get an international conference together and to at least encourage, Mr. Chairman, Mrs. Maloney, the publication of lists as the portal has done in the United States, is at least we will know what the universe is.

Once we know what the universe is, then even with the Napoleonic problem, we can facilitate settlements, we can facilitate monetary recoveries, which are not precluded by the Napoleonic code.

We can facilitate arbitrated or mediated solutions, but we can't do any of those if we do not have the basic raw data, and because so few countries have published, even in Germany, anything like what the AMD museums have done, we do not have the basis to apply settlements that could be done outside of the strictures of the Napoleonic code.

Mr. LEACH. Let me just ask one follow-on question.

It appears that Russia, in many regards, is the great laggard, not so much in law but in the classic instance have not wanting to publish what it has, and one has a sense that part of it relates to this issue.

Most of it may relate to issues itself in museums. Powerful people walk away with great art. Do you have a sense of this problem?

Mr. EIZENSTAT. Yes.

Let me explain, if I may, as best I can, the Russian situation.

Of course there is a broader picture in Russia of the rule of law which we have seen trampled on in recent years in a whole range of areas.

They were the only delegation in the 1998 Washington conference that participated separately in the closing news conference. The Russian legislation was once vetoed, but ultimately legislation was signed that separated two types of art.

One was what they call trophy art, which was art that the Red Army took, after the war or in the closing days of the war, from German museums and public institutions as what they viewed as compensation for their massive loss of life and property from the German invasion.

The law that President Putin signed makes it clear they will never return that, but they also made it clear in that legislation that art which was taken by the Red Army from the Germans, which, in turn, was taken from Jews or Jewish institutions or for racial reasons should be returned—and they committed themselves to publish the provenance of their major museums, and they have a claims process.

There has been a very small amount of publication of their provenance by a very few museums, not the major ones, the Hermitage and others, and there is basically no claims process.

This is a very key matter where a good bilateral discussion, let alone an international conference, could bring the Russians, as they did in 1998, to come up to international standards.

I think there is no question but that the Russians have the greatest treasure trove of looted art, and if we assure them that no one is trying to get their—that we are focusing on art taken from Holocaust victims and we put enough political muscle behind it at senior enough level, perhaps we can make progress.

Mr. LEACH. Thank you.

Ms. Maloney.

Mrs. MALONEY. Thank you.

I thank all of you for your testimony.

I would like to ask Mr. Edelson—you mentioned that we should focus a little bit on the dealers.

How can dealers best be encouraged to make their records available to bona fide researchers, claimants, and claimant representatives?

Mr. EDELSON. So far as I know, ma'am, dealers do make their records available.

I can tell you now that I was speaking to one dealer the other day who said that he had opened his records to the Metropolitan Museum, for example, who was doing some research in provenance, and I have not, myself, had a complaint from anyone that a dealer has not cooperated.

Now, it does not mean, necessarily, that all dealers are cooperating.

I hope they are, and we urge them to do so.

Mrs. MALONEY. I would like to ask Ms. Lillie the same question.

Have you, in your work with your office, reached out to art dealers and gotten their cooperation, or do you think they should be part of the central registry?

Ms. LILLIE. We have had, I think, examples of just about every form of cooperation you can imagine, which ranges from very productive to almost none at all, and that is true not just in the United States but across Europe, as well. Your question, whether we would like to see a more centralized venue for this, is one that resonates very deeply with me.

The portal, where we worked extensively with Mr. Able and his organization in terms of technical assistance, the sort of information that ought to be put up that would be helpful to claimants and researchers but also finding common denominators between and amongst museums and the information they have has been very, very helpful. There is a single point of entry. It is a starting point. Even if we do not find specific paintings, we often find information held within museum records that will lead us to other sources of information.

If we could work with Mr. Edelson on finding some sort of central venue for dealers, as well, that would be superb. One of the difficulties, of course, is, as he mentioned, would owners be willing to share that information? From my vantage point, the more transparency we have in the market, the better and more efficienct marketplace it would surely be.

Mrs. MALONEY. Mr. Cuno and Mr. Rub, thank you for your leadership and the work of your museums.

What can we do to accelerate the speed of provenance research and publication of such research while the present generation of Holocaust survivors is still with us? Obviously, the sense of urgency is, simply put, not our friend, and when you lose the last living memories of these items, then where will we go, and I just want to ask the question—the reports that came out—they said many of the museums had cooperated, but others had not, and they mentioned some very prominent museums that had not cooperated.

What is the enforcement or the incentive for museums to cooperate?

They cited some, such as your own, that have done remarkable work, but they cited others who did not fill out the survey, would not respond, said they did not have the time or finances to respond.

Mr. CUNO. I am afraid my answer to the first question will not necessarily be satisfactory, because the answer has got to be assistance with funding, and funding not necessarily to individual museums in their research but to the creation of centralized databases such as we have begun to undertake but could use additional resources to perpetuate or to deepen.

To step back just one second to the question about the dealers, I do not know the extent to which this is possible, but it would be greatly advantageous to the work of museums and museum researchers, not just on the question of Holocaust-era provenance research but generally in provenance research, if there were a way, when dealers go out of business, for example, that those records would not necessarily disappear.

It has been one of the obstacles that we face in our research, not just in this country but among European art dealers, is when they do go out of business, there is no perpetuation, necessarily, of the records that they had, and so, we lose track of those records, and the loss is sometimes insurmountable.

To your question about what it is that museums can do, and also to your question about why it is that some museums have not responded to the survey, I do think it is a matter of time and money, and we have competing calls on our time and money, as you can well understand, as every institution, and that is with regard to the education that we do in our cities, where we are ultimately and increasingly responsible for the arts education and some of the civic education of our citizens.

So, we could use some assistance in that regard, perhaps on an individual basis but certainly in a collective basis, to provide the resources that we need to advance our research, and to work cooperatively with our colleagues outside of museums.

To the question about why some museums did not return the survey, I cannot speak for them.

Mrs. MALONEY. Do you feel like there is a difference between a large museum and a small museum?

Mr. CUNO. A very big difference.

My quick count of the list of museums that did not respond—out of the 108 listed that did not respond, only 26 of them belong to the AAMD, and to belong to the AAMD, you have to have a budget of at least $2 million for 2 years.

It is the minority of museums that have the significant resources to apply toward research.

Of the museums on the list of 108 that did not respond, many have budgets less than $2 million, and many of those museums, 19 of them, to my count, are small community college or small college museums.

So, it is very difficult for those museums to marshall the resources, financial and human resources to respond to the complicated questions asked in the survey. The assistance would have to be material, I am afraid.

Mr. ABLE. Jim, may I add something to that?

Mrs. Maloney, if you look at the chart, it does not mean that all these museums are not cooperating in the work. It means they did not respond to the survey.

There is a chart in the report of 25 major museums, and it is pointed out that five did not respond. Well, they did not respond to the survey, and that is regrettable, but four of them are registered and have registered, collectively, 621 objects on the portal.

So, I think that there needs to be some clarification of some of the statements in the report as to the accuracy, that they can be somewhat misleading.

Mr. RUB. Let me add that I—I should say I think it is unfortunate that some of our colleagues or fellow institutions did not respond to the survey. However, I do not think that lack of response should be taken for—taken in any way to mean that they are not, as Ed mentioned a moment ago, participating actively in this kind of work, particularly if they have collections that include covered objects.

It should also be pointed out that it is not entirely clear to me, at least, whether or not many of these institutions on the list that did not respond actually have covered objects in their collections.

We have a number of members of the AAMD, and there are many more institutions that are not, that either collect contem-

porary art, and so do not work in this field and never have collected in this field, or collect American art or some other types of objects that would not fall under the heading of covered object, as well.

I would also like to come back to points that my colleague, Jim Cuno, made a moment ago, and that is the enormity of the task that is facing many of these institutions in terms of how to fund this work on an ongoing basis.

I have been, as I mentioned in my testimony, at three institutions during the past 8 years that have decided to undertake this work, and in each case, it was a formidable challenge to find the time and the human resources to do this on an ongoing basis.

In each case, we did, but we had to carve the funds to do that out of existing work, and it is a complicated issue to deal with during a time of diminishing resources for support of museums in general.

Mrs. MALONEY. Thank you.

Mr. TAYLOR. Our only request with the survey was that we felt it was important that museums, even if they have no covered objects, would simply answer that, and many did. Many who had no covered objects or where it was not applicable very kindly wrote back, and all of those answers are publicly available on the Web site for people to see.

So, we would just respectfully urge museums, even if their answer is that it does not apply to them, or only to a certain extent, to do so, and maybe my colleagues will assist, so that there is a public record of museums reporting what they have done. The survey does include, also, some larger museums, some of whom are AAM accredited that did not respond.

We welcome responses so that the public can check and look and see what museums are doing, and we just urge them to report that for the benefit of the public.

Mr. LEACH. Mrs. Wasserman-Schultz.

Ms. WASSERMAN-SCHULTZ. Thank you, Mr. Chairman.

Welcome to all of you, and I appreciate the opportunity to listen to your testimony today.

I have questions far beyond the 5-minute time allotment that I have.

So, Mr. Taylor, specifically, I would request that, if you can, come and make an appointment with me so that we can spend some expanded time talking about issues that go beyond just the topic that we are covering here today.

I would surely appreciate it.

Mr. Eizenstat, when you have an opportunity to do that, if you would be willing to do so, as well, I would surely appreciate it.

I represent a district in south Florida that is home to one of the largest, if not the largest, survivor population in the country, and it is a rapidly aging population, one in which even child survivors are now well into their 70's, and some older than that, and there are not many more years left, obviously, that we are going to be able to do anything for them to either improve the quality of life or achieve restitution for them in material ways.

I am wondering, particularly at the Claims Conference, Mr. Taylor, to what degree you've already recovered art, and to what degree—well, let me back up for a second.

I know that you already hold title to a large inventory of property in Germany, and there was not a great deal of understanding as to what that is, what is in your—what is in the Claims Conference's possession, the value of it, and I know a lot of that is land parcels and buildings, but what I am wondering is if any of those holdings are outstanding claims that include art and cultural property.

Additionally, how much in compensation has the Claims Conference received to date from the German authorities for artwork and cultural objects, and if you could elaborate on that, I would appreciate it.

Mr. TAYLOR. Firstly, when we recover buildings and properties, we sell those properties and then allocate those funds primarily for social programs for Holocaust survivors, and for programs of Holocaust education. That is regarding our allocations program, and it is a long and complicated issue. I would be very happy to meet with you and look forward to that opportunity.

Regarding art, we have tried to pursue art claims in the former East Germany, where the Claims Conference has a special status.

We have had limited success. I think it is probably less than about half-a-dozen so far, but there are about 80 claims pending.

Of the handful that we have received, those have been recovered and turned over to heirs, and we have worked with the heirs of those to return those.

We filed about 80 claims which cover some hundreds of objects, maybe up to about 1,000 objects, but it is about 80 claims.

There is a list of them posted on our Web site, where there is a full listing of the individual claims. When we meet, I can certainly point out where that is. Most claimants have come forward, and we are assisting and working with them on those art claims in the former East Germany, but there are, I should say, also a number of claimants in Germany who have filed claims directly. We have given some indirect assistance, but those are filed directly, particularly for the former West Germany, where the deadlines have expired, but efforts still continue to recover items of looted art.

Ms. WASSERMAN-SCHULTZ. I can appreciate your testimony about the creation of the databases that you currently hold about stolen artwork, because obviously, access to that information is important.

Does the Claims Conference publish a similar database of real estate property in Germany, listing things like property parcels, Jewish families who originally owned them? What kind of identification have you been able to surmise, and what about looted property?

Is there no property that you hold title to? How quickly do you sell it? I am just not really knowledgeable about that process.

Mr. TAYLOR. There were certain items that we had recovered, and there was a period for dealing with this issue, and there was a publication of a database which related to these items, and there was a period for dealing with this issue. So, yes, there was a publication.

Ms. WASSERMAN-SCHULTZ. Is that still available?

Mr. TAYLOR. It is not.

The period for claiming for those particular items has expired, but it was available, and there were claims, and there was a claims period after publication.

Ms. WASSERMAN-SCHULTZ. What happened to the property that was not claimed?

Mr. TAYLOR. The Claims Conference uses those funds recovered from items that are not claimed largely for programs of home care, social assistance, and other programs, particularly for programs for needy Holocaust survivors, including some in your district. In over 60 countries around the world, we operate programs providing assistance to Holocaust survivors: food packages; home care; shelter; social care; and various forms of assistance.

Ms. WASSERMAN-SCHULTZ. How many voting members of the Claims Conference board are survivor groups?

Mr. TAYLOR. There are three organizations of survivor groups but there are many Holocaust survivors on the board of the Claims Conference, a very significant number of Holocaust survivors.

I do not have the specific number.

Ms. WASSERMAN-SCHULTZ. Three groups out of how many?

Mr. TAYLOR. Twenty-four groups, but the other groups are Jewish organizations, many of whom have Holocaust survivors and are represented on the Claims Conference by Holocaust survivors.

Ms. WASSERMAN-SCHULTZ. Mr. Chairman, I have a number of other questions, and I do not want to take up the committee's time, because they are not quite as relevant to the topics at hand, but I would like them answered, and if I could ask unanimous consent to submit those questions for the record, I ask that the panelists answer them in written form.

Mr. LEACH. Without objection, they will be submitted for the record and transmitted.

Ms. WASSERMAN-SCHULTZ. Thank you, very much.

Mr. LEACH. Thank you for your contribution.

Let me thank you all.

It is apparent that the United States leads in this effort.

Yet, it may be the case that there is some art fatigue. More can be done. Each of you represented here have contributed impressively to the effort, and so, the committee is very appreciative of your efforts.

I might just suggest, because I do not know how significant this is, but to Mr. Cuno, who heads what, in effect, is an accrediting body, as I understand it—you head an accrediting body of museums?

Mr. CUNO. Yes. No, I do not head the—I headed for one time the AAMD. Accrediting of museums is done through AAM.

Mr. LEACH. Oh, I am sorry, through AAM.

Mr. Able, I do not know how significant in the accreditation the attention to the Holocaust art issue is, but I would hope that you would put it front and center. Is that a credible request, or is it a request that has already been—

Mr. ABLE. Accreditation deals with that issue, Congressman, but in a wider view and way.

Accredited museums are required to demonstrate that they are taking every step to ensure that any item in their collection is legally held. If they had an item that was illegally appropriated by the Nazis, that would be covered in that area.

So, it actually captures a much wider—and it is very carefully looked at by the accrediting visiting evaluators, in their self-study of the institution itself, and then carefully reviewed by the accreditation commission when the accreditation review is done on its regular basis.

Mr. LEACH. I appreciate that very much.

I think the only footnote would be that there is theft and then there is Holocaust theft, and so, to raise this to particular significance, I think, would be good social policy.

Mr. ABLE. Actually, that was done much earlier, back in the late 1990s, when we passed our guidelines.

It has been extensively discussed at the commission meetings and with all the site evaluators.

Mr. LEACH. Well, I appreciate you being well ahead of the committee.

Mr. Eizenstat.

Mr. EIZENSTAT. I just wanted to make a concluding remark.

I first want to thank you for your continuing interest, and Mrs. Maloney for her continuing interest, the chairwoman for having the hearing, but you know, we all have a limited amount of time and resources. The question is where you devote to it, and for sure, American museums can be encouraged to do more, but they have made a huge step forward with this portal.

We ought to get as many to contribute as possible, but they really have done a tremendous job.

The real focus, Mr. Chairman, Mrs. Maloney, really needs to be abroad.

That is where the real problem is. That is where most of the art is that is potentially looted. That is not going to happen unless Congress focuses attention on it and encourages senior people in the Administration to make this an issue they care about. The art issue has not gotten a huge amount of attention, to say the least, from the Administration.

It has sort of fallen off the radar screen. There are a lot of other issues, anti-Semitism and so forth, they have done a very good job with, but now with the art that we are concerned with.

The bulk of it, is going to be in a few countries abroad, and I would just urge the committee to be creative in focusing attention there and focusing the attention of the Executive Branch on pursuing that. In particular, again, an international conference is a way of elevating it. It is an action-forcing device. If countries knew they had to come and report on their progress, you would see a lot more action coming.

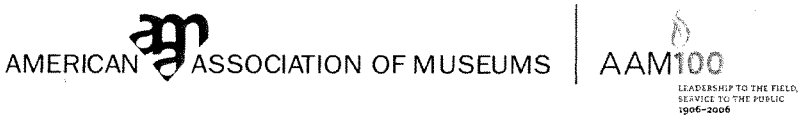
Mr. LEACH. I appreciate that very much. I agree. I would just add to that, because of the steps that you in this panel have taken, the United States is in a much better position to lead. That is, if the American museums had not been as attentive, I do not think we could stand on a very solid basis, and so, your efforts have made our country's position, I think, far more credible than would otherwise be the case.

With that, let me thank you all very much, and I am personally very impressed with each of your statements and with your commitment. The committee is adjourned.

[Whereupon, at 11:58 a.m., the subcommittee was adjourned.]

A P P E N D I X

July 27, 2006



Statement of
Edward H. Able, Jr., President and CEO
American Association of Museums
On Nazi-Era Art Assets
As They Relate to Museums
Presented to the Subcommittee on Domestic
And International Monetary Policy, Trade and Technology
Committee on Financial Services
U.S. House of Representatives
July 27, 2006

Chairman Pryce, Representative Maloney, and members of the subcommittee, I am Edward H. Able, Jr., the President and CEO of American Association of Museums. I am pleased to have the opportunity to appear before you to talk about the actions museums have taken to determine how to pursue the cleansing of our collections of any objects looted by the Nazis without subsequent restitution, to create and use tools and training to do the provenance research needed, to do that research, and to get the results of the research out to the public, including possible claimants of those objects.

The American Association of Museums (AAM), headquartered in Washington D.C., is the national service organization that represents and addresses the needs of museums to enhance their ability to serve the public. AAM establishes and disseminates information on current standards and best practices and provides professional development for museum professionals to ensure that museums have the capacity to contribute to life-long education in its broadest sense and to protect and preserve our shared cultural heritage. Since its founding in 1906, AAM has grown to more than 20,000 members across the United States – including over 16,500 individual members and more than 3,100 museums and other cultural organizations.

Background

As you know, from 1933-45, the Nazi regime looted art objects and other cultural property throughout Europe for a variety of purposes. Because of the complexity of this subject, I am providing, as an attachment to this testimony and for the record, a more detailed account entitled "U.S. Museums and the Nazi-Era Assets Issue" which we provided to the media when we opened the Nazi-Era Provenance Internet Portal in

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September 2003. The following is a very brief summary of some of the key facts from that account.

Following World War II, the allies successfully returned large numbers of looted art objects to the countries of origin. Those countries were then tasked with getting the looted objects to the proper owners. Difficulties in finding the proper owners and in tracing art through the international market complicated that second step in the return process. And what of the works that had already entered the international art market through Nazi-era auctions or the work of Nazi-collaborating dealers?

These are the difficulties that challenge today's researchers of provenance, the history of ownership of works of art. In the mid-1990s, new information made available from the archives of former Eastern Bloc countries after the fall of the Soviet Union and other discoveries made it possible for more of those whose families had had assets appropriated by the Nazis to make claims for the return of those assets. Over the past decade, museums, too, have become more aware of Nazi looting and its possible implications for their collections.

Three cases in 1997 involving museums confirmed the need for museums to have further guidance, standards and best practices in this area. Within nine months in 1998, congressional hearings were held (House Banking and Financial Services Committee, February 12, 1998), a presidential commission was formed (Presidential Advisory Commission on Holocaust Assets in the United States--PCHA), and the Department of State hosted an international conference on Holocaust assets.

In each case, the museum community was present, helping to inform the government of efforts by museums to research and publicize the Nazi-era provenance of objects in their collections and to develop new guidelines, standards, and practices to aid in the resolution of Nazi-era cultural assets issues. And during that year, a task force of the Association of Art Museum Directors (AAMD) was drafting guidance for its members that was published in June 1998. AAM also aggressively addressed the issue in 1998 and released more extensive AAM Guidelines in this area in November 1999. Both called on museums to make public information about objects with incomplete or uncertain Nazi-era provenance. I will discuss AAM's guidelines in more detail below.

During 2000, as museums implemented these guidelines and began to publish their research into provenance on websites, it became clear that there were differences of opinion about what constituted incomplete or uncertain provenance. Congress held additional hearings on Nazi-era assets (House Banking and Financial Services Committee, February 9-10, 2000, and Senate Foreign Relations Committee, April 5, 2000), and the presidential commission (PCHA) weighed a new disclosure standard. Working closely with AAM and AAMD, the PCHA defined, in its January 2001 final report, this new standard as *all* objects acquired by a museum after 1932, created before 1946, that underwent a change of ownership between 1932 and 1946, and that either were or might reasonably be thought to have been in continental Europe between 1932-1946, *regardless of completeness of provenance.* AAM supported these criteria and amended our guidelines to this effect in April 2001, and this standard remains the standard for American museums.

An AAM task force also developed and published (May 2001) procedures for making Nazi-era provenance information available to the public, recommending that museums provide 20 pieces of information for objects covered in the standard above, and that a single, central, searchable gateway for this information be created. That gateway is the Nazi-Era Provenance Internet Portal, which I discuss below.

Key Actions That Museums Knew They Must Take.

With that as background, I want to focus on four key actions that museums knew, from at least 1997, they needed to take, and what the museum community has done to that effect. Those actions are:

I. Establishing guidelines for pursuing the cleansing of our collections of any objects looted by the Nazis without subsequent restitution.

II. Providing the tools and training to museums to do the necessary provenance research.

III. Conducting the research.

IV. Getting the research out to the public, including the claimant community.

Let me address each of those in turn.

I. ESTABLISHING GUIDELINES

By 1998, it was clear that museums needed a better consensus and more clarity about what they should do if they held objects with uncertain or incomplete Nazi-era provenance. By November 1999, AAM's *Guidelines Concerning the Unlawful Appropriation of Objects during the Nazi Era* were published, and, as amended in April 2001, and with AAMD's *Report* of June 1998, they represent the standards under which the museum community operates in this area. I am attaching a copy of the full *Guidelines* for the record. Here are some key highlights from those *Guidelines:*

A. General Principles

i. If there is a possibility that the museum is holding an unlawfully appropriated Nazi-era object, it has a paramount responsibility to practice ethical stewardship.

ii. Museums should strive to identify all "covered objects" in their collections, make object and provenance information accessible, and give priority to continuing provenance research as resources allow.

iii. Museums are encouraged to expand online access to collection information that could aid in the discovery of unlawfully appropriated Nazi-era objects that were not restituted.

iv. AAM supports efforts to make archives and other resources more accessible for these purposes.
v. Museums should strive for a climate of cooperation, reconciliation and commonality of purpose where competing interests may arise.
vi. These guidelines should not be interpreted to place an undue burden on the ability of museums to achieve their missions of public education through their collections.

B. Acquisitions

i. "It is the position of AAM that museums should take all reasonable steps to resolve the Nazi-era provenance status of objects before acquiring them for their collections."
ii. Among those steps are requesting donors or sellers to share their provenance information, considering additional research where provenance for a covered object is incomplete or uncertain, proceeding with acquisition where there is no evidence of unlawful appropriation without restitution, notifying the seller or donor where there is such evidence, under certain circumstances acquiring an object where such acquisition may facilitate further resolution of the object's status, documenting the provenance research, and publishing or displaying recent gifts so as to facilitate further public examination.

C. Loans

i. "It is the position of AAM that in their role as temporary custodians of objects on loan, museums should be aware of their ethical responsibility to consider the status of material they borrow as well as the possibility of claims being brought against a loaned object in their custody."
ii. The steps here are largely similar to those for acquisitions, except that in the case of uncovering credible evidence of unlawful appropriation without subsequent restitution, the borrowing museum is to notify the lender museum of the evidence and not proceed with the loan until further action to clarify these issues.

D. Existing collections

i. "It is the position of AAM that museums should make serious efforts to allocate time and funding to conduct research on covered objects in their collections where provenance is incomplete or uncertain...museums should establish priorities, taking into consideration available resources."
ii. Here the chief steps are to identify covered objects and make object and provenance information public, identify those objects that seem to need more research, search their own records and those of others as needed, incorporate Nazi-era research in their collections research, seek funding for Nazi-era research when seeking exhibition funding, and document their research.

If museums discover credible evidence of unlawfully appropriated objects, they are to make their information public and, if possible, notify potential claimants. If no valid claim is made, the museum may hold the object but should acknowledge its history on labels and publications.

E. Claims of ownership

i. "It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved."

ii. Here a museum should thoroughly and promptly review a claim, conduct its own research, and ask for the claimant's research. If the object is in the museum's collection and there is credible evidence of unlawful appropriation without restitution, the museum should seek to resolve the matter with the claimant; if the object is on loan, the museum should promptly notify the lender.

F. Fiduciary Obligations

i. "Museums affirm that they hold their collections in the public trust when undertaking the activities listed above. Their stewardship duties and their responsibilities to the public they serve require that any decision to acquire, borrow, or dispose of objects be taken only after the completion of appropriate steps and careful consideration."

ii. Museums here should develop appropriate policies and practices in this area and be prepared to respond promptly to public and media inquiries.

G. Commitment of AAM. AAM allocates resources to disseminate these guidelines widely, track the activity of relevant databases, collect examples of best practices, make the above information available, assist in the development of recommended procedures for disclosure, provide electronic links for provenance research, and encourage funding for Nazi-era provenance research.

II. PROVIDING TOOLS AND TRAINING

With clear Guidelines in place, the next step was equipping the museum community to implement the guidance given.

This was no small task. As one expert provenance researcher has noted, Nazi-era provenance research is interdisciplinary. It requires knowledge of art history, the history of collecting, and the locations of archival materials that document the movement of art. The prospective researcher must then immerse him- or herself in military history, modern German history, the structure of the Nazi bureaucracy, and other unfamiliar fields. In the late 1990s there were very few individuals who possessed all these

necessary skills. There was no army of qualified researchers at the ready waiting to be hired, and a massive learning curve awaited anyone assigned to unravel the histories of art objects in the Nazi Era.

Accordingly AAM began developing the resources needed to train museum staff and outside researchers to undertake this specialized work. First, AAM commissioned three of the world's leading experts in Nazi-era provenance research to write a state-of-the-art "how to" manual. Published in June 2001, this 300-page *AAM Guide to Provenance Research* immediately became the standard reference for a new generation of provenance researchers. Covering everything from the history of Nazi looting to detailed descriptions of the key archival sources and how to use them, and including a number of specific case studies, this book is the "Bible" of the field. In the same year, AAM also published the 100-page *Museum Policy and Procedures for Nazi-Era Issues*, designed to help museums implement the Guidelines by providing examples of policy and practices from museums that have integrated the guidelines concepts in their working documents.

AAM also embarked on a multi-year program of hands-on training. In the fall of 2001 and again in 2003, AAM organized and hosted Nazi-Era Provenance Research Seminars at the National Archives and Records Administration Archives II facility in College Park, MD. At these seminars, over 78 researchers from 60 museums, auction houses, and independent organizations underwent two days of intensive training in Nazi-era provenance research, including hands-on work with the key document collections from the Nazi regime and the postwar Allied occupation. Other provenance research training sessions were held at each AAM Annual Meeting from 2001 through 2006. These training sessions and annual update sessions ensure that word of new archival sources, new techniques, and best practices circulate quickly throughout the entire field.

In December 2004, AAM hosted the first International Provenance Research Colloquium in Washington DC. Bringing together experts from throughout Europe as well as the United States, the seminar exposed American researchers to even more, new archival sources and case studies. Findings from the seminar were published earlier this year as *Vitalizing Memory: International Perspectives on Provenance Research*, which placed these new techniques in the hands of the entire field.

Finally, in 2004 AAM launched PROVENANCE-LIST, an Internet discussion forum for professional provenance researchers for museums designed to help them resolve questions relating to museum holdings. The list had 67 subscribers as of July 2006, and members are posting and responding to 3 to 5 detailed provenance research inquiries each month. Through this list, experts throughout the field can pool their knowledge and experience in real time to solve intractable museum-related research problems. The list is of particular importance to researchers at small and middle-sized museums, who may not have the financial resources to attend some of the national training sessions, for it allows them to pose questions directly to experts who work for the largest museums and galleries.

III. **CONDUCTING THE RESEARCH**

Equipped with Guidelines setting out what to do, and tools and training on how to do it, museums have been systematically investigating the ownership history of objects in their collections.

In tackling provenance research, museums have learned that there is no "one-size-fits-all" solution. Hiring new staff or outside consultants are two ways museums have met the need to research the Nazi-era ownership history of objects in the collections. Other museums have found that training current staff, already knowledgeable about their collection and records, is more efficient in their situation. Some museums have divided the work between several staff members, since the various steps in researching a collection require different skill sets.

Whether conducted in-house or done by outside experts, provenance research continues to require a substantial commitment of museums' limited resources. General provenance research for objects with no prior indication of Nazi looting costs anywhere from $40 to $60 per hour. Each object's ownership history is unique, and the time necessary to document a provenance for even one object can vary enormously. One prominent researcher notes that documenting a painting of a well-known European artist with substantial published literature may take a qualified researcher as little as a week. Documenting a provenance for a minor artist with limited published literature might take a month. For a work with a particularly opaque history of sales and transfers, the research can take months or years, and involve trips to archives in both the United States and Europe.

Moreover, these estimates are for ordinary objects that turn out to have no history of Nazi looting. When the initial research does suggest the possibility of such looting, requiring that specialist World War II-era archives be consulted, the time required and the total expense can double or triple. One museum spent $20,000 plus travel and expenses over the course of two years to have a professional researcher resolve the history of just three paintings.

IV. SHARING RESULTS WITH THE PUBLIC

Parallel with this program of training, AAM moved to fulfill the museum community's commitment made to the Presidential Advisory Commission on Holocaust Assets in the United States to create a searchable, online database for releasing collections information to the public and sharing the results of provenance research.

In 2002, AAM proposed to the federal Institute of Museum and Library Services that AAM build and manage the central online registry called for in the PCHA agreement. IMLS and a coalition of private foundations representing the fine arts community and the claimant community agreed to fund the project, called the Nazi-Era Provenance Internet Portal. This Portal would provide an online, searchable registry of objects in US museum collections that may have changed hands anywhere in Continental Europe under any circumstances between 1932 and 1946.

After a rapid design and development phase, the Portal opened to museums to enter data in April 2003 and to the public for research in September 2003. The launch of the Portal received broad coverage in the national and international press, helping to ensure that claimants and other members of the public were aware of its availability as a resource.

Now in its third year, the Portal continues to fulfill its mission of giving people seeking lost objects a "one-stop shop" to check whether the object they are seeking might be located in a US museum. The Portal now includes over 150 participating museums, which together have registered more than 18,000 objects in their collections that may have changed hands in Continental Europe between 1932 and 1946. New objects and new participating museums continue to be added every month.

It is important to note that the objects listed on the Portal are those that conform to the comprehensive and objective definition recommended by claimants' advocates and endorsed by the PCHA: that is, *any* object that may have changed hands in Continental Europe between 1932 and 1946 *under any circumstances*. This means the Portal includes:

- Objects whose complete ownership history is known and without gaps, but whose history includes one or more sales in Continental Europe between 1932 and 1946;
- Objects with gaps in their ownership history between 1932 and 1946 (recalling that a gap in provenance does not equate to evidence of looting – there are many reasons for incomplete ownership histories);
- Objects known to have been looted by the Nazis, successfully restituted to their rightful owners after World War II, and then transferred legitimately; and
- Objects that are not uniquely identifiable, such as prints, decorative arts, and photographs.

Finding an object on the Portal simply means that the object was in Continental Europe between 1932 and 1945 and may have changed hands one or more times.

Since it opened to the public, the Portal has run over 100,000 searches for missing objects, and is still routinely running 60 to 80 searches a day, week in and week out. Potential claimants who find an object similar to the one they are seeking can contact the museum in whose collection the object is located, review online or request detailed provenance records, and, based on the results of the inquiry, quickly eliminate the object as a potential match or flag it as being worthy of close and detailed investigation. The Portal is available around the clock for public use at http://www.nepip.org/

V. SCOPE OF THE ISSUE

One of the most frequently asked questions is "how many **potentially** looted objects are located in US museums?" Unfortunately, this is also one of the hardest questions to answer. Prior to the 1970s the entire art trade was conducted on a centuries-old tradition of handshake deals. Little systematic attention was paid to recording and

documenting provenance as part of title. As a result, when you look at the ownership histories of objects in US museums, you will still find gaps in provenance.

That said, after several years of intensive activity, we can state with some confidence that the general answer is "not many"—probably on the order of scores rather than hundreds or thousands in the entire United States.

It has been nearly eight years since museums began to scrutinize their collections for Nazi-era gaps in provenance. It has been nearly three years since museums began centrally to release collections information by registering objects in the Nazi-Era Provenance Internet Portal. In that period, there have been a total of 22 public settlements concerning Nazi-era looting claims for works of art found in American art museums (some of which involve works on loan to a museum or works the museum was researching prior to purchase). There are also 6 additional Nazi-era looting claims involving American art museums that have been publicly announced but not yet finally resolved.

Adding the roughly 6 pending claims to the 22 settlements already reached equals a total of about 30 instances in which serious questions have been raised in connection with potential Nazi-era looting of works of art now located in US art museums —this after eight years of intensive scrutiny of collections and huge and ongoing strides in transparency.

Even one looted object is too many, and museums remain committed to doing the work necessary to clarify the Nazi-era ownership history of every object in their collections and sharing the results with the public. However, given the systematic scrutiny the major US collections have already undergone, and the increasing accessibility of information from smaller and mid-sized museums through the Nazi-Era Provenance Internet Portal, it seems very unlikely that any large troves of looted objects remain to be found. The remaining cases will come one by one, as the result of the patient work of researchers in museums and the claimant community pooling resources and information and working together to close the remaining gaps.

Conclusion

As soon as museums became aware that new information about Nazi-era objects had changed the landscape, they moved promptly to clarify what the museum community should do, to put the right tools and training into the hands of museum professionals, to do the necessary provenance research, and to make the results of that research available to potential claimants and the public. We were happy to agree with the Presidential Commission to disclose *every* work in our collections that might have been in Europe in the Nazi era and may have changed hands *even if it had complete and unimpeachable provenance*, because this rightly allows everyone to make his or her own judgment.

It is worth noting again, however, that the costs of doing this research are not insignificant even in easy-to-resolve cases and can involve tens of thousands of dollars in the case of a single object. AAM's Guidelines try to strike a balance between the

moral urgency of resolving every one of these cases promptly and fairly and the reality on the ground of limited resources and the museum's primary mission to educate. Those resource problems tend to be more serious for mid- to small-sized institutions. While aware of current budget constraints, AAM encourages Congress to consider allocating additional grant funding for museums, aimed at provenance research, to add to the funds of their own that museums are already using, so the research can proceed more quickly. The Institute of Museum and Library Services is the principal means by which the federal government provides grants for museum activities.

In our view, the evidence of American museum actions to resolve claims promptly and fairly as they arise speaks well for the museum community. It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved. Each claim should be considered on its own merits. AAM acknowledges that museums may elect to waive available legal defenses, and the record shows that this is exactly what museums have done and continue to do when presented with meritorious claims. We strongly feel that direct, respectful engagement between museums and claimants leads to the most rapid settlement of meritorious claims with the least cost to both parties, and can think of no alternate system that would improve upon it.

In conclusion, museums have sought to make good faith efforts to be transparent about what we know and what we are doing, and to be accessible to claimants and members of the public who may have questions in this area. The results of those efforts continue to be fruitful for museums, claimants, and the general public.

AMERICAN ASSOCIATION OF MUSEUMS

Nazi-Era Provenance
INTERNET PORTAL

U.S. Museums and the Nazi-Era Assets Issue

From the time it came into power in Germany in 1933 through the end of World War II in 1945, the Nazi regime orchestrated a program of theft, confiscation, coercive transfer, looting, pillage, and destruction of objects of art and other cultural property in Europe on a massive and unprecedented scale. Some objects were sold to fund Nazi activities, while others were intended for the private collections of high-ranking officials or the museum Adolph Hitler planned to build in Linz, Austria. As the war drew to a close, the Nazis spirited many of these objects to hidden repositories throughout lower Austria and Germany.

Following the war, the Monuments, Fine Arts and Archives program of the Occupation Government of Germany undertook to collect, document, and return art looted by the Nazis that had been discovered in these hidden repositories. Art was returned to its country of origin; it was then incumbent on individual countries to complete the restitution process by returning the objects to original owners or their legal successors.

These noble efforts succeeded in processing huge numbers of works stolen by the Nazis. But once these objects were returned to their countries of origin, their fate became less certain. Many owners or heirs were impossible to find because so many families had perished during the Holocaust. And what of the works that had already entered the international art market through Nazi-era auctions or the work of Nazi-collaborating dealers? These are the difficulties that challenge today's provenance researchers.

The last decade has seen a growing awareness of the extent and significance of Nazi looting of cultural property. Many factors have contributed to this awareness, including the opening of archives following the reunification of Germany and the dissolution of the Soviet Union as well as the declassification of World War II documents in the United States. The discovery that Swiss banks were holding gold from Nazi victims caused attention to be focused on other asset categories such as insurance policies and cultural property. Lynn H. Nicholas's *The Rape of Europa* (1994), gave the subject a popular profile, and a conference organized by Bard Graduate Center for Studies in the Decorative Arts in 1995, called The Spoils of War, brought interested parties together for the first time to address the topic in a public forum. The 50th anniversary of the World War II Armistice in 1995 also renewed attention to the events of the war.

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In the past ten years museums, too, have become more aware of Nazi looting, and its possible implications for their collections. Increasingly, museums recognized that objects unlawfully appropriated during the Nazi era without subsequent restitution - neither return of the object nor payment of compensation to the object's original owner or legal successor - had entered the international art market and may have made their way into museum collections. Then, in 1997, three cases firmly positioned this issue on the agenda of the art museum community.

The Art Institute of Chicago (AIC) was drawn into a case involving a pastel by Edgar Degas purchased from a dealer in 1987 by a trustee at the recommendation of an AIC curator. The work was claimed by a Dutch family, and AIC helped broker a half-purchase/half-donation arrangement in which the heirs received compensation and the museum received the work of art. In response to a claim for a Matisse painting in its collection, the Seattle Art Museum returned the object to the heirs of the original owner, then reached a settlement with the dealer from whom their donor had purchased the painting. Also, the Museum of Modern Art in New York received claims for two paintings by Egon Schiele on loan from the Leopold Foundation in Austria. While the museum wished to honor its contract with the lender and return the paintings to Austria, where the claim could be taken up with the actual owners, it has been able to return only one painting; the other remains, as of this writing, tied up in federal forfeiture proceedings. These cases illustrated the complexity of Nazi-era issues and confirmed that this topic had to be addressed by the museum community. Consequently, they have served as catalysts for the development of related guidance, standards, and best practices for the museum profession.

With increased press and public attention, the federal government shifted focus from gold to cultural assets. Within nine months in 1998, congressional hearings were held, a presidential commission was formed, and the Department of State hosted an international conference on the subject of Holocaust-era assets. In each case, the museum community was present, helping to inform the government of efforts by museums to research and publicize the Nazi-era provenance of objects in their collections and to develop new guidelines, standards, and practices to aid in the resolution of Nazi-era cultural assets issues. Indeed, throughout that same year, the Association of Art Museum Directors (AAMD) task force—partially comprised of the museum directors who had testified before Congress—drafted a report intended to guide its members. The resulting *Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945)* was issued in June 1998.

The American Association of Museums (AAM) also began formally considering the issue in 1998. In April 1999, the AAM Board of Directors asked a working group to draft guidelines to assist museums in addressing the problems of objects that were unlawfully appropriated during the Nazi era without subsequent restitution. The *AAM Guidelines Concerning the Unlawful Appropriation of Objects during the Nazi Era* were presented to the AAM Board of Directors for approval in November 1999, and were issued to the field later that month. The AAMD and AAM documents both instructed museums to

make public information about objects with incomplete or uncertain Nazi-era provenance, and museums began to undertake the necessary research.

By mid-2000 many museums were actively implementing the guidelines. Researchers were gaining expertise in Nazi-era provenance research, and several museums posted information on their Web sites about objects in their collections which they considered to have incomplete or uncertain provenance. From the differing scope of materials posted on Web sites, it became clear that interpretation of what constituted incomplete or uncertain provenance varied from one museum to another. In addition, as provenance researchers gained experience examining works in their collections, they learned that the appearance of a suspicious name in a provenance or gaps in ownership histories were not always reliable indicators of unlawful appropriation without subsequent restitution. Instances arose in which objects with incomplete or uncertain provenance were cleared of suspicion from unlawful appropriation, while some with apparently complete ownership histories turned out to be problematic.

As the museum community grappled with the issue of consistency, AAM began the process of a formal development of standards and best practices. Meanwhile, the Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) likewise concluded that a standard for disclosure of information would be beneficial to claimants seeking the return of unlawfully appropriated property that may be in the custody of museums. The commission began weighing the acceptance within the museum community of a standard it termed "full disclosure"—making public information on all objects in the collection that could have changed hands in Europe during the Nazi era, not solely those with incomplete or uncertain provenance.

In October 2000, AAM and AAMD joined with PCHA as it wrote its final report to better define a standard for disclosure of collections information. In January 2001, PCHA issued its final report, which incorporated the agreed-upon standard for disclosure and recommended the creation of a searchable central registry of information provided by museums in accordance with the new standard. The body of objects included in this standard—referred to in AAM documents as covered objects—were those acquired by a museum after 1932, created before 1946, that underwent a change of ownership between 1932 and 1946, and that either were or might reasonably be thought to have been in continental Europe between 1932 and 1946.

In summary, the agreement changed the standards from those suggested in AAM's and AAMD's original guidance documents (that museums make public information about objects whose Nazi-era provenance is incomplete or uncertain) to a recommendation that information about all objects transferred in continental Europe between 1932 and1946 be made public, regardless of completeness of provenance. AAM and AAMD agreed to support this recommendation, and both AAM's guidelines and AAMD's task force report were amended in April 2001 to reflect this new standard.

Prior to the release of the commission's report, AAM formed a task force to address the mechanics of making information public. The result of its work is *AAM Recommended*

Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era, adopted in May 2001. This important document includes two vital recommendations for making such information public: (1) that museums strive to make public a set of 20 pieces of information most useful in aiding the discovery of objects that were unlawfully appropriated, and (2) that a single, central, searchable gateway to this information be developed.

AAM accepted the responsibility of developing this Internet-accessible, searchable registry. The result is the Nazi-Era Provenance Internet Portal. Development and management of the Portal is made possible through generous support from the Institute of Museum and Library Services, Commission for Art Recovery of the World Jewish Congress, Samuel H. Kress Foundation, The Getty Grant Program, the Conference on Jewish Material Claims Against Germany – Rabbi Israel Miller Fund for Shoah Research, Documentation, and Education, and the Max and Victoria Dreyfus Foundation.

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AMERICAN ASSOCIATION OF MUSEUMS

AMERICAN ASSOCIATION OF MUSEUMS GUIDELINES CONCERNING THE UNLAWFUL APPROPRIATION OF OBJECTS DURING THE NAZI ERA
Issued by AAM, November 1999 and amended April 2001

Introduction
From the time it came into power in 1933 through the end of World War II in 1945, the Nazi regime orchestrated a system of theft, confiscation, coercive transfer, looting, pillage, and destruction of objects of art and other cultural property in Europe on a massive and unprecedented scale. Millions of such objects were unlawfully and often forcibly taken from their rightful owners, who included private citizens, victims of the Holocaust; public and private museums and galleries; and religious, educational, and other institutions.

In recent years, public awareness of the extent and significance of Nazi looting of cultural property has grown significantly. The American museum community, the American Association of Museums (AAM), and the U.S. National Committee of the International Council of Museums (AAM/ICOM) are committed to continually identifying and implementing the highest standard of legal and ethical practices. AAM recognizes that the atrocities of the Nazi era demand that it specifically address this topic in an effort to guide American museums as they strive to achieve excellence in ethical museum practice.

The AAM Board of Directors and the AAM/ICOM Board formed a joint working group in January 1999 to study issues of cultural property and to make recommendations to the boards for action. The report that resulted from the initial meeting of the Joint Working Group on Cultural Property included the recommendation that AAM and AAM/ICOM offer guidance to assist museums in addressing the problems of objects that were unlawfully appropriated during the Nazi era without subsequent restitution (i.e., return of the object or payment of compensation to the object's original owner or legal successor).

The efforts of the Working Group were greatly informed by the important work on the topic that had gone before. In particular, three documents served as a starting point for the AAM guidelines, and portions of them have been incorporated into this document. These include: Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945); ICOM Recommendations Concerning the Return of Works of Art Belonging to Jewish Owners; and Washington Conference Principles on Nazi-Appropriated Art released in connection with the Washington Conference on Holocaust-Era Assets co-hosted by the U.S. Department of State and the United States Holocaust Memorial Museum.

The Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) was created in June 1998 to study and report to the president on issues relating to Holocaust victims' assets in the United States. AAM and the Association of Art Museum Directors (AAMD) worked with the PCHA to establish a standard for disclosure of collections information to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums. In January 2001, the PCHA issued its final report, which incorporated the agreed standard for disclosure and recommended the creation of a searchable central registry of the information museums disclose in accordance with the new standard. AAM and AAMD agreed to support this recommendation, and these guidelines have been amended to reflect the agreed standard for disclosure of information.

Finally, AAM and AAM/ICOM acknowledge the tremendous efforts that were made by the Allied forces and governments following World War II to return objects to their countries of origin and to original owners. Much of the cultural property that was unlawfully appropriated was recovered and returned, or owners received compensation. AAM and AAM/ICOM take pride in the fact that members of the

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American museum community are widely recognized to have been instrumental in the success of the post-war restitution effort. Today, the responsibility of the museum community is to strive to identify any material for which restitution was never made.

General Principles
AAM, AAM/ICOM, and the American museum community are committed to continually identifying and achieving the highest standard of legal and ethical collections stewardship practices. The AAM Code of Ethics for Museums states that the "stewardship of collections entails the highest public trust and carries with it the presumption of rightful ownership, permanence, care, documentation, accessibility, and responsible disposal."

When faced with the possibility that an object in a museum's custody might have been unlawfully appropriated as part of the abhorrent practices of the Nazi regime, the museum's responsibility to practice ethical stewardship is paramount. Museums should develop and implement policies and practices that address this issue in accordance with these guidelines.

These guidelines are intended to assist museums in addressing issues relating to objects that may have been unlawfully appropriated during the Nazi era (1933-1945) as a result of actions in furtherance of the Holocaust or that were taken by the Nazis or their collaborators. For the purposes of these guidelines, objects that were acquired through theft, confiscation, coercive transfer, or other methods of wrongful expropriation may be considered to have been unlawfully appropriated, depending on the specific circumstances.

In order to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums, the PCHA, AAMD, and AAM have agreed that museums should strive to: (1) identify all objects in their collections that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects"); (2) make currently available object and provenance (history of ownership) information on those objects accessible; and (3) give priority to continuing provenance research as resources allow. AAM, AAMD, and PCHA also agreed that the initial focus of research should be European paintings and Judaica.

Because of the Internet's global accessibility, museums are encouraged to expand online access to collection information that could aid in the discovery of objects unlawfully appropriated during the Nazi era without subsequent restitution.

AAM and AAM/ICOM acknowledge that during World War II and the years following the end of the war, much of the information needed to establish provenance and prove ownership was dispersed or lost. In determining whether an object may have been unlawfully appropriated without restitution, reasonable consideration should be given to gaps or ambiguities in provenance in light of the passage of time and the circumstances of the Holocaust era. AAM and AAM/ICOM support efforts to make archives and other resources more accessible and to establish databases that help track and organize information.

AAM urges museums to handle questions of provenance on a case-by-case basis in light of the complexity of this problem. Museums should work to produce information that will help to clarify the status of objects with an uncertain Nazi-era provenance. Where competing interests may arise, museums should strive to foster a climate of cooperation, reconciliation, and commonality of purpose.

AAM affirms that museums act in the public interest when acquiring, exhibiting, and studying objects. These guidelines are intended to facilitate the desire and ability of museums to act ethically and lawfully

as stewards of the objects in their care, and should not be interpreted to place an undue burden on the ability of museums to achieve their missions.

Guidelines

1. Acquisitions

It is the position of AAM 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.

a) Standard research on objects being considered for acquisition should include a request that the sellers, donors, or estate executors offering an object provide as much provenance information as they have available, with particular regard to the Nazi era.

b) Where the Nazi-era provenance is incomplete or uncertain for a proposed acquisition, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before acquiring it. Such research may involve consulting appropriate sources of information, including available records and outside databases that track information concerning unlawfully appropriated objects.

c) In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the acquisition. Currently available object and provenance information about any covered object should be made public as soon as practicable after the acquisition.

d) If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the donor, seller, or estate executor of the nature of the evidence and should not proceed with acquisition of the object until taking further action to resolve these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

e) AAM acknowledges that under certain circumstances acquisition of objects with uncertain provenance may reveal further information about the object and may facilitate the possible resolution of its status. In such circumstances, the museum may choose to proceed with the acquisition after determining that it would be lawful, appropriate, and prudent and provided that currently available object and provenance information is made public as soon as practicable after the acquisition.

f) Museums should document their research into the Nazi-era provenance of acquisitions.

g) Consistent with current practice in the museum field, museums should publish, display, or otherwise make accessible recent gifts, bequests, and purchases, thereby making all acquisitions available for further research, examination, and public review and accountability.

2. Loans

It is the position of AAM that in their role as temporary custodians of objects on loan, museums should be aware of their ethical responsibility to consider the status of material they borrow as well as the possibility of claims being brought against a loaned object in their custody.

a) Standard research on objects being considered for incoming loan should include a request that lenders provide as much provenance information as they have available, with particular regard to the Nazi era.

b) Where the Nazi-era provenance is incomplete or uncertain for a proposed loan, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before borrowing it.

c) In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the loan.

d) If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the lender of the nature of the evidence and should not proceed with the loan until taking further action to clarify these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

e) AAM acknowledges that in certain circumstances public exhibition of objects with uncertain provenance may reveal further information about the object and may facilitate the resolution of its status. In such circumstances, the museum may choose to proceed with the loan after determining that it would be lawful and prudent and provided that the available provenance about the object is made public.

f) Museums should document their research into the Nazi-era provenance of loans.

3. Existing Collections
It is the position of AAM that museums should make serious efforts to allocate time and funding to conduct research on covered objects in their collections whose provenance is incomplete or uncertain. Recognizing that resources available for the often lengthy and arduous process of provenance research are limited, museums should establish priorities, taking into consideration available resources and the nature of their collections.

Research
a) Museums should identify covered objects in their collections and make public currently available object and provenance information.

b) Museums should review the covered objects in their collections to identify those whose characteristics or provenance suggest that research be conducted to determine whether they may have been unlawfully appropriated during the Nazi era without subsequent restitution.

c) In undertaking provenance research, museums should search their own records thoroughly and, when necessary, contact established archives, databases, art dealers, auction houses, donors, scholars, and researchers who may be able to provide Nazi-era provenance information.

d) Museums should incorporate Nazi-era provenance research into their standard research on collections.

e) When seeking funds for applicable exhibition or public programs research, museums are encouraged to incorporate Nazi-era provenance research into their proposals. Depending on their particular circumstances, museums are also encouraged to pursue special funding to undertake Nazi-era provenance research.

f) Museums should document their research into the Nazi-era provenance of objects in their collections.

Discovery of Evidence of Unlawfully Appropriated Objects
g) If credible evidence of unlawful appropriation without subsequent restitution is discovered through research, the museum should take prudent and necessary steps to resolve the status of the object, in consultation with qualified legal counsel. Such steps should include making such information public and, if possible, notifying potential claimants.

h) In the event that conclusive evidence of unlawful appropriation without subsequent restitution is found but no valid claim of ownership is made, the museum should take prudent and necessary steps to address the situation, in consultation with qualified legal counsel. These steps may include retaining the object in the collection or otherwise disposing of it.

i) AAM acknowledges that retaining an unclaimed object that may have been unlawfully appropriated without subsequent restitution allows a museum to continue to care for, research, and exhibit the object for the benefit of the widest possible audience and provides the opportunity to inform the public about the object's history. If the museum retains such an object in its collection, it should acknowledge the object's history on labels and publications.

4. Claims of Ownership
It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved. Each claim should be considered on its own merits.

a) Museums should review promptly and thoroughly a claim that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution.

b) In addition to conducting their own research, museums should request evidence of ownership from the claimant in order to assist in determining the provenance of the object.

c) 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.

d) If a museum receives a claim that a borrowed object in its custody was unlawfully appropriated without subsequent restitution, it should promptly notify the lender and should comply with its legal obligations as temporary custodian of the object in consultation with qualified legal counsel.

e) When appropriate and reasonably practical, museums should seek methods other than litigation (such as mediation) to resolve claims that an object was unlawfully appropriated during the Nazi era without subsequent restitution.

f) AAM acknowledges that in order to achieve an equitable and appropriate resolution of claims, museums may elect to waive certain available defenses.

5. Fiduciary Obligations
Museums affirm that they hold their collections in the public trust when undertaking the activities listed above. Their stewardship duties and their responsibilities to the public they serve require that any

decision to acquire, borrow, or dispose of objects be taken only after the completion of appropriate steps and careful consideration.

a) Toward this end, museums should develop policies and practices to address the issues discussed in these guidelines.

b) Museums should be prepared to respond appropriately and promptly to public and media inquiries.

Commitment of AAM
As part of its commitment to identifying and disseminating best practices, AAM will allocate resources:

a) to disseminate these guidelines widely and frequently along with references to other guidelines, principles, and statements that exist on the topic

b) to track the activity and purpose of the relevant databases and other resources and to compile bibliographies for dissemination to the United States museum community

c) to collect examples of best practices and policies on Nazi-era provenance research and claims resolution from the museum field, both in the United States and abroad, as guidelines for other museums

d) to make the above information available to the museum community through reports, conference sessions, and other appropriate mechanisms

e) to assist in the development of recommended procedures for object and provenance information disclosure

f) to provide electronic links from AAM's Web site to other resources for provenance research and investigate the feasibility of developing an Internet tool to allow researchers easier access to object and provenance information about covered objects in museum collections.

g) to encourage funding of Nazi-era provenance research.

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AMERICAN ASSOCIATION OF MUSEUMS | AAM100

Edward H. Able, Jr.
President & CEO, American Association of Museums

Edward H. Able, Jr. has been the President and CEO of the American Association of Museums (AAM) since July 1986.

Before his appointment to AAM, Mr. Able served for nine years as Chief Staff Executive of the American Society of Landscape Architects and the Landscape Architecture Foundation. He also served for four and a half years as the Assistant Director of the Resident Associate program at the Smithsonian Institution, and worked as a Washington-based management consultant and as a staff aide to US Senators Mike Mansfield and Richard B. Russell.

He is an author and lecturer on the management of nonprofit organizations, and senior leader in the arts and humanities community. He has served on the Boards of Directors of the American Society of Association Executives, Greater Washington Society of Association Executives, National Center for Non-Profit Enterprise, Travel Industry Association of America, and is currently on the boards of the National Humanities Alliance and Independent Sector, a nonprofit coalition of more that 700 national nonprofit organizations, foundations, and corporate philanthropy. He is also the immediate past chair of the Board of BoardSource (formerly the National Center for Non-Profit Boards) where he served on the board for thirteen years.

Able is a Fellow of American Society of Association Executives and in 1990 received the Key Award, its highest and most distinguished award for service, dedication, and contributions to the field of association management. He has been named to annual The NPT Power and Influence Top 50 in the non-profit sector by *The NonProfit Times* every year since 1997. He earned an MBA from George Washington University and holds a B.A. in chemistry from Emory University in Atlanta.

ASSOCIATION OF ART MUSEUM DIRECTORS
ART INSTITUTE OF CHICAGO

STATEMENT BY JAMES CUNO, DIRECTOR OF ART INSTITUTE OF CHICAGO
TO
SUBCOMMITTEE ON DOMESTIC AND INTERNATIONAL MONETARY POLICY, TRADE AND TECHNOLOGY
OF THE COMMITTEE ON BANKING AND FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES
JULY 27, 2006

Madame Chairman and distinguished members of the committee, I am James Cuno, President and Director of the Art Institute of Chicago. I testify today on behalf of the Association of Art Museum Directors (AAMD), where I served as President of the Board in 2000-1, and on behalf of the Art Institute, where I have been President and Director since 2004.

I thank the Committee for holding these hearings. It is important that Congress and the American people have periodic updates on the work U.S. art museums are doing to research the provenance records of works of art in our collections, especially those which may have been looted during World War II and not restituted to their rightful owners. It is my understanding that today's hearings are the second such hearings since the Committee's initial hearings under then-chairman Congressman James Leach eight years ago. In addition, AAMD testified before the Washington Conference on Holocaust-Era Assets in 1998.

I am a child of a thirty-year, career U.S. Air Force officer. My father served in World War II, the Korean War, and the Vietnam War. He was taken prisoner of war during the Korean War, and for the greater part of a year we did not know if he was alive or dead. I am aware of the physical and psychological trauma of warfare. And, like everyone, I deplore the circumstances during World War II that resulted in the unjust deaths of millions of people and the illegal taking of their personal property. All of us want to resolve any and all legitimate claims against U.S. art museums regarding the possible existence within our collections of works of art looted during World War II and not restituted to their rightful owners. To that end, we have been diligently researching our collections since--and even before--this Committee first met on this subject in 1998.

In a moment I will speak to some of the claims that have been resolved, but before I do, let me briefly review some of the points we discussed before this committee in 1998 and 2000.

AAMD, which has approximately 170 members and was founded in 1916, has been a consistent champion of the highest standards for art museums, standards that enable art museums to bring important works of art to the public we serve. Since 1973, AAMD has included in its *Professional Practices in Art Museums* the admonition that museums must not acquire works that have been stolen or removed in violation of a treaty or convention

to which the U.S. is a party. The current version of that admonition, found in its 2001 edition, states that "The director must not knowingly acquire or allow to be recommended for acquisition any object that has been stolen, illegally imported into the jurisdiction in which the museum is located, or removed in contravention of treaties and international conventions to which the jurisdiction is signatory." AAMD members take this admonition seriously.

In 1998 AAMD published its much-praised *Report of the AAMD Task Force on Spoliation of Art During the Nazi/World War II Era (1933- 1945),* which gives specific guidance regarding provenance research and how to handle claims. I was pleased to serve on the committee that drafted these guidelines. As early as 1999, 100% of AAMD members who had collections that could include Nazi-stolen art reported that they had begun the in-depth research required by the AAMD Report. I understand that our report has been helpful to our European colleagues, who are engaged in similar research and publication of provenance research on works of art in their collections.

As a matter of course, AAMD reviews its current reports and guidelines. The 1998 Report of the AAMD Task Force has been reviewed regularly by AAMD's Board of Trustees and professional responsibilities committee. In December 2000, the Presidential Advisory Commission on Holocaust Assets in the United States issued a report. Consistent with the report of the Commission, the AAMD Task Force issued an addendum to its June 1998 report on April 30, 2001, emphasizing AAMD member museums' commitment to openness and transparency, adding for emphasis the following sentence: "It should be the goal of member museums to make full disclosure of the results of their ongoing provenance research on those works of art in their collections created before 1946, transferred after 1932 and before 1946, and which were or could have been in continental Europe during that period, giving priority to European paintings and Judaica."

Of all of the art museums in the U.S., approximately half have no permanent collection, or have collections of only contemporary, many of which are of only local or regional art, and by definition do not have Nazi-era looted art in their collections. This is true also of 30% of AAMD's 170 member museums: only 120 member museums could have Nazi-era looted art in their collections.

The 120 AAMD member museums that may have Nazi-era looted art in their collections have collections totaling 18 million works of art. Of these, fewer than 20,000 are European paintings, thousands of which were acquired <u>before</u> World War II. Unlike Eastern and Western Europe, the U.S. was never a repository for any of the 200,000 works of art recovered after the war. Any Nazi-era looted art that may be in U.S. art museums is there as a result of second-, third-, or even fourth-generation, good faith transactions. I mention this only to remind us of the scale of the potential problem in this country: the likelihood of there being problems in U.S. art museums is relatively low; nevertheless, the amount of research to be undertaken on the tens of thousands of works of art that, by definition, may have Nazi-era provenance problems is significant, requiring large allocations of staff time and money, allocations U.S. art museums have made and will make until the job is done.

Of the tens of thousands of potential problems in U.S. art museums collection, only 22 claims have resulted in settlements or the restitution of works of art from U.S. art museums since 1998; some at these at the initiative of the museums themselves, others in response to claims on works of art by their rightful owners. (Please see the attached list, Appendix A, which I believe to be complete as of today.)

U.S. art museums are fully committed to weighing and thoroughly investigating claims of title to specific works in their collection. And yet we must bear in mind that U.S. art museums hold their collections, not for the benefit of the museum, its staff or its trustees, but for the public. Consequently, we have an obligation to assure the public that any work removed from the public domain--from *their* domains--is done so lawfully and only after full and complete provenance research. We only have one chance to get it right. When museums are charged with moving too slowly in returning works assumed to have been Nazi-looted, we should remember that, to date, the majority of claims against U.S. art museums have proven to be invalid.

In the most recent case of restituted art, the Kimbell Art Museum in Fort Worth, Texas returned its only painting by the 19th-century English landscape painter, Joseph Mallord William Turner to the heirs of the legitimate owner. The Kimbell, which purchased the painting in 1966, was contacted by one of the heirs in September 2005 after his decade-long search to restore to his family works of art that had been part of a forced sale. After reviewing the documentation of the heirs and conducting its own research, the Kimbell Art Museum determined that the painting had been part of a forced sale and that the heirs did represent the legitimate owner. On May 17, 2006 the Kimbell agreed to restore the painting to the heirs, who have since taken physical possession of it.

In another case in 2002, the Detroit Institute of Arts had a painting shipped from a dealer in London for further study pending acquisition. In researching the work, by the Dutch painter Ludolf Backhuysen, the museum suspected that it may have been looted during the Nazi era and not restituted to its rightful owner. The museum contacted the London dealer. And together they engaged the Art Loss Registry to research the identification of the original owner. After 18 months of intensive examination of archives in several countries, it was determined that the work had indeed been looted by the Nazis from a Jewish collector. Incurring substantial legal fees for a painting it did not own, the museum, along with the Art Loss Registry and the dealer, continued their efforts to locate the heirs of the original owner. They eventually found the owner, who then sold the painting to the museum for full market value.

There are six pending claims against U.S. art museums. These are currently under review by those museums. At the same time, and systematically, all AAMD member museums with potential Nazi-era provenance problems are researching the provenance records of their collections according to the standards and practices of both the American Association of Museums (AAM) and AAMD and in accord with the Washington Conference Principles on Nazi-Confiscated Art of 1998. U.S. art museums are fully committed to this research. One work of art wrongfully in the collection of a U.S. art museums is one work of art too many. We stand committed to this principle.

Let me now speak about the efforts we have made at the Art Institute of Chicago to research the provenance of our collections and post our findings.

The Art Institute of Chicago's permanent collection encompasses more than 5,000 years of creative achievement and spans cultures worldwide. Approximately 250,000 works of art are held in ten curatorial departments: African and Amerindian Art, Architecture, American Art, Asian Art, European Decorative Arts and Sculpture and Ancient Art, Contemporary Art, Medieval through Modern European Painting and Modern European Sculpture, Photography, Prints and Drawings, and Textiles.

Our efforts focused specifically on Holocaust-era provenance questions began with a survey of our collection in 1997, even before the AAM issued its *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era* (approved, November 1999, amended, April 2001), and before the AAMD *Report* and the Washington Conference Principles of 1998. Our 1997 survey sought to determine the number of paintings, sculptures, and drawings in our collection that were created before 1946 and acquired by the museum after 1932. Our survey thus exceeded the expectations established in the AAM and AAMD guidelines, which suggested that the initial focus of research should be European paintings and Judaica.

At present, based upon our current database search capabilities, we estimate that our collection includes 7,481 works of art that were created before 1946 and acquired by the museum after 1932 (824 paintings, 600 sculptures, and 6,057 drawings). Our curatorial staff has analyzed whether, in addition to being created before 1946 and acquired by the museum after 1932, the object underwent a change of ownership between 1932 and 1946 and was or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects"). Although our research is constantly ongoing, our curatorial staff has determined that 2,832 of the 7,481 works of art fall within the definition of covered object (481 of the 824 paintings, 243 of the 600 sculptures and 2,108 of the 6,057 drawings).

Since April of 2000, the Provenance Research Project pages of our website have identified paintings and sculptures in our collection that were created before 1946, acquired by the museum after 1932, and have gaps in their chain of ownership for the Nazi era (1933 to 1945). In conformity with the 2001 amendment to the AAM Guidelines, the group of objects published on the Provenance Research Project pages now also includes paintings and sculptures that have a documented chain of ownership and hence no gaps in their provenance, but nevertheless were in continental Europe from 1933 to 1945 and also changed hands during that period. All of the objects on the Provenance Research Project pages of our website are accessible through the AAM's Nazi-era provenance internet portal. Nearly 2000 of the 2,832 works of art in our collection that are considered "covered objects" will be posted on our website, together with their provenance information in which we are confident, this September in a much improved, searchable database. (Just as our research is ongoing, refinement of our website is also ongoing.) In addition, all of the current provenance information about the 2,108 drawings in our collection that are considered "covered objects" is available upon request and much of this information has been published in catalogs (e.g., *Italian Drawings before 1600 in The Art Institute of Chicago: A Catalogue of the Collection*).

For additional information, please visit our website and the Provenance Research Project pages (www.artic.edu/aic/provenance/index.html).

In addition to providing information about our collection, our website also contains a page entitled "Provenance Bibliography" that identifies resources for individuals conducting Nazi-era provenance research. (Please see Appendix B for representative pages from our website.) In particular, the page contains a list of selected publications in our library that might be useful in conducting such research, guidance on catalog topics to consult for additional titles in our library's holdings, and links to relevant websites. This page may be found at www.artic.edu/aic/libraries/provenance.html.

The Art Institute of Chicago continues to research the ownership history of those objects in its collection that lack conclusive provenance documentation. As provenance research continues, we will update these pages of our website.

We take seriously every inquiry into the provenance of our collections. When we receive inquiries, we point the inquiring party to our website. If the work of art in question is not among those yet cited on our website, we research our records and provide all relevant information we have.

Provenance research is an integral aspect of the work of The Art Institute of Chicago's staff in all curatorial departments. Such research is performed on a daily basis for a wide range of purposes, including preparing exhibitions and catalogs, and evaluating proposed acquisitions and loans. Both full-time and part-time employees engage in provenance research. In addition to on-going research efforts in the departments, we maintain an interdepartmental Provenance Committee composed of curators, researchers, library staff, and other staff with relevant skills and knowledge that meets to share information and focus efforts specifically on Nazi-era provenance research.

Funding for provenance research comes from the operating budget, departmental funds, gifts from individual donors, and grants for projects that include provenance research as a fundamental, but not sole, piece of the project. For example, funds granted to support a collection catalog includes the provenance research required for that catalogue. Altogether, since 1998, we have spent well over half a million dollars researching our provenance records, not to mention the annual operating funds we use for the salaries of permanent, professional staff (curators, conservators, registrars, photographers, and webmasters), who spend a part of each year on this project. We have hired long-term researchers and project researchers, sent them to Europe to consult archives, and purchased copies of archive materials.

An example of a major current research initiative on the permanent collection is an intensive cataloguing effort in connection with the expansion of the museum when our new wing opens in 2009. In particular, the curatorial staff is currently preparing two catalogs, one on Northern European and Spanish Paintings Before 1600 and another on the Modern Collection, Volume I. The staff is also undertaking initial research for a catalog of our 19th Century European paintings. These catalogs will include provenance research on nearly 1,000 objects in our collection, including paintings, sculptures and drawings. Provenance information on the covered objects included in these catalogs that

is not already on the Provenance Research Project will be incorporated as promptly as possible.

The Art Institute strives to resolve claims of ownership in an equitable, appropriate, and mutually agreeable manner. We are pleased that, in those cases that have arisen to date, the Art Institute has resolved the claims amicably. For example, in May 2001, the Art Institute and the last surviving heir of the collector Max Silberberg reached a mutually agreeable resolution concerning Gustave Courbet's *The Rock of Hautepierre*. In this case, the Art Institute had, from the first, recognized Max Silberberg's prior ownership and noted it on labels accompanying the work when it was first acquired. After the Art Institute contacted the last surviving relative of Mr. Silberberg, the heir and the Art Institute actively sought to learn more about Mr. Silberberg's former art collection and the family's history in order to arrive at an equitable resolution. The parties ultimately agreed that title and possession of the work would remain with the Art Institute and a new label would acknowledge Max Silberberg's prior ownership of the work.

The Art Institute of Chicago has settled one other claim equally successfully. In June 2000, the Art Institute reached a purchase and donation agreement with the heirs of the Holocaust-era owner of an important sculpture known as *Bust of a Youth*, c. 1630, by Francesco Mochi. In another case, in August 1998, heirs of two Holocaust victims killed during World War II reached a settlement with Daniel C. Searle, Life Trustee of the Art Institute of Chicago, over his private ownership of a pastel monotype by Edgar Degas entitled *Landscape with Smokestacks*. As part of the settlement, the heirs and Mr. Searle asked the Art Institute to acquire the pastel to share with the public. This has since been achieved. I emphasize that this was not a claim against the Art Institute.

In conclusion, let me say that U.S. art museums will continue to respond to claims made against works in their collections as they have done in the past. They will continue to work diligently to provide provenance information on their websites as soon as it becomes available. By virtue of the link between museum websites and the AAM Portal, potential claimants may go to one source for information. But again, I stress, that after more than eight years of intense investigation, we have been able to verify very few claims; I do not expect that to change dramatically for the reasons cited above – there are few Holocaust- looted works of art in American art museums, but even one work is one too many; U.S. art museums will continue to do everything they can to restore that work to its rightful owner.

Thank you again, ladies and gentlemen, for holding these important hearings. Thank you for allowing me to submit this testimony.

Appendix A

WORLD WAR II RESTITUTION CASES

This list is based on publicly available information and is not intended to be exhaustive.
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I. United States Museums—World War II Claims—Resolved

1.
Institution: Wadsworth Athenaeum, Hartford, Connecticut
Work of Art: The Bath of Bathsheba, Jacopo Zucchi
Date: 1998
Settlement: The painting was taken from an Italian Embassy during or immediately after the Second World War. The Wadsworth Athenaeum bought it in 1965 from a Parisian art dealer who had a license from the Louvre to export the work. The Italian government claimed the painting soon after the acquisition, but was unable to provide definitive proof of ownership until 1983. Due to changes in the Italian government and museum leadership, it took approximately twelve years to work out a final agreement. Italy and the museum agreed that the painting would be returned to the Italian government in exchange for an extensive exhibition from the Galleria Nazionale to the Athenaeum. The exhibition, which included works never before seen in the US, took place in 1998. The painting is now in Italy.

2.
Institution: Art Institute of Chicago
Work of Art: "Bust of a Youth", ca. 1630, by Francesco Mochi
Date: June 2000
Settlement: The Art Institute of Chicago paid the heirs of Mr. Gentili di Giuseppe for a partial interest of the marble bust and accepted the remaining partial interest as a donation from the heirs. Mr. di Giuseppe, who died of natural causes in 1940, was a Jewish resident of France whose art collection was sold at public auction under order of the French Court after his death.

3.
Institution: North Carolina Museum of Art, Raleigh
Work of Art: Madonna and Child in a Landscape, 16th century, Lucas Cranach the Elder
Date: June 2000
Settlement: The North Carolina Museum of Art paid Cornelia and Marianne Hainisch of Austria $600,000 for the painting. The claimants are the great-nieces of Viennese industrialist Philipp von Gromperz, from whom the Nazis looted the painting on October 29, 1940.

4.
Institution: Seattle Art Museum
Work of Art: Odalisque, 1928, Henri Matisse
Date: October 12, 2000
Settlement: The Seattle Art Museum (SAM) returned the painting to the heirs of Paul Rosenberg. The museum determined that in 1941 the painting was stolen from a vault where Rosenberg had stored 162 paintings. Knoedler & Co. acquired the work in 1954 from Galerie Drouant-David, Paris, and sold it to Prentice and Virginia Bloedel. The Bloedels donated it to SAM in 1991. The museum later sued Knoedler & Co., contending that the

gallery did not have clear title to the painting and fraudulently or negligently misrepresented the painting's provenance. The action was dismissed, but later reinstated --with Knoedler's costs assessed against SAM --when SAM acquired assignments of rights from the Bloedel family. Knoedler & Co. and SAM announced a settlement in October 2000 under the terms of which Knoedler agreed to transfer to SAM one or more works of art to be selected by the museum from Knoedler's holdings, or the equivalent value in cash.

5.
Institution: Museum of Fine Arts, Boston
Work of Art: Adoration of the Magi, ca. 1725, Corrado Giaquinto
Date: October 19, 2000
Settlement: The Museum of Fine Arts, Boston paid the heirs of Mr. Gentili di Giuseppe for a partial interest of the painting and accepted the remaining partial interest as a donation from the heirs. Mr. di Giuseppe, who died of natural causes in 1940, was a Jewish resident of France whose art collection was sold at public auction under order of the French Court after his death. *See I.2, supra.*

6.
Institution: Denver Museum of Art
Work of Art: The Letter, 17th century, School of Gerard Terborch
Date: November 8, 2000
Settlement: The Denver Museum of Art returned the painting to Marianne Rosson, the daughter of Paul Hartog, a Jewish banker from Berlin who was forced to sell the painting in 1934 and subsequently died in a concentration camp. The museum acquired the painting by donation in 1961.

7.
Institution: National Gallery of Art, Washington, D.C.
Work of Art: Still Life with Fruit and Game, ca. 1615-20, Frans Snyders
Date: November 20, 2000
Settlement: The National Gallery returned the painting to an authorized representative of the Stern family. The Stern family became aware of the painting through the NGA's web site. The painting was confiscated from the Stern collection in Paris by the Nazis and traded by Goering to Haberstock.

8.
Institution: The Art Institute of Chicago
Work of Art: Rock at Hautepierre, 1869, Gustave Courbet
Date: May 14, 2001
Settlement: The claim was pursued by Gerta Silberberg of England, the daughter-in-law and last remaining heir of Max Silberberg of Breslau, who sold the painting in Berlin at Galerie Paul Graupe on March 23, 1935. Ms. Silberberg alleged that the picture was included in a forced sale of her father-in-law's collection. After extensive research --which the Art Institute has made available to the public-- Ms. Silberberg and the Art Institute reached an undisclosed settlement pursuant to which the museum will retain title to and possession of the picture. *See IV.2 and IV.3, infra.*

9.

Institution: Princeton University Art Museum
Work of Art: St. Bartholomew, Bernardino Pinturicchio
Date: June 2001
Settlement: The Princeton museum, along with the dealer who sold the painting to the museum, agreed to pay the fair market value of the painting to the heirs of Gentili di Giuseppe. Princeton University Art Museum retains the picture. Mr. di Giuseppe, who died of natural causes in 1940, was a Jewish resident of France whose art collection was sold at public auction under order of the French Court after his death.

10.
Institution: Springfield Library and Museum Association
Work of Art: Spring Sowing, Jacopo da Ponte
Date: June 2001
Settlement: The Springfield, Massachusetts museum returned the painting, which had disappeared during World War II while on loan from the Uffizi Gallery in Florence to the Italian Embassy in Warsaw. In 2003, the museum sued Knoedler Gallery, from which it had acquired the picture in 1955, seeking money damages for various claims, including breach of contract and breach of implied warranty. Knoedler has moved for judgment on the pleadings, based on the applicable statute of limitations.

11.
Museum: Metropolitan Museum of Art
Work: The Garden of Monet's House in Argenteuil, Claude Monet
Date: August 22, 2001
Settlement: Henry H. Newman, a resident of France, made a claim in 1997 for the painting, which had been purchased in 1916 by his grandfather, Henry Percy Newman of Hamburg, Germany, and placed in a Berlin bank vault for safekeeping in 1940. The claimant's father, who was then serving in the German Army, inherited the work during the Second World War. How and when the picture was removed from the bank vault remains uncertain, but the claimant alleged that it was taken during the Soviet occupation of Berlin in 1945.The painting was purchased in good faith from a New York dealer in 1952 and given to the museum in 1994. Pursuant to the settlement, the museum will pay an undisclosed amount to the claimant, who gave up all claims to the painting.

12.
Institution: Yale University Art Gallery
Work of Art: Le Grand Pont, Gustave Courbet
Date: October 23, 2001
Settlement: Eric Weinmann, of Washington, D.C., and his sister and nephew asserted a claim in October 2000 stating that Mr. Weinmann's mother, a Czech Jew who lived in Berlin, purchased the painting in 1935 without knowing that its prior owner was Max Silberberg, a German Jew who was forced to sell his collection. The Weinmann family fled Berlin for Britain in 1938, leaving behind most of their possessions, including this painting. It was acquired in 1938 by Herbert Schaefer, a German who had joined the Nazi Party in 1937. Dr. Schaefer loaned the painting to the Yale University Art Gallery in 1980. Dr. Schaefer has 47 other works of art on loan to Yale. Under the terms of the settlement, Dr. Schaefer donated his entire ownership interest in *Le Grand Pont* to Yale, which will loan the picture to

Mr. Weinmann for a maximum of ten years. After the end of the loan period, the picture will return to Yale for good.

13.
Institution: Vizcaya Museum and Gardens, Florida
Work of Art: The Holy Trinity – Seat of Mercy, 16th century, Georg Pencz
Date: December 13, 2001
Settlement: Mr. Claire Mendel, the Honorary German Consul in Miami, purchased the painting in 1959 and deeded it to the Lowe Art Museum of the University of Miami in 1976. The picture was transferred to Vizcaya Museum and Gardens in 1981. In early 2001, the curator of the National Museum in Warsaw studied the painting Miami and presented documentation indicating that it had disappeared from the National Museum during World War II. In July 2001, the National Museum submitted a formal restitution claim for the painting. On December 13, the Miami-Dade County Commission authorized the Vizcaya Museum to return *The Holy Trinity-Seat of Mercy* to the National Museum.

14.
Institution: The Menil Collection, Houston, Texas
Work of Art: Brook with Aloes, 1907, by Henri Matisse
Date: January 23, 2002
Status: The claim was being pursued by Francis Warin of Paris on behalf of The Association in Memory of Alphonse Kann, which asserted that the picture had been taken from the Kann collection when the Nazis occupied France. The Menil Collection conducted extensive provenance research, which was inconclusive about the picture's whereabouts between 1940-1946. The terms of the settlement are confidential, but the picture remains in Houston at the Menil Collection. The Menil has made available to the public the information gathered in their provenance research.

15.
Institution: Los Angeles County Museum of Art
Work of Art: Persian or Mughal textile canopy, Late Medieval
Date: March 6, 2002
Settlement: LACMA purchased the work from a Los Angeles textile dealer in 1971. In January 2001, a trustee of the Czartorysky Foundation inquired about a textile looted from the Foundation during World War II. Research in Los Angeles and Poland determined that the textile at LAMCA was the same as the one looted from the Polish foundation and LACMA's board of trustees approved the return of the tapestry to the Prince Czartoryski Foundation Museum in Krakow, Poland in March 2002.

16.
Institution: Detroit Institute of Arts
Work of Art: A Man o' War and Other Ships off the Dutch Coast, 1692, by Ludolf Backhuysen
Date: September 2002
Settlement: DIA brought the picture to Detroit to consider for acquisition. The painting was not registered with the Art Loss Register (ALR), but subsequent research determined that it had been left in an Amsterdam bank vault by a Jewish collector when he left the Netherlands in 1942. The bank's

Jewish-owned assets were later turned over to a Nazi-controlled entity. In October 1942, the picture was sold to Kajetan Mühlmann, a prominent figure in Nazi looting of Poland and the Netherlands. The DIA, the English gallery from whom it was buying the picture, and ALR negotiated the sale of the picture from heirs of the pre-war owner. (In announcing the settlement, the DIA noted that it had previously settled a World War II looted art case: upon discovering that a painting in its possession, *The Seine at Asnieres*, by Claude Monet, had been stolen during the war, the DIA located the rightful owners and returned the picture to them in 1950.)

17.
Institution: Metropolitan Museum of Art (loan)
Work of Art: Mt. Sinai, by El Greco
Date: January 2004
Settlement: Shortly before the museum planned to ship the picture after the end of its *El Greco* exhibition, it learned that a Swiss man had filed in state court (but not served on the Museum) a request for a temporary restraining order action barring the museum from moving the painting out of New York State. The court denied the motion and the picture was returned to the lender, the Heraklion Foundation in Crete.

18.
Institution: Utah Museum of Fine Arts
Work of Art: Les Amoureaux Jeunes, 18th century, by Francois Boucher
Date: March 2004
Settlement: While compiling information for a book on Hermann Goering's collection, Nancy Yeide of the National Gallery of Art discovered at a Salt Lake City museum a Boucher painting that had been looted from the collection of the French art dealer Andre Jean Seligmann. The painting, listed as stolen in 1946, was acquired at a New York gallery in 1972 by a collector who donated it to the Utah museum in 1993. After extensive provenance research with the assistance of the Art Loss Register, the museum agreed to restitute the picture to Claude Delibes and Suzanne Geiss Robbins, Seligmann's heirs.

19.
Institution: Virginia Museum of Fine Arts
Work of Art: Portrait of Jean d'Albon, 16th century, by Corneille de Lyon
Date: August 2004
Settlement: The trustees of the Virginia Museum of Fine Arts in Richmond unanimously voted to deaccession this small oil on panel and return it to Kurt Schindler, a resident of the United Kingdom. Mr. Schindler is the sole heir of an Austrian collector named Julius Priester, who emigrated to Mexico in 1938. The Gestapo seized Mr. Priester's collection during the war. An American collector purchased the picture from Newhouse Gallery in New York in 1949 and donated it to the museum in 1950. The Holocaust Claims Processing Office of the New York State Banking Department assisted Mr. Schindler in presenting his claim.

20.
Institution: San Diego Museum of Art
Work of Art: Allegory of Eternity, ca. 1625-1630, by Peter Paul Rubens
Date: May 2004
Settlement: After several years of research and discussions, the San Diego Museum of Art reached an agreement that will allow a Rubens oil painting to remain in its collection. The work had been in the Galerie Van Diemen in Berlin when that gallery's inventory was liquidated by order of the Nazi Government in 1935. Galerie Van Diemen was owned by Jakob and Rosa Oppenheimer, who left Germany for France in 1933. Jakob Oppenheimer died in France in 1941; Rosa was deported and died at Auschwitz in 1943. The picture passed in commerce to various owners, before appearing in the United States, where it was exhibited at the 1940 New York World's Fair. The picture was given to the San Diego Museum in 1947.

21.
Institution: Virginia Museum of Fine Arts
Work of Art: Portrait of a Courtier, 16th century, by Jan Mostaert
Date: September 22, 2005
Settlement: The Czartoryski family collection in Poland transferred this small oil on panel from the Goluchów Castle Museum to safekeeping in Warsaw in 1939. The Nazis located and seized it in 1941, and moved it to the castle of Fischhorn in Austria after the 1944 Warsaw uprising. Newhouse Galleries in New York sold the portrait in 1948 to a collector who gave it to the Virginia Museum of Fine Arts the following year. The museum discovered these facts while conducting provenance research on its collection and turned the picture over to the Polish Embassy on behalf of Adam Count Zamoyski, the representative of the rightful owners' descendants. The family later deposited the painting in the Princes Czartoryski Museum in Krakow, Poland.

22.
Institution: Kimbell Art Museum
Work of Art: Glaucus and Scylla, 1841, by J.M.W. Turner
Date: June 6, 2006
Settlement: The Kimbell Art Museum in Fort Worth returned this significant oil painting to Alain Monteagle, the representative of the heirs of John and Anna. Mr. Jaffé, a Jewish collector in Nice, France, owned the picture from 1902 until his death in 1933. He bequeathed it to his wife, who remained in France until her death in March 1942. Anna Jaffé's will left her property, including *Glaucus and Scylla*, to three nephews and a niece. The Vichy Government, however, seized the contents of Mrs. Jaffé's home, including the painting and other works of art, and sold it at an auction of "Jewish property" in July 1943. Although its whereabouts between 1943 and 1956 are uncertain, the painting was in various hands in France, Britain, and the United States from 1956 to 1966, when Newhouse Galleries in New York sold it to the Kimbell. Mr. Monteagle presented his evidence of ownership to the Kimbell, which agreed that the Jaffé heirs had good title, and returned the painting to Mr. Monteagle on their behalf.

II. United States Museums—World War II Claims—Pending

1.
Institution: Museum of Fine Arts, Boston
Work of Art: Landscape with Burning City, ca. 1500, Henri met de Bles
Status: The painting was once in the collection of Franz Koenigs, a Christian banker who died in May 1941 in Cologne, Germany. Franz Koenigs used the pictures as collateral in 1931 and 1935 loan agreements with the Jewish-owned Dutch bank Lisser & Rosenkranz. Koenigs was unable to repay the loans when the bank went into liquidation in April 1940. The bank appears to have owned Koenig's drawings and paintings by early May 1940, just before the Nazi occupation of the Netherlands. Mr. Koenigs's granddaughter, Christine Koenigs, claims that her grandfather was forced by the Nazi rise to power and the imminence of war to sell this and many other works he owned at far less than fair value. In December 2003, the Dutch Government issued an extensive report concluding that Koenigs voluntarily sold the collection in order to satisfy his loan obligation. The Museum of Fine Arts remains in possession of the picture, though it does not assert title.

2.
Institutions: Metropolitan Museum of Art; Art Institute of Chicago; Cleveland Museum of Art; Museum of Fine Arts, Boston; National Gallery of Art, Washington, D.C.; Nelson-Atkins Museum, Kansas City; Pierpont Morgan Library; Barber Institute of Fine Arts of the University of Birmingham, England; Boijmans van Beuningen Museum, Rotterdam; the British Museum; Courthauld Institute of Art, London; and the National Gallery of Canada.
Works of Art: Drawings by Albrecht Dürer and his school
Status: In an unusually complex matter, a dozen European, American, and Canadian museums face claims to drawings by Albrecht Dürer and his school from The Lviv Stefanyk Scientific Library in Lviv, Ukraine and the Ossolinski Institute in Wroclaw, Poland.

In 1823, a Polish aristocrat named Prince Henryk Lubomirski announced his intention to create the Lubomirski Museum as part of the Ossolinski National Institute, a Polish cultural center in what is now Lviv, Ukraine. The museum was created in 1866 and the drawings were placed there pursuant to agreements signed by Prince Henryk and his son. The agreements were intended to maintain hereditary ownership of the drawings.

When the Lubomirski Museum was founded in 1866, Lviv (then known by its German name, Lemberg) was part of the Austro-Hungarian Empire. The city (then called Lwow) became part of Poland after World War I. When Soviet troops invaded eastern Poland in 1939, Lviv became part of the Ukranian Soviet Socialist Republic. The Nazis invaded the area in 1941, occupied Lviv, and removed the drawings from the Lubomirski Museum. The drawings were sent to Hitler's headquarters in East Prussia and later were stored in a salt mine at Alt Aussee, Austria. The Allies recovered the drawings from the mine in 1945 and transferred them to the Munich Collecting Point.

In 1947, Prince George Lubomirski, a refugee in Switzerland and heir to the hereditary estate of Prince Henryk, claimed the drawings. Neither Poland nor the Soviet Union made a claim at that time. After extensive study by the State Department and the Office of Military Government for the United States, the drawings were returned to Prince Lubomirski in 1950, who later sold the drawings through dealers in New York and London.

Representatives of the twelve institutions now holding the drawings met in New York in December 2001 to discuss claims asserted by Ukraine and Poland. The museums have offered to meet with Polish representatives. Without addressing the validity of the claims, the U.S. State Department has reviewed its 1950 decision to restitute the drawings to Prince Lubomirski as the rightful owner, and has concluded that its "prudent" decision was processed "with due diligence, deliberation, and care."

3.
Institution: The Museum of Modern Art (loan)
Work of Art: Dead City III, 1911, and Portrait of Wally, 1912, Egon Schiele
Date: New York State action: commenced January 7, 1998, resolved September 21, 1999; federal action: commenced September 21, 1999
Status: Not yet resolved. While on loan to MoMA with approximately 150 other works by Egon Schiele from the Leopold Foundation in Vienna, two separate families asserted claims for the paintings, claiming that Nazis had wrongfully taken them before or during the Second World War. Citing obligations to the lender and concern for the future of art loans if institutions arrogate authority to resolve claims to borrowed art, the museum declined to turn over the paintings to the claimants. The New York District Attorney issued a *subpoena duces tecum* for the pictures. In September 1999, the New York State Court of Appeals quashed the subpoena based upon state law protecting out-of-state art loaned for non-profit exhibition, permitting the works to be returned to the lender. *Dead City III* was returned to Austria.

U.S. Customs then seized *Portrait of Wally*, and the U.S. Attorney for the Southern District of New York commenced a forfeiture action. The District Court dismissed the action in July 2000, on the ground that the picture had ceased to be "stolen" property when the U.S. military recovered it after World War II. At the end of 2000, however, the Court granted the government leave to file a Third Amended Complaint. In April 2002, the Court reversed its previous dismissal and denied motions to dismiss the renewed action, allowing the forfeiture action to proceed. No trial date has been set. In June 2005, the Leopold Museum moved for summary judgment. *See II.6, infra.*

4.
Institution: Detroit Institute of Arts
Work of Art: The Diggers, 1889, by Vincent van Gogh
Status: Martha Nathan, a member of the Dreyfus banking family, inherited the work from her husband, who died in 1922. In 1930, Mrs. Nathan transferred the painting from her home in Frankfurt am Main to Basel, Switzerland and emigrated to Paris in 1937. While living in Paris, Mrs. Nathan invited the dealer Georges Wildenstein to view a number of works

in her collection. Wildenstein and two other Paris art dealers, Justin Thannhauser and Alex Ball, purchased the work from her in 1938, along with a painting by Gauguin. The price for *The Diggers* was approximately $9364. Several years later, in 1941, these dealers sold the work to a Michigan collector named Robert Tannahill for $34,000. Mr. Tannahill donated the painting to the DIA in 1970. Starting in 2004 and in subsequent correspondence and discussions, a group of people purporting to be Mrs. Nathan's heirs asserted that Mrs. Nathan's sale of the picture was a coerced transaction. After several years of research and discussion, DIA declined the demand that it either surrender the painting to them or compensate the heirs for their loss. In January 2006, DIA brought an action in U.S. District Court for the Eastern District of Michigan to quiet title and for declaratory judgment that the heirs have no valid claim to the work. *See II.5, infra.*

5.
Institution: Toledo Museum of Art
Work of Art: Street Scene in Tahiti, 1891, by Paul Gauguin
Status: Martha Nathan, a member of the Dreyfus banking family, inherited the work from her husband, who died in 1922. In 1930, Mrs. Nathan transferred the painting from her home in Frankfurt am Main to Basel, Switzerland. Mrs. Nathan emigrated to Paris in 1937. While living in Paris, Mrs. Nathan invited Georges Wildenstein to view a number of works in her collection. Wildenstein and two other Paris art dealers, Justin Thannhauser and Alex Ball, ultimately purchased the work from her in 1938, along with a painting by Gauguin. The price for *Street Scene in Tahiti* was approximately $6865. A few months later, in 1939, these dealers sold the work to the Toledo Museum of Art for $25,000. Starting in 2004 and in subsequent correspondence and discussions, a group of people purporting to be Mrs. Nathan's heirs asserted that Mrs. Nathan's sale of the picture was a coerced transaction. After several years of research and discussion, TMA declined the demand that it either surrender the painting to them or compensate the heirs for their loss. In January 2006, TMA brought an action in U.S. District Court for the Eastern District of Michigan to quiet title and for declaratory judgment that the heirs have no valid claim to the work. *See II.4, supra.*

6.
Institution: Allen Memorial Art Museum, Art Institute of Chicago, Carnegie Museum of Art, Indiana University, Museum of Modern Art, Neue Galerie, Pierpont Morgan Library
Work of Art: Drawings by Egon Schiele
Status: Begun in 2005 as an action by David Bakalar, a Massachusetts owner of a Schiele drawing, asking a federal court in Manhattan to declare that he has good title after his proposed sale through Sotheby's London was challenged by two men purporting to be Grunbaum heirs. Claimants, defendants in the original action, seek to certify a defendant class of institutions, individuals and other entities. The action involves works by Egon Schiele alleged to have been in the collection of Fritz Grunbaum, an Austrian cabaret performer who was killed by the Nazis during the Second World War. Bakalar's picture has a provenance similar to Leopold Museum's *Dead City III*, which was the subject of considerable litigation in 1998-99, in that it was sold by Mathilde Lukacs, Grunbaum's sister-in-law,

in Bern in 1956. Claimants assert that Mathilde Lukacs did not sell or consign the pictures to the Bern dealer. They propose that the pictures were placed in storage after Grunbaum's property was aryanized, and that Lukacs could never have taken possession of them. They reject as forgeries copies of contemporaneous correspondence between Lukacs and the Swiss dealer. Further, they allege that, even if Lukacs somehow managed to get possession of the Grunbaum pictures, she had no right to sell them, and doing so made her a thief. Bakalar has asked the court to dismiss the action on the equitable doctrine of laches: all of the relevant facts have been public knowledge for many years, yet the claimants did nothing to assert their rights, and their delay in doing so has worked to his detriment because people with knowledge of the facts have died, and evidence is no longer available. Bakalar's motion is pending, as is the claimants' motion for class certification.

III. United States—Non-Museum

1.
Individual: Daniel C. Searle
Work of Art: Landscape with Smokestacks, by Edgar Degas
Date: August 1998
Settlement: The picture was owned by Mr. Searle, who transferred half of his ownership interest to the Art Institute of Chicago and half to claimants Lili Vera Collas Gutmann and her nephews, Nick and Simon Goodman, the daughter and grandsons, respectively, of Holocaust victims named Friedrich and Louise Gutmann. Claimants alleged that the Nazis had taken the picture from their relatives. The Art Institute agreed to pay half the fair market value of the pastel to the claimants in order to obtain complete ownership. The value of the pastel was established by using the average of two independent appraisals.

2.
Individual: Marilynn Alsdorf
Work of Art: Femme en blanc, 1922, by Pablo Picasso
Date: August 2005
Settlement: The pre-war owner, Carlota Landsberg, sent this 1922 Picasso oil painting to the Paris art dealer Justin Thannhauser when she left Berlin in or around 1939. The painting was apparently stolen from Thannhauser after the Germans occupied Paris and was listed in the 1947 list of wartime art losses in France, the *Repertoire des Biens Spolies En France Durant La Guerre 1939-1945*. By 1941, Mrs. Landsberg and her daughter were located in New York. In 1969, with her recovery efforts unavailing, Mrs. Landsberg received restitution from the German government for the painting in the amount of 100,000 Deutsch marks. The provenance problem surfaced when Marilynn Alsdorf, a major art collector and patron of the Art Institute of Chicago who bought the picture from a New York dealer in 1975, sent it to a Los Angeles gallery in 2001. (Mrs. Alsdorf's husband, the late Mr. James Alsdorf, was a board member of IFAR, whose stolen art database is now included in the Art Loss Register.) A prospective buyer in France checked with the Art Loss Register, which discovered first the involvement of Thannhauser and then Mrs. Landsberg's ownership. The Art Loss Register located Mrs. Landsberg's grandson, Thomas Bennigson,

in California and notified him of his potential claim. Mr. Bennigson brought an action in state court in California to recover the picture after discussions between Mrs. Alsdorf and the Art Loss Register failed to resolve the matter. The painting was returned to Chicago just before Mr. Bennigson obtained a court order barring its removal from California, and Mrs. Alsdorf moved to dismiss the action for lack of personal jurisdiction. The jurisdictional question, as well as Mrs. Alsdorf's action for declaratory judgment and to quiet title in the U.S. District Court for the Northern District of Illinois, and the forfeiture proceeding brought by the United States Attorney for the Central District of California against *Femme en blanc* (on the theory that by returning the picture to her home in Illinois, Mrs. Alsdorf knowingly transported stolen property across state lines and in so doing had violated the National Stolen Property Act, subjecting the property to forfeiture) have now been resolved by Mrs. Alsdorf's agreement in August 2005 to pay Mr. Bennigson $6.5 million to settle the matter. *See III.3, infra.*

3.

Individual: Stephen Hahn
Works of Art: Femme en blanc, 1922, by Pablo Picasso and Rue St.-Honoré, Après-Midi, Effet de Pluie, 1897, by Camille Pissarro
Status: Alleging that defendant's art gallery sold Nazi-looted paintings by Picasso and Pissarro in the 1970's, plaintiffs asked a California court to impose a constructive trust in order to avoid unjust enrichment from the wrongful sale of property belonging to another. In a decision on certain procedural matters, the court found that the facts as alleged permit the plaintiffs to plead a constructive trust. The court also held that while California's statute of limitations for some Holocaust-related claims does not allow imposition of a constructive trust, the claim accrued in California and the normal limitation period of three years from discovery of the location of stolen property applies, so the claim is not time-barred. Defendant moved for reconsideration in February 2004, in part on the basis that the Pissarro claim is time-barred because Cassirer discovered the location of the work by 2000, more than three years before bringing this suit; and in part on the theory that the court applied the wrong California limitation statute. This action is related to two separate lawsuits involving the current owners of these works *See III.2, supra, and IV.16, infra.*

4.

Individual: Anonymous
Work of Art: The Liberation of Saint Peter from Prison, attributed to Rembrandt van Rijn
Date: November 30, 2004
Resolution: The drawing was looted from the home of Dr. and Mrs. Arthur Feldman when Nazi Germany annexed Czechoslovakia on March 15, 1939. Neither Dr. Feldman nor Mrs. Feldman survived the war; he died of abuse at the hands of the Nazis and she died at Auschwitz. The drawing was returned to the Feldman's heirs by an American family who had purchased the work in good faith and later contacted the International Foundation for Art Research in New York in 2002 when they learned that it might have belonged to the Feldmans. After extensive research, and with the cooperation of the Commission for Looted Art in London, the

American owners, who wish to remain anonymous, returned the drawing to the Feldman heirs. *See IV.10 and IV.15, infra.*

5.

Individual: Elizabeth Taylor
Work of Art: View of the Asylum and Chapel at Saint-Remy, 1889, Vincent van Gogh
Date: February 2, 2005
Resolution: A German woman named Magarette Mauthner bought the picture in 1914. She and her family left Germany for South Africa in1939. The picture's whereabouts during the war years is not certain: there are indications that Mauthner sold it in 1925 and that the purchaser himself fled Germany to Switzerland in or around 1933. The actress Elizabeth Taylor bought the painting at auction in 1963 for $257,000. The U.S. District Court for the Central District of California dismissed the Mauthner heirs' attempt to recover the work, ruling that their claim was time-barred. The court found that California's statute of limitations for recovery of art lost during the Holocaust era art did not apply because the claim was against an individual, not a gallery or museum, as the statute requires. The court also found that no "discovery rule" applied, so the three-year limitation period began when Ms. Taylor acquired the picture in 1963. Even if a discovery rule applied, the court said, plaintiffs failed to exercise any diligence in attempting to locate the painting, and Ms. Taylor's ownership was common knowledge and easily discovered. The court declined to recognize a new cause of action under either federal or state law for the recovery of art alleged to have been misappropriated during the Nazi period.

6.

Individual: Anonymous
Work of Art: Three 19th century outdoor scenes by Heinrich Buerkel
Date: February 10, 2006
Resolution: Three paintings, collectively worth an estimated $125,000, were part of a group of fifty pictures owned by a municipal museum in Pirmasens, Germany that disappeared from an air raid shelter as the U.S. Army arrived in 1945. Though it is unclear how the works arrived in the United States, they were acquired by a New Jersey man in the 1960's and later bequeathed to his daughter. Museum officials identified the paintings when they were offered for auction in Pennsylvania in the fall of 2005. The U.S. Ambassador to Germany returned the paintings to the Pirmasens Museum in February 2006.

IV. Foreign Museums/Governments—World War II Claims

1.

Institution: Republic of Austria
Work of Art: 250 objects, including paintings, drawings, furniture, carpets, weapons and coins
Date: February 1999
Settlement: The government of Austria returned 250 works of art to the Viennese branch of the Rothschild family, which had been held by Austrian museums. In March 1938, Nazis took possession of art, furniture and

decorative objects belonging to Barons Alphonse and Louis Rothschild. In 1947, Alphonse Rothschild's widow - who was then living in New York - located and tried to export a portion of the collection, but was forced to donate some of the objects to Austrian museums in order to obtain the necessary export approvals. An Austrian panel charged with restituting wrongfully retained art from national museums to their rightful owners determined that the art was wrongly held by Austria, and returned a substantial collection of material to the family in 1998. On July 8, 1999 the Rothschild family sold most of the recovered objects through Christie's in London for $88.2 million.

2.
Institution: Berlin National Gallery
Work of Art: L'Olivette, 1889, Vincent Van Gogh
Date: June 1999
Settlement: The drawing was returned to Gerta Silberberg, whose father-in-law, Max Silberberg, died in a concentration camp in Poland. Mr. Silberberg had sold the painting at auction between 1933-1938. After recovering the drawing, Mrs. Silberberg sold it at auction at Sotheby's. *See I.8, supra, and IV.3, infra.*

3.
Institution: Israel Museum
Work of Art: Boulevard Montmartre: Spring, 1897, Camille Pissarro
Date: February 2000
Settlement: The painting was returned to Gerta Silberberg, whose father-in-law, Max Silberberg, died in a concentration camp in Poland. Mr. Silberberg had sold the painting at auction in 1935. Mrs. Silberberg has agreed to a long-term loan of the painting to the museum, where it will hang with wall text explaining the painting's provenance and history. *See I.8 and IV.2, supra.*

4.
Institution: Sprengel Museum, Hanover Germany/City of Hanover, Germany
Work of Art: Oil painting, Lovis Corinth
Date: September 2000
Settlement: The painting was returned to the heirs of Gustave and Clare Kirstein. Mr. Kirstein died in 1934 and left his collection to his wife, who committed suicide in 1939 after the Nazis confiscated her passport a day before she was to emigrate to the United States. This painting, along with the rest of her collection, was seized and auctioned by the Nazis. It was recovered by the Commission for Art Recovery. The heirs of Mr. and Mrs. Kirstein auctioned the painting and split the proceeds. *See IV.5, infra.*

5.
Institution: Museum of Plastic Arts, Leipzig/City of Leipzig, Germany
Work of Art: More than 80 works of art (mostly drawings and prints by Max Klinger)
Date: September 2000
Settlement: The collection was returned to the heirs of Gustav and Clare Kirstein. Mr. Kirstein died in 1934 and left his collection to his wife, who committed suicide in 1939 after the Nazis confiscated her passport a day before she was to emigrate to the United States. This collection was seized and

auctioned off by the Nazis. It was recovered by the Commission for Art Recovery. Mr. and Mrs. Kirstein's heirs auctioned the painting and split the proceeds. *See IV.4, supra.*

6.
Institution: National Gallery, Berlin
Work of Art: Olevano, 1927, Alexander Kanoldt
Date: January 2001
Settlement: The National Gallery, Berlin returned the painting to the heirs of Dr. Ismar Littmann, an attorney and art collector who lived in Poland before World War II. Dr. Littmann committed suicide in 1934. Part of his collection was sold at auction and some was confiscated by the Nazis. An art dealer bought *Olevano* at Max Pearl Auction House in Berlin in 1935. The Municipality of Berlin bought *Olevano* in 1950 and donated it to the National Gallery, Berlin in 1951. The painting was recovered as part of a settlement arranged by the Holocaust Claims Processing Office of the New York State Banking Department. *See IV.18, infra.*

7.
Institution: Museum of Modern and Contemporary Art, Strasbourg
Work of Art: Die Erfuellung (Fulfillment), 1909, by Gustav Klimt
Date: January 2001
Settlement: The government of France ordered the Museum of Modern and Contemporary Art in Strasbourg to return the painting to the children of Karl Grunwald. Mr. Grunwald's collection was confiscated and auctioned by the Nazis in 1942 and 1943. An association representing the museum purchased the painting in 1959 from a local painter.

8.
Institution: Tate Gallery, England
Work of Art: View of Hampton Court Palace, 1710, by Jan Griffier the Elder
Date: January 18, 2001
Settlement: Based upon a determination by the Spoliation Advisory Board, the British Government paid £125,000 to a family, who chose to remain anonymous, in order to retain the painting. The Tate also agreed to acknowledge the work's wartime provenance on its wall label. While residing in Belgium, the family was forced to sell the painting to flee the Nazis. The Tate Gallery purchased the painting in Cologne in 1961.

9.
Institution: Kiyomizu Sannenzka Museum, Kyoto
Work of Art: Deserted Square of an Exotic Town, 1921, by Paul Klee
Date: February 2001
Settlement: In exchange for a "symbolic payment," the museum returned this watercolor to Jen Lissitzky, the son of Russian avant-garde artist El Lissitzky. Sophie Küppers-Lissitzky had loaned the picture, among others, to the Provinzial museum in Hanover in 1926, just before she left for Russia to marry El Lissitzky. The Nazis seized the Küpper-Lissitzky collection as degenerate art in 1937, and later sold it. *See IV.12, infra.*

10.
Institution: Moravian Gallery, Brno
Work of Art: 135 Old Master drawings
Date: April 2002

Settlement: A museum in the Czech Republic returned 135 drawings to the heirs of Arthur Feldman, a Czech lawyer who was arrested soon after the Nazi invasion of what was then Czechoslovakia. Mr. Feldman died in prison and his wife died at Auschwitz. His collection was placed in the Moravian Museum. Family claims for restitution were declined by the former Communist regime and later by the successor government, but legislation enacted in 2000 permitted claims for property stolen by the Nazis. *See III.4, supra, and IV.15, infra.*

11.
Institution: National Gallery, Prague
Work of Art: Le juif au bonnet de fourrure, after Rembrandt
Date: June 2002
Settlement: The Czech Minister of Culture returned to French authorities a painting looted by the Nazis from the collection of Adolphe Schloss in Paris in 1943.

12.
Institution: Ernst Beyeler Foundation, Basel
Work of Art: Improvisation Number 10, 1910, by Wassily Kandinsky
Date: July 2002
Settlement: The Beyeler Foundation reached a settlement with Jen Lissitzky, the son of Russian avant-garde artist El Lissitzky and Sophie Küppers-Lissitzky, which allowed the museum to retain possession of the painting. The picture was one of a collection of thirteen works Sophie Küppers loaned to the Provinzial museum in Hannover in 1926, just before she left for the USSR to marry El Lissitzky. The Nazi government confiscated the picture in 1937 in its efforts to eradicate "degenerate art." In 1951, Beyeler bought the painting from a German dealer who had acquired it during the war. In 1978, Ms. Lissitsky-Küppers died in Siberia, where the Soviet government had exiled her. *See IV.9, supra.*

13.
Institution: Kunsthalle, Emden, Germany
Work of Art: Bauernhof, 1924, by Emil Nolde
Date: December 2002

Settlement: The Holocaust Claims Processing Office of the New York State Banking Department assisted in the settlement of a claim by heirs of Heinrich and Elizabeth Bamberger, the pre-war owners of a painting by German Expressionist Emil Nolde. Mrs. Bamberger, a widow, left the painting behind when she left Germany on 1940, en route to Ecuador via the USSR, Manchuria, and Korea. The picture ended up in the possession of Wilhelm Schumann, a Nazi art dealer, and changed hands several times after the war before being bequeathed to the Emden Kunsthalle in 1984. Under the confidential terms of the settlement, the picture will remain in

the Kunsthalle, where it will be exhibited with provenance information reflecting the ownership of the Bamberger family.

14.
Institution: New Gallery, Linz, Austria
Work of Art: View of Krumau, 1916, by Egon Schiele
Date: December 2002
Settlement: The Austrian city of Linz agreed to return a landscape by Egon Schiele to the heirs of the pre-war owner, Daisy Hellman. The Gestapo seized the picture after Ms. Hellman left Austria following the Anschluss. A German collector named Wolfgang Gurlitt bought the picture at auction in 1942 and sold it, along with the rest of his collection, to the city of Linz in 1953.

15.
Institution: British Museum, London
Works of Art: St. Dorothy with the Christ Child, by a follower of Martin Schongauer; Holy Family, by Niccolo dell'Abbate; Allegory on poetic inspiration with Mercury and Apollo, by Nicholas Blakey; and Virgin and Child adored by St. Elizabeth and the infant St. John, by Martin Johann Schmidt
Date: April 27, 2006
Settlement: The British Museum resolved a 2002 claim to four old Master drawings from the collection of Arthur Feldman, a Brno lawyer whose home and substantial collection of drawings were confiscated by the Nazis after the 1939 occupation of Czechoslovakia. Neither Feldman nor his wife survived the war; he died in prison and she died at Auschwitz. The museum bought three of the drawings at auction in 1946 and received the fourth by bequest in 1949. The British Museum acknowledged that evidence provided in support of the claim was "detailed and compelling," but a British court ruled in May 2005 that the claim's ethical merit did not override the Museums and Galleries Act, a 1992 statute that prohibits deaccessioning, except in narrowly defined categories. The British Museum agreed to make an *ex gratia* payment of £175,000 ($312,000) to the claimant, Uri Peled of Israel, a descendant of Dr. Feldman. The drawings will remain at the museum. *See III.4 and IV.10, supra.*

16.
Institution: Thyssen-Bornemisza Museum, Madrid
Work of Art: Rue St.-Honoré, Après-Midi, Effet de Pluie, 1897, by Camille Pissarro
Status: An 84-year-old San Diego man alleged in U.S. District Court in Los Angeles that his grandmother, Lily Neubauer, was forced to surrender the picture to Nazis before leaving Germany for Great Britain in 1939. The claimant's great-grandfather, Julius Cassirer, apparently bought the picture from Durand-Ruel, Pissarro's dealer in Paris, soon after it was painted in 1897. Ms. Neubauer tried to recover the work after the war, and in 1958 accepted 120,000 Deutsche marks from the West German government in compensation for her loss. The Spanish government, which bought Baron Hans Heinrich Thyssen's collection in 1993 and created the Thyssen-Bornemisza Museum, disputes the claim and asserts that it has good title. The museum moved in February 2006 to dismiss Mr. Cassirer's complaint on the basis of sovereign immunity and for lack of personal jurisdiction. *See III.3, supra.*

17.

Institution: Belvedere Gallery, Vienna
Works of Art: Several oil paintings by Gustav Klimt
Date: January 2006
Resolution: Maria Altman brought suit in federal court in Los Angeles in 2000, alleging ownership of several pictures by Klimt in the possession of the Belvedere Gallery (part of the Austrian National Gallery). Ms. Altman alleged that the pictures were taken by the Nazis and coercively obtained by Austria in 1948 in an exchange for export permits for other family-owned art. Austria maintained that the pictures are part of the nation's cultural heritage, that Ms. Altman's aunt, Adele Bloch-Bauer, bequeathed the pictures to Austria when she died in 1925, and that the family's attorney acknowledged Austria's ownership of the pictures, in writing, with the family's express permission. In 1999, Ms. Altman's claims were rejected by an Austrian panel charged with restituting wrongfully retained art from national museums to their rightful owners. The panel concluded that certain valuable artwork should be returned to Ms. Altman, but found that ownership of the Klimt paintings had passed to Austria through the will and the family's subsequent actions. Ms. Altman abandoned litigation challenging the outcome in Austrian courts, apparently because of fees imposed by Austrian law upon all civil litigants. In December 2002, the Ninth Circuit Court of Appeals upheld the district court's denial of Austria's motion to dismiss the complaint for lack of jurisdiction. Austria appealed to the U.S. Supreme Court on the issue whether certain actions before 1976 are immune from review by U.S. courts as the acts of a sovereign nation, and whether an exception to that immunity adopted in 1976 in the Foreign Sovereign Immunities Act can be applied retroactively. The court held that the usual presumption against retroactive application did not apply to the Foreign Sovereign Immunities Act because, among other things, foreign nations were not entitled to rely on the existence of immunity for their acts, and concluded that the Act could apply to events predating its enactment. The court remanded to the district court for further proceedings, including the question whether Ms. Altmann could maintain her claim under the expropriation exception of the FSIA. The parties agreed in May to submit the matter to binding arbitration in Austria, under Austrian law. In January 2006, the three-person arbitration panel validated Mrs. Altman's claim and directed Austria to return all of the works to Mrs. Altman. Mrs. Altman and the other heirs later sold one of the paintings, *Portrait of Adele I*, for $135 million for the Neue Galerie in New York.

18.

Institution: Ernst Strassman Foundation
Work of Art: La Procession, 1929, Lucien Adrion
Date: June 17, 2003

Settlement: The Ernst Strassman Foundation, a German entity, returned the painting to the heirs of Dr. Ismar Littmann, an attorney and art collector who lived in Silesia, in what is now Poland. La Procession was sold at auction at Max Pearl Auction House, Berlin, in 1935, though it is not clear how or when it came to the collection of Ernst Strassman, a German judge and

art collector who was active in the resistance to the Nazis. The painting's recovery was arranged by the Holocaust Claims Processing Office of the New York State Banking Department, the fourth picture to be restituted to the Littman heirs. *See IV.6 supra.*

19.
Institution: National Gallery, Ottawa, Ontario, Canada
Work of Art: Le Salon de Madame Aron, by Edouard Vuillard
Date: Late 2003

Settlement: The National Gallery of Canada plans to return a Vuillard painting to the Lindon family in Paris, subject to proof that the claimants are the proper heirs under French law. The National Gallery had included the picture in its website identifying works with provenance gaps during the Nazi period, and had repeatedly contacted the Lindon family about a possible claim to the painting. Previously, family members had maintained that they had no claim to the picture, apparently believing that they had sold it in or around 1940. Additional research, however, turned up German documents demonstrating that the Nazis had removed the picture from a bank vault while the Lindon family owned it.

20.
Institution: Hunt Museum, Limerick, Ireland
Work of Art: Unspecified

Status: In January 2004, the Simon Wiesenthal Center raised questions about the provenance of works in the collection of the Hunt Museum, alleging that an Irish couple, the late John and Gertrude Hunt, whose collection is now owned by the Hunt Museum, had "intimate business relationships with notorious dealers in art looted by the Nazis." In response to the assertion, which named neither the allegedly tainted works of art nor the dealers who provided it, the Hunt Museum appointed a three-member panel led by a retired Supreme Court judge to conduct an investigation. All three members resigned in February 2005 over a funding dispute: the Irish government had declined to finance the inquiry, and the panel believed that accepting funding from the Hunt Museum could compromise their independence. A subsequent investigation produced no evidence of Hunt Museum works having been taken during the Nazi period. The museum has placed on its website images and information about all of the works in its collection.

21.
Institution: Dutch National Museums
Works of Art: (a) 19th Century Dutch Landscapes by Koekkoek, Schelfout and Van Os;
(b) Fisherman on Horseback, 19th century, by Jozef Israëls
Date: July 15, 2004
Resolution: The Advisory Committee of the Assessment of Restitution Applications recommended that the Dutch Secretary of State for Culture honor two claims for restitution from the Dutch national collections. These pictures have been held in the custody of the Dutch Government since the late 1940's. *See, II.1supra.*
(a) These landscape paintings, along with others that were not part of the Advisory Committee's recommendation, disappeared from the Amsterdam

home of their pre-war owner, a Jewish art collector and resistance fighter in 1942 who had been imprisoned in the Westerbork concentration camp near the German border. While interned, the owner sent a postcard expressing his wish to bequeath several works of art to his illegitimate son. The Committee noted that the son has no rights as an heir because he was never formally recognized by the father, but found that there was a valid gift. The Advisory Committee further noted the Dutch Government's intention not to resolve restitution questions from a purely legal perspective, but also to take into account policy considerations.

(b) The Advisory Committee also recommended the restitution of a drawing by the Dutch artist Jozef Israëls to the family of the pre-war owner, who had left the drawing in storage in Amsterdam when he emigrated to the United States. The drawing was confiscated by the Nazis during the war, and later returned to the Netherlands.

22.
Institution: Glasgow City Council/Burrell Collection
Work of Art: Still Life, formerly attributed to Jean-Baptiste-Siméon Chardin
Date: November 24, 2004
Resolution: The heirs of five Jewish former shareholders of a Munich art gallery, acting anonymously, asserted that the gallery's stock, including this work, had been the subject of a forced sale in 1936. Soon after the sale, a Scottish couple named Burrell acquired the picture, which they later donated to the City of Glasgow, along with thousands of other objects. The Spoliation Advisory Panel found that the Glasgow's concerns about maintaining the integrity of the Burrell Collection and about observing the Burrell's prohibition against selling, donating or exchanging any object were outweighed by the "morally preponderant" right of the heirs to recover their property and recommended that the picture be restituted to the heirs. The heirs have apparently accepted a cash payment equal to the picture's current value (£7500-10,000).

23.
Institution: Dutch National Museums
Works of Art: 202 Old Master paintings, including works by Jan Steen, Filippo Lippi, Anthony van Dyck, Salomon van Ruysdael, and others
Date: February 6, 2006
Status: The Advisory Committee of the Assessment of Restitution Applications recommended the restitution of 202 Dutch, Flemish and Italian works from at least 17 national museums in the Netherlands including the Rijksmuseum, the Mauritshuis, the Frans Hals Museum, and the Bonnefantenmuseum. The paintings were owned by a Dutch art dealer named Jacques Goudstikker who died aboard ship while escaping Holland soon after the German invasion of Holland in 1940. Reichsmarschall Herman Goering visited the gallery within days of Goudstikker's flight, and ultimately acquired the entire collection for a fraction of its value in a coerced transaction arranged by his dealer, a German named Alois Miedl. Allied forces recovered the works at the end of World War II and transferred them to the Dutch Government for restitution to the rightful owners. Instead, the works remained in the Dutch national collections. The Dutch Government had previously rejected the Goudstikker claim, but the Under Minister for Education,

Culture and Science, Medy van der Laen, accepted the Advisory Commission's December 2005 recommendation and agreed to restitute the works. (The Commission also recommended that an additional 40 paintings not be returned to the Goudstikker heirs because there was insufficient evidence that the works belonged to the gallery at the relevant time.) The Goudstikker heirs, led by the widow of Goudstikker's son, who lives in Connecticut, intends to continue the search for additional works from the Gallery.

24.
Institution: Lienz Museum, Lienz, Austria
Work of Art: Totentanz, by Albin Egger-Lienz
Date: March 2006
Resolution: City officials in the Austrian city of Lienz voted to return an oil painting on panel by Albin Egger-Lienz to a Los Angeles woman named Herta Fox. Ms. Fox is the heir of an Austrian Jewish family from whom the Nazis took the picture during the Second World War. Ms. Fox sold the painting at auction in May 2006 for $1.7 million.

APPENDIX B

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Furisode, late Edo period (1789–1868), Japan

7/22	12p.m.	Westerners Are Weird: The Dutch in Japan
7/27	6p.m.	The Harry Callahan Archive

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4/22 – 8/13 Casas Grandes and the Ceramic Art of the Ancient Southwest

In 2004, the Association of Art Museum Directors (AAMD) published a report on guidelines for acquiring archaeological materials and ancient art. The Board of Trustees of the Art Institute of Chicago accepted the report and adopted these guidelines as policy on November 14, 2005.

Download the report now.

Provenance Research Project

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Overview: Ownership History for European Paintings and Sculpture (1933–1945)

As a fundamental part of its mission, the Art Institute of Chicago has always conducted research on works in its collection. An important part of that research is the effort to establish the provenance (chain of ownership) for a work, from the moment it leaves the artist's hands to the present. Since 1997, and in keeping with guidelines issued beginning in 1998 by the American Association of Museums (AAM) and the Association of Art Museum Directors (AAMD), the Art Institute has intensified its efforts to determine the provenance for the period 1933–1945 for paintings and sculpture in its collection.

This research began with an initial survey of all the European paintings and sculpture in the collection that were created before 1946 and acquired by the museum after 1932. In accord with the AAM and AAMD Guidelines, the focus was on works acquired after 1932 and created before 1946; that changed owners during these years; and that were, or could have been, in continental Europe at that time. Out of the surveyed objects, curators identified those that had gaps in their chain of ownership for the Nazi era (1933 to 1945). These objects were first published on the Art Institute's Web site in April 2000. The group of objects published on the website was subsequently expanded to include works that have a documented chain of ownership and hence no gaps in their provenance, but nevertheless were in continental Europe from 1933 to 1945, and also changed hands during that period.

The Art Institute of Chicago continues to research the ownership history of those objects that lack conclusive provenance documentation. Ongoing efforts to identify past owners include physical examination of works and consultation of object files. Also critical are the investigation of museum and other archives, auction and exhibition catalogues, monographic studies, directories and catalogues of collections, dealer records, photographic archives, and publications of wartime activities of dealers and collectors. Some of these and other resources related to the search for and recovery of lost European artworks are listed in a bibliography compiled by the Art Institute's Ryerson Library. Curators and researchers also seek the advice of specialized scholars. As provenance research continues, this site will be updated to reflect new information.

Provenance research can prove challenging as records may have been lost or destroyed in the upheaval of war. In addition, the passage of time and world events often make important information difficult to locate. Gaps in the provenance of a particular work may be attributable to different causes, from an owner's desire for anonymity to the unavailability of records of purchase and sale. Thus, incomplete provenance information does not necessarily mean that a work has been tainted by the events of the Nazi era. In addition, in some cases, a work may have been seized by the Nazis but later restituted to its original owners and subsequently donated or sold by them.

By means of our ongoing research efforts, the Art Institute seeks to uncover more information about these works and to determine whether any work of art that has entered the museum's collection since 1932 could have been seized or stolen by the Nazis and not subsequently returned to its rightful owner.

Anyone with information or questions concerning any of these works is urged to contact Erin Hogan, director of public affairs, at (312) 443-3664.

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Type Painting

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Provenance Research Project

Adolphe Joseph Thomas Monticelli
French, 1824-1886
Fête d'Après-Midi
c.1880

Oil on panel
17 x 21 7/8 in. (43 x 55.5 cm)
1987.92.2

Monticelli, Adolphe Joseph Thomas
French, 1824-1886
Still Life with Fruit and Wine Jug
1874

Oil on panel
19 x 23 1/2 in. (48.2 x 59.7 cm)
1988.261

Monticelli, Adolphe Joseph Thomas
French, 1824-1886
Mephisto from the Opera Faust
1870-86

Oil on panel
15 1/8 x 10 5/16 in. (38.5 x 26.2 cm)
1984.1493

Domenico Morelli
Italian, 1826-1901
The Gladiator
19th century

Oil on panel
13 3/8 x 8 3/8 in. (33.7 x 21.3 cm)
1968.161

Alexei Alexeevich Morgunov
Russian, 1884-1935
Portrait of Nathaliia Gontcharova and Mihail Larionov
1913

Oil on canvas
41 x 53 3/4 in. (104.1 x 136.5 cm)
1975.666

Morisot, Berthe
French, 1841-1895
Forêt de Compiègne
1885

Oil on canvas
21 3/8 x 25 1/2 in. (54.2 x 64.8 cm)
1978.422

Edvard Munch
Norwegian, 1863-1944
Girl Looking out the Window
c. 1892

Oil on canvas
38 x 25 3/4 in. (96.5 x 65.4 cm)
2000.50

Francesco de Mura
Italian, 1696-1782
Charity
1743/44

Oil on canvas
54 15/16 x 53 in. (139.5 x 134.6 cm)
1971.429

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Edvard Munch
Norwegian, 1863-1944
Girl Looking out the Window, c. 1892
Oil on canvas
38 x 25 3/4 in. (96.5 x 65.4 cm)
Inscribed, lower right: E - Munch
Searle Family Trust and Goldabelle McComb Finn endowments; Charles H. and Mary F.S. Worcester Collection, 2000.50

Object Type: Painting
Department: Medieval through Modern European Painting, and Modern European Sculpture

Provenance
Arthur von Franquet (died 1931), Braunschweig, from 1893 [acquired directly from the artist; see correspondence in Munch Museum archives, Oslo]. By descent to his nephew Herbert von Franquet, 1931. Sold to Neue Galerie, Vienna, 25 September 1935 [letter from Otto Kallir Nirenstein, Neue Galerie, to Edvard Munch, 26 September 1935, in Munch Museum archives; copy in curatorial file]. Harald Hort Halvorsen, Oslo, 1937 [bought in Paris in 1937 according to Katalog 1952]. Pål Kavli, Oslo, c. 1937. By descent to Kavli's second wife, Reidun Kavli (died 1996) [see correspondence and notes in curatorial file]. Mr. Allan Andersen, Denmark. Sold to the Art Institute, 2000.

Exhibition History
Kristiania (present-day Oslo), Juveler Tostrups Gaard, Edvard Munch's Maleriudstilling, September 1892, no. 45.

Berlin, Verein Berliner Künstler, Sonder-Ausstellung des Malers Edvard Munch aus Christiania, November 5–19, 1892, no. 23; traveled to Düsseldorf, Eduard Schulte, November 1892; Köln, Eduard Schulte, December 1892; Berlin, Equitable-Palast, December 1892 – January 1893; Copenhagen, Skandinavisk Kunstudstillings Lokaler, February – March 1893; Dresden, Victoriahaus, May 1893.

Lugano, Museo d'Arte Moderna, Edvard Munch, September 19–December 13, 1998, no. 15

Vienna, Graphische Sammlung Albertina "Edvard Munch: Themes and Variations" March 14-June 22, 2003, cat. 84.

References
Dr. Reiling, "Der Fall Munch," Die Kunst für Alle 8, no. 7 (1893), p. 102.

Harold Holst Halvorsen, Katalog av Edvard Munchs Kunstverker samlet av Harold Holst Halvorsen, Kunsthandler (Oslo, 1952), p. 4 (ill.).

Paris, Musée d'Orsay, Munch et la France, exh. cat., 1992, fig. 89.

Jan Kneher, Edvard Munch in seinen Ausstellungen zwischen 1892 und 1912: Eine Dokumentation der Ausstellungen und Studie zur Rezeptionsgeschichte von Munchs Kunst (Worms, 1994), pp. 10, 15, 369.

Jay A. Clarke, "Girl Looking out the Window" in Art Institute of Chicago Museum Studies 30, 1, (2004), pp. 70-71 (color ill.).

Jay A. Clarke, "Munch's Critical Reception in the 1890s and His 'Place' in History" in Seeing and Beyond: Essays on Eighteenth- to Twenty-First-Century Art in Honor of Kermit S. Champa (New York, 2005), pp. 191-92, 199, fig. 3.

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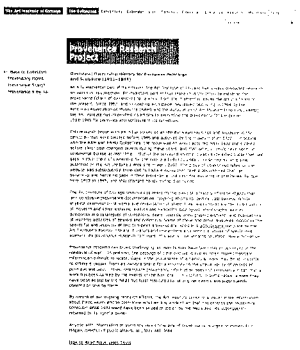
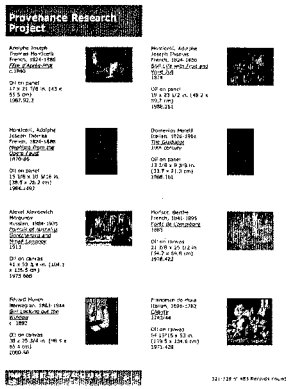
The Art Institute of Chicago, Collections

The Art Institute of Chicago, Provenance Research

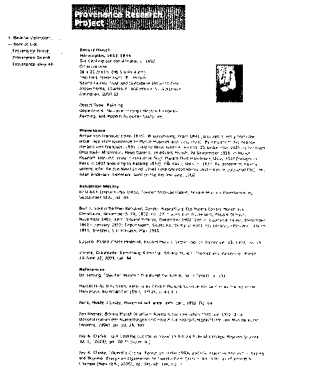


The Art Institute of Chicago, Provenance Search

The Art Institute of Chicago, Provenance Search Results



The Art Institute of Chicago, Provenance Object Detail



TESTIMONY OF GILBERT S. EDELSON
ADMINISTRATIVE VICE PRESIDENT AND COUNSEL
ART DEALERS ASSOCIATION OF AMERICA

Before the

SUBCOMMITTEE ON DOMESTIC AND INTERNATIONAL MONETARY POLICY, TRADE AND TECHNOLOGY OF THE HOUSE COMMITTEE ON FINANCIAL SERVICES

July 27, 2006

I am the Administrative Vice President and Counsel of the Art Dealers Association of America ("ADAA"), on whose behalf I appear today. I am a lawyer and counsel to the firm of Katten Muchin Rosenman LLP in New York City. I appreciate the opportunity to appear before the Committee, and I hope that my testimony will be helpful to you.

ADAA is a not-for-profit association of art dealers founded in 1962. Its purposes are to promote the highest standards of connoisseurship, scholarship and ethical practices within the profession and to increase the public awareness of the role and responsibilities of reputable art dealers. ADAA has approximately 165 members in more than 20 cities throughout the United States who deal in works of fine art, that is painting, sculpture, and works on paper from the Renaissance to the present.[1]

Membership in ADAA is selective; it is by invitation of the board of directors after consultation with the membership. The requirements for membership are that the dealer be in business for at least five years, that the dealer has established a reputation for honest and ethical dealing and for financial stability, that the works offered by the dealer are of high quality within their field (although not necessarily expensive), that the dealer have an expert knowledge of the works of the artists or the period in which he or she deals, and that the prospective member makes a contribution to the cultural life of the community. It is fair to say that ADAA is an organization of the nation's leading dealers in works of fine art.

ADAA and its members are especially sensitive to the issues now before the Committee. Many art dealers and their families, including past and present ADAA members, were victims of Nazi persecution. Some perished, some were imprisoned, some were able to come to the United States where they have made important contributions to the cultural life of this nation.

ADAA's first President was Alexandre P. Rosenberg of Paul Rosenberg and Company which had galleries in New York and Paris. His father, Paul, was head of the firm that represented Picasso, Braque and other important French artists. In 1940, when France fell, Alexandre was a student at the Sorbonne. He made his way to England, joined the Free French army and rose to be an infantry officer. In 1944, when Paris was about to fall, the Germans attempted to bring to Germany many of the works of art which they had looted. Alexandre led the French detachment that stopped the train carrying the looted art. But the Germans succeeded in looting many works belonging to Paul Rosenberg and Company that were in the Paris gallery. As a consequence, the Rosenberg family is still searching for many of those works.

ADAA's position is straightforward. All traffic in Nazi-looted art should be ended and looted works should be returned to their rightful owners. No ADAA member will knowingly buy or sell such a work.

Wholly apart from moral and ethical considerations, these are good, practical reasons why no responsible dealer would want to buy or sell a stolen work -- and looted works are stolen. Sooner or later, the fact that a work is stolen is likely to come to light. However innocent or careful the dealer may have been, there is then the prospect of a controversy with a very disappointed and unhappy client, and the possible damage to a dealer's reputation. And no responsible dealer wants to be a defendant in a lawsuit in which it is alleged that he or she sold a stolen work of art.

In 1998, after consultation with its membership, ADAA issued its Guidelines Regarding Art Looted During the Nazi Era. I have been asked to describe this document. Rather than summarizing it, I attach the Guidelines and request that they be included as a part of my testimony.

The second question put to me concerns the methods used by dealers to conduct provenance research when a relevant work is received for sale.

First, a word about provenance. Provenance is a record of the prior owners of a specific work of art, and should properly include the dealers or auction houses through which a given work passed. Originally, provenance was not used in connection with title. It was, rather, a tool in establishing the authenticity of a work by an Old Master -- that is one usually created before 1800. The idea was to trace ownership back to the artist, is possible. Only recently has provenance become important in establishing a chain of title. But it is an imperfect tool.

Many works do not have a complete chain of title for good reasons. For example, provenance has not routinely been recorded for works of modest value, including many works by contemporary, relatively unknown, artists, as well as works on paper, such as watercolors, prints and drawings. As the values of some of these works has risen, provenance has become a matter of increased interest. But because there was no record in the beginning, there is a gap which may never be filled.

Gaps also exist because many collectors prefer to remain anonymous. Thus, the provenances of many works will contain phrases such as "Private Collection -- New York" or "Private Collection -- London," etc.

It is customary for a dealer's invoice to list the provenance of the work being sold. And such an invoice could be an important source of information. But invoices are frequently lost over the years, or can contain erroneous information. For these reasons, in many cases it is not possible to establish a complete and accurate record of the prior ownership of a given work.

Nevertheless, a responsible dealer will make an effort to research the provenance of a work to determine whether a work made prior to 1945 was looted during the Nazi era. The nature of the research will vary depending upon the individual work and the available information. It should be emphasized that the research is directed at ascertaining who had possession of a given work more than 50 years ago. In researching a work, the dealer may refer to prior invoices, catalogues of auction sales, catalogues of exhibitions in which the work was included, labels of other dealers on the stretcher or the back of the frame of a work, the catalogue raisonne of an artist (a scholarly work including the entire oeuvre of an artist and including some provenances), other dealers through whose hands the work has passed, family inventories, appropriate government records, etc. Frequently, there is no definitive answer because there is no evidence that a work has been looted or not looted.

The ADAA Guidelines deal with the situation where a dealer has reason to believe that a work has been looted during the Nazi era. Paragraphs A-4 of the Guidelines states: "If evidence of looting is discovered and there is no evidence of restitution, the dealer should not proceed to acquire or sell the object, and should notify the seller. Depending on the circumstances of the particular case, additional steps may be prudent or necessary, such as notifying appropriate government authorities or other interested parties of the dealer's findings. However, dealers are not law enforcement agents and dealers may also have a duty to protect their clients."

The Guidelines cover the method for handling potential claims by Holocaust victims and their heirs, as follows:

1. The ADAA urges dealers to handle claims of ownership that may be asserted in connection with objects in their custody, or that they have sold in the past, promptly and with openness, seriousness and respect for the dignity of all parties involved. Each claim should be considered on its individual merits.

2. The dealers should request evidence of ownership from the claimant in addition to conducting his or her own research.

3. If the dealer determines that a work which he or she presently owns was looted during the Nazi era, the dealer should seek to resolve the matter in an equitable, appropriate and mutually agreeable manner. The object should be withdrawn from sale until such time as the matter is resolved.

4. If the dealer is presented with a claim for a work presently on consignment, the work should immediately be withdrawn from sale and the owner informed of the claim. The dealer should not offer or sell the work until questions about its ownership have been resolved, and should return the work to the client if so requested.

5. If a dealer is presented with evidence that a work he or she previously sold may have been looted, the dealer should endeavor to make available any records which may serve to clarify the history of the work in question. However, dealers are not empowered or qualified to take sides in disputes of title, which must ultimately be independently adjudicated.

6. When reasonably practical, dealers should seek equitable methods other than litigation to resolve claims that an object was looted during the Nazi era.

From my personal experience I can testify that it is best for all parties to avoid litigation if at all possible. Litigation is time-consuming. It has considerable problems of proof. And it can be very expensive for both sides. There are alternative means to resolve these disputes. For example, I have mediated several cases in which the parties reached settlements quickly and relatively inexpensively. I would strongly recommend that disputes over possible Nazi-looted art be resolved through mediation by a knowledgeable person.

The last question put to me is whether I can identify areas where progress can be made in the future to assist in the return of Nazi-era art. In response, I can quote from my previous testimony before the Committee.

"We should do now what should have been done many years ago. There should be a central registry and data base where claims for the recovery of looted works could be registered, kept on file and where the information would be made available to all interested parties.

Such a registry and data base would serve a number of purposes:

If I represented a Holocaust victim or the family of a victim who are searching for works seized by the Nazis, I am not sure where I could turn for help, how I could inform the art community that there is a claim for the recovery of certain works. The central registry would be such a place.

At the same time, museums, collectors, dealers, auction houses and law enforcement agencies would have important information available to them. Dealers and auction houses, for example, would be able to learn quickly whether there is an outstanding claim for the recovery of a work which appears on the market. In addition, the registry would be useful in defining the extent and magnitude of the problem with which we are dealing.

The usefulness and importance of the registry is apparent. Before we can adjudicate claims, we must know that they exist.

It is important that the establishment and operation of a registry be a collaborative effort among the organizations involved in the problem of works looted during the Holocaust. It is important that there be one unified effort, that all information is shared and that the funds available be efficiently employed in a single effort and enterprise.

There should, in sum, be a single registry and not duplicative efforts.

It is also important that any registry be staffed by trained art professionals who know art and the art community, who know which questions to ask, what data is important and who can do the research necessary to fill gaps in the information provided.

In addition, it is important that the registry employ the best and most advanced computer technology such as that which is now used by The Art Loss Registry, to respond quickly to inquiries.

The registry which we suggest will not solve all the problems. There remains, for example, the matter of the adjudication of claims. But it would be a beginning and a foundation for further action."

Some years have passed and there is still no central registry. I suspect that the reason is that there is a lack of the necessary funding.

I very much appreciate the opportunity to appear before this Committee and I thank the Committee members and the staff for their courtesy.

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[i] ADAA's members do not deal in works of the decorative arts, such as antique furniture, rare books, rugs, porcelain, antique jewelry and similar objects. Or do they deal in antiquities, Asian art or tribal art.

ART DEALERS ASSOCIATION OF AMERICA

GUIDELINES REGARDING

ART LOOTED DURING THE NAZI ERA

Between 1933 and 1945, an untold quantity of art was looted by the Nazi regime. While some of this art was retained by Hitler or other top Nazi officials for their own collections, many other items were sold for hard currency. After World War II, the Allied powers endeavored to round up this looted art. These works were returned to their respective countries of origin, each of which was responsible for ensuring that the works were given back to their rightful owners. However, no such process existed to track and return the many works that had already entered the art market. Nor was there any central registry where claims could be recorded and made internationally accessible to collectors, museums and the art trade. As a result, dealers in the past often lacked the resources necessary to identify unrestituted looted art.

In an attempt to redress the horrendous wrongs of the Holocaust, greatly increased scrutiny is today being given to provenance. The Art Dealers Association of America supports these efforts wholeheartedly, while also recognizing that many art works do not have complete chains of provenance and never will. Sellers of works of art through the years have often, for perfectly legitimate reasons, chosen to remain anonymous. And provenance has not routinely been recorded for works of relatively low value, including many contemporary works, watercolors and drawings and most prints. As the value of these works has risen, provenance has become a matter of increased interest and concern. However, the inability to conclusively establish the ownership of a work during the Nazi period does not necessarily mean that the work in question was looted.

The Art Dealers Association of America represents the highest standards of connoisseurship, scholarship and ethical practice within the profession. As such, ADAA supports the attempt to identify unrestituted looted art and, whenever possible, to assist in its return to its rightful owners. To this end, ADAA has established the following guidelines.

A. Sales and Consignments

ADAA recommends that dealers take all reasonable steps to ensure that they do not purchase, accept on consignment, or sell unrestituted looted art.

1. A dealer should, wherever reasonably possible, obtain from all sellers and consignors as complete a provenance as is available to that owner, as well as a written warranty of title and an indemnification.

2. Where the Nazi-era provenance is incomplete for a given work, the dealer should consult appropriate sources of information, including available and reasonably accessible records and outside databases with information concerning Nazi-looted art.

3. In the absence of evidence of looting, the object may be presumed not to have been looted and the sale may proceed.

4. If evidence of looting is discovered and there is no evidence of restitution, the dealer should not proceed to acquire or sell the object, and should notify the seller. Depending on the circumstances of the particular case, additional steps may be prudent or necessary, such as notifying appropriate government authorities or other interested parties of the dealer's findings. However, dealers are not law-enforcement agents, and dealers may also have a duty to protect the confidentiality of their clients.

5. To the extent that it is known, the dealer should include the provenance on all invoices for sold art works. But, in accordance with long industry practice, because of the difficulties and uncertainties involved, dealers cannot and should not warrant provenance.

B. Claims

1. The ADAA urges dealers to handle claims of ownership that may be asserted in connection with objects in their custody, or that they have sold in the past, promptly and with openness, seriousness and respect for the dignity of all parties involved. Each claim should be considered on its individual merits.

2. The dealers should request evidence of ownership from the claimant in addition to conducting his or her own research.

3. If the dealer determines that a work which he or she presently owns was looted during the Nazi era, the dealer should seek to resolve the matter in an equitable, appropriate and mutually agreeable manner. The object should be withdrawn from sale until such time as the matter is resolved.

4. If the dealer is presented with a claim for a work presently on consignment, the work should immediately be withdrawn from sale and the owner informed of the claim. The dealer should not offer or sell the work until questions about its ownership have been resolved, and should return the work to the client if so requested.

5. If a dealer is presented with evidence that a work he or she previously sold may have been looted, the dealer should endeavor to make available any records which may serve to clarify the history of the work in question. However, dealers are not empowered or qualified to take sides in disputes of title, which must ultimately be independently adjudicated.

6. When reasonably practical, dealers should seek equitable methods other than litigation to resolve claims that an object was looted during the Nazi era.

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Affiliations – Visual Arts Organizations:

Trustee, Archives of American Art, Smithsonian Institute
Trustee, New York Studio School of Painting, Drawing and Sculpture
Former Trustee, officer, member of the Executive Committee, American Federation of Arts
Former Trustee, officer, member of the Executive Committee, College Art Association of America
Former Trustee, International Foundation for Art Research

Committees And Advisory Groups:

Member - Committee on Art Law, Association of the Bar of City of New York. Chairman 1989 -1992
Member - Advisory Group – Commissioner of Internal Revenue re Formation of Art Advisory Panel
Member - Advisory Committee on UNESCO Convention on Illicit Transportation of Works of Art – U.S. Dept. of State
Member - Advisory Group – New York Attorney General re Fine Print Legislation
Member - Advisory Group – New York Attorney General re Sculptural Reproduction Legislation
Member - Task Force on Financial and Accounting Standards – American Association of Museums

International Conferences:

U.S. Delegate – Washington Conference on Holocaust Assets
U.S. Delegate – Vilnius Conference on Nazi Looted Art

Other:

J.D. Columbia University School of Law
Editor, Columbia Law Review

TESTIMONY ON THE STATUS OF ART RESTITUTION WORLDWIDE

by

Stuart E. Eizenstat

before the

Subcommittee on Domestic and International Monetary Policy, Trade, and Technology
Committee on Financial Services
U.S. House of Representatives

Washington, DC

July 27, 2006

I want to thank the bipartisan leadership of this Committee for holding these hearings, and the Claims Conference/WJRO for championing them. They will bring renewed attention to the restitution of art and cultural property looted by the Nazis during World War II, which, after a burst of activity in the late 1990s, has lost momentum, and threatens to fall off the pages of history, particularly abroad where most nations lack the continued commitment of the American Association of Museums to pursue the issue. At a time when almost all the other Holocaust-related restitution and compensation matters have been or are nearing completion, Holocaust-era art recovery remains a major unresolved challenge. A certain art restitution fatigue seems to have set-in, particularly in many foreign countries. These hearings can help change, and re-energize an incomplete process.

I wish to express particular thanks and gratitude to two individuals who have been particularly helpful to me in providing this testimony: Professor Jonathan Petropoulos, Director of the Gould Center and Associate Director for the Center for the Study of the Holocaust, Genocide, and Human Rights at Claremont McKenna College, and one of the pioneers in identifying the issue of Holocaust-era looted art; Anne Webber, co-chair of the Commission for Looted Art in Europe, based in London, who is one of the world's premier experts in the world-wide effort to identify and restitute looted art to their rightful owners; and Monica Dugot, Director of Restitution for Christie's. I also want to thank Ambassador Edward O'Donnell, who heads the Office of Holocaust Assets at the State Department, and his assistant John Becker, for their continuing interest in justice for victims of the Holocaust, including the recovery of Nazi-era looted art.

I. HOW HOLOCAUST-ERA ART RESTITUTION CAME BACK ON THE WORLD AGENDA

Our work on art restitution was part and parcel with our negotiations over the recovery of bank accounts, property, insurance, and slave and forced labor compensation.

The looting of artworks is as old as war. The Roman plunder of the Temple of Jerusalem in 70 A.D., depicted in the Arch of Titus in Rome, was typical of warfare in the ancient world.[1]

But like the Holocaust itself, the efficiency, brutality, and scale of the Nazi art theft was unprecedented in history. Experts have estimated that as many as 600,000 paintings were stolen, of which more than 100,000 are still missing fifty years after the war. When furniture, china, rare books, coins, and items of the decorative arts are included, the numbers swell into the millions. There was nothing casual about this massive plunder of art. It was supervised by the Einsatzstab Reichsleiter Rosenberg (ERR), headed by Alfred Rosenberg, who in his spare time administered the occupied European territories.

One of the Holocaust's greatest ironies is that its most malevolent perpetrators fancied themselves a new cultural elite. Hitler viewed the amassing of art as a necessary project in his creation of an Aryan master race. The cultural centerpiece of his Thousand Year Reich was to be the Führermuseum in Linz, Austria, where he was raised. Throughout the war, first Hans Posse, then Hermann Voss, Hitler's art curators, sent him photographs of the looted works from which some 8,000 pieces were prepared for the Linz collection.

Hermann Göring, Hitler's right-hand man, had an even greater appetite for art and by the end of the war had filled each of his eight spacious residences with works stolen or purchased at prices discounted under duress.

The Soviet prosecutor at Nuremberg accused the German invaders of destroying 427 of the 992 museums that fell into their hands. The Soviets, in their turn, systematically plundered huge amounts of Nazi art and historic German treasures, from masterpieces in museums to more modes works once owned by Jews. Most of this booty remained hidden from the world for half a century. The looting on both sides continues to haunt the art world to this day.

During the war the Allies were not oblivious to what was going on. On January 5, 1943, they issued the London Declaration, calling on neutral nations not to trade in art looted by the Nazis. U.S. Army commanders agreed to include curators and other art historians in the conquering armies as "Monuments, Fine Arts, and Archives" officers. They provided an extraordinary service in preserving Europe's cultural heritage during the final days of the war. As the Allied armies crossed the German border, these "Monuments Men," as they were called, found a wealth

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[1] This introduction is excerpted from my book, *Imperfect Justice: Looted Assets, Slave Labor and the Unfinished business of World War II* (Public Affairs, 2003/2004). Mr. Eizenstat was President Jimmy Carter's Chief Domestic Policy Adviser in the White House from 1977-1981. During the Clinton Administration, he was U.S. Ambassador to the European Union (1993-1996), Under Secretary of Commerce (1996-1997), Under Secretary of State (1997-1999), and Deputy Secretary of the Treasury (1999-2000). He was Special Representative of the President and Secretary of State for Holocaust-Era Issues. He is a member of the Advisory Board of Christie's, Honorary President of the Commission for Looted Art in Europe, and Honorary Chairman of the Central Registry of Information on Looted Cultural Property 1933-1945. But the views expressed are my own.

of looted art and cultural objects that they dispatched to collecting points to be cataloged and eventually returned to their owners. President Truman ordered the looted objects to be repatriated by the military as quickly as possible. Following international legal precedent, the U.S. and British commands returned the objects to their countries of origin and relied on each government to trace the owners and ultimately return the stolen property.

This reliance was often misplaced. For example, France collected more than 60,000 stolen objects, and during the four years following the end of the war, 45,000 of these were returned to their owners. But in 1949 the French dissolved the commission that performed this work, and of the remaining 15,000 pieces, 2,000 were placed in French museums, and 13,000 considered to be "heirless" were sold at auction.

The Soviet government refused to allow the Western Allies access to the territory they controlled to provide an account of the enormous seizure of art by the Red Army. The issue soon dropped from sight, as archives needed to trace stolen property were buried in Soviet repositories.

The wall of silence on art was breached mainly by four scholars I met during my work on art recovery:

- Jonathan Petropoulos: His 1990 doctoral dissertation, *Art as Politics in the Third Reich*, was published in 1996.

- Lynn Nicholas wrote the award-winning 1994 book, *The Rape of Europa,* which describes the Nazis' massive looting of art.

- Konstantin Akinsha, whose 1995 book, *Beautiful Loot: The Soviet Plunder of Europe's Treasures,* documented the Red Army's "trophy art" taken from the Germans under the Soviet military administration of Germany and spirited away to the Soviet Union.

- Hector Feliciano, an American journalist based in Paris who documented in his 1997 book, *The Lost Museum: The Nazi Conspiracy to Steal the World's Greatest Works of Art,* the 2,000 art objects that had been held since the early 1950s by French museums that had made little effort to find their owners.

At about the same time, the World Jewish Congress launched the Commission for Art Recovery in 1998 under the leadership of an experienced professional in tracing stolen art, Constance Lowenthal.

In January 1995, Professor Elizabeth Simpson of the Bard Graduate Center for Studies in the Decorative Arts organized a conference in New York on "The Spoils of War" that for the first time brought together German, American, and Russian experts on looted art.

The books by these four scholars and the Bard conference were important milestones, but the issue had not yet come to the attention of governments and the general public. I used the London Conference on Nazi Gold, in December 1997, for a brief closing seminar on art, initially over the

objections of our host government, the British, who wanted the conference focused strictly on looted Nazi gold.

At London, we needed an expert to introduce the topic. Hector Feliciano was our controversial choice. The French were upset at this selection because of his exposé on their country's looted art. But Feliciano made a powerful appeal for increased access to art archives in France, Russia, and elsewhere in Europe. He accused art dealers on both sides of the Atlantic of neglect or worse in documenting the ownership of the art transferred during the war. His speech marked the first time these points had been publicly made before an international gathering of senior officials. It had its intended effect. Even the French delegation gave a surprisingly candid account of the number of objects seized by the Nazis, sold publicly during the war, and distributed to French museums.

At the end of the London conference, I announced a second conference, to be held in Washington, in which art and cultural property would be the chief focus, and invited the countries represented in London to send official representatives. I had already obtained the approval of Miles Lerman, Chair of the U.S. Holocaust Memorial Museum, for the museum to be the conference's cosponsor.

An utterly unexpected event soon put the question of looted art before the public in a most dramatic way and tested the normally cozy ties among museums and dealers in the international art world. The test case centered on *Portrait of Wally* and *Dead City III,* two paintings by Austrian artist Egon Schiele on loan from Austria's Leopold Foundation to New York's Museum of Modern Art (MOMA) for a special exhibition. Acting on a complaint by two families claiming that the paintings had been stolen from their relatives by the Nazis, Robert Morgenthau, the Manhattan district attorney, subpoenaed the paintings in January 1998.

The New York Court of Appeals refused to uphold Morgenthau's subpoenas. It seemed the paintings were free to be returned to Austria, until the U.S. attorney's office argued that the paintings were subject to forfeiture under the National Stolen Property Act.

The seizure of the Schiele paintings put American museums in a frightening dilemma. This was the first time that a civil claim for a painting seized by the Nazis had turned into a criminal case. Museum directors did not want to turn a blind eye to looted art, but if American prosecutors were ready to intervene in private disputes over ownership, it would become impossible for U.S. museums to borrow art for display from other countries.

Philippe de Montebello, the longtime director of the Metropolitan Museum of Art in New York, was thrust into this unprecedented controversy by the House Banking Committee, chaired by Representative James Leach of Iowa, which held hearings on Holocaust assets in February 1998. Pressed by Chairman Leach, he promised that the Association of Art Museum Directors (AAMD) would present guidelines within four moths for addressing the problem of looted artworks.

About 170 American art museums belong to the AAMD. Questions about looted Holocaust-era art had first arisen in the association's semiannual meeting of the previous June, as a reaction to

the Feliciano and Nicholas books and press accounts of several families' claims against American museums accused of unknowingly displaying stolen art. When the issue formally came up on the next meeting's agenda, in January 1998, the Schiele heirs were in full cry, and the Washington conference was less than a year away. The AAMD created a Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945), with de Montebello as chair and the country's most powerful museum directors as members.

June 9, 1998, my State Department team and I convened a day-long roundtable at the Holocaust Museum to reach a consensus among American art experts on goals for the Washington conference, to be held in November. Among the thirty people present were officials of the AAMD, lawyers, art historians who specialize in retrieving lost or looted art, and representatives of the Art Dealers Association. We emerged with the principal objective of internationalizing the guidelines that de Montebello presented to the AAMD on June 4. His task force had recommended that American art museums immediately start researching their collections for looted works; publish information in a centralized and publicly accessible database to assist war victims and their heirs; seek all possible information about the history of the ownership – "provenance" in the art work – of any work before acquiring it; refuse any works showing evidence of unlawful work before acquiring it; refuse any works showing evidence of unlawful confiscation; seek warranties from sellers of valid title free of claims; and finally, resolve by mediation any claims against pieces in a museum's collection "in an equitable, appropriate, and mutually agreeable manner."

But organizing an international consensus based upon the AAMD principles proved much more difficult. In particular, the Netherlands, Germany, England, and France refused to endorse them, resenting the notion that American principles should be imposed upon their museums. Ambassador J.D. Bindenagel and I proceeded nevertheless to hold an organizing seminar for the Washington conference at the end of June. This was an unusual step. But we felt that the subject of art restitution was so new to most countries that, for the conference to have any chance of success in November, we needed to present what we knew about Nazi-looted art and give the contentious issues sure to arise a preliminary airing. We also wanted to build confidence among the Russians, who feared the conference would turn into an effort to divest them from their trophy art, and among the Germans, who feared it would lead to yet another excuse for more Holocaust reparations.

Earl "Rusty" Powell, director of the National Gallery in Washington, D.C., gave a compelling presentation of the AAMD guidelines. Ronald Lauder, then chair of New York's MOMA and formerly U.S. ambassador to Austria, reported that according to secret U.S. government documents, the Nazis had stolen one-quarter of Europe's total wartime stock of art and that only about half had been returned to their owners or their heirs, with the rest in museums or private collection. Michael Kurtz of the U.S. National Archives cited military archives revealing that a staggering 50 million artworks of all kinds were placed in 1,400 repositories in the U.S. occupation zone of the Germany and ultimately returned to the country of origin.

But it was the Russian delegation, whose attendance was in doubt until the last minute, that we were most anxious to hear. To my great relief the Russians supported the idea of the Washington

conference. But they said restitution was a delicate and complicated matter, lacking either an international or Russian legal basis.

The seminar proved important in raising the long-suppressed issue of looted art, promoting the new AAMD guidelines as a possible basis for international agreement, and engaging the Russians in a discussion. But when Bindenagel went to Europe for follow-up consultations, the Europeans still would not sign onto the AAMD guidelines. So our planning team repackaged them by drafting ten principles that looked new and different but kept the AAMD's essential points, as well as a paper outlining best practices in dealing with art looted by the Nazis. These proposals were distributed to all delegations a few weeks before the conference; they were neither immediately accepted nor summarily rejected.

I believed that if we could persuade one country to take the lead, others might be shamed into taking action. Austria seemed like a good candidate. I had to travel to Vienna to plan the regular summit between the United States and the EU, so I added art restitution to my agenda.

The key was Elizabeth Gehrer, who as minister of education and culture, had jurisdiction over Austria's glorious state museums. She declared that Austria wanted to be "big and generous," but because the art objects belonged to the state, a new law would have to be passed to allow their return to any owners who would be found.

Our State Department team also received an encouraging sign from France in early November, when the Foreign Ministry published a catalog of 333 stolen paintings and posted it on the Internet in an attempt to locate the works' original owners.

On November 30, the opening day of the Washington conference, the Austrian Parliament approved the new art law.

I had asked Representative James Leach to chair the art sessions and to help persuade the delegates to adopt the draft principles. The opening presentations at the conference were made by Jonathan Petropoulos, Konstantin Akinsha, and Lynn Nicholas, who described the Nazi thefts as "the greatest displacement of works of art in history."

At the art session the emotional highlight was a presentation by Colonel Seymour Pomerenze, one of the few surviving Monuments Men, who directed the depot at Offenbach in a former warehouse of I.G. Farben (the manufacturer of the gas used in the extermination camps.)

We finally got the response we hoped for as Austria, the Netherlands, Germany, the Czech Republic, Switzerland, Sweden, Greece, and Hungary described the efforts underway to catalog confiscated art in their state museums. The Dutch reported that they had identified four thousand works in their state collections that they now were anxious to return to their rightful owners. The Austrians made a similarly impressive presentation. Thrown on the defensive by the open debate, the Russians described legislation that reaffirmed their right to keep "trophy art" from Germany as compensation for war losses but would permit an eighteen-month claims period for individuals or religious institutions whose art was stolen by the Nazis for racial or political reasons. Valeriy Kulishov, chief of the Office of Restitution in Russia's Ministry of Culture

promised the conference that Russia would support the draft principles and "do all we can to find art pieces and return them to the countries where they were looted."

Despite intense lobbying by my team and me, including Representative Leach, substantial opposition to adopting the AAMD-based principles remained in France, Germany, Italy, and Switzerland, as Bindenagel found when he polled the delegations beginning at 7:00 a.m. on December 3, the last day of the conference. I tried to negotiate a last-minute compromise with the heads of the French, German and Swiss delegations. The Europeans were especially upset at one of Congressman Leach's recommendations, that each country should enact national legislation to implement the principles. They worried that the proposed principles would override their judicial processes. In sum, they still did not want the appearance of American principles being imposed upon them.

With the closing session only a few hours away, it was too late to rewrite each principle to suit every county. So, to give the key countries political cover, I made one last attempt and suggested a new introductory paragraph to our principles that would state that the Washington conference recognized that countries with different legal systems could "act within the context of their own laws." That did it. The European negotiators indicated they could accept this. We could keep the principles intact, but they would not be binding.

What we achieved was important moral authority in five areas. First, the principles called on museums, governments, commercial galleries, and auction houses to cooperate in tracing looted art through more stringent research into the provenance of every item. Second, given the difficulty of producing evidence of ownership, the art community was asked to permit leeway in accepting claims on stolen art during the Hitler era. Third, there would be an international effort to publish information about provenance. Fourth, a system of conflict resolution would be established to prevent art claims from turning into protracted legal battles. Fifth—and least definite—attempts would be made to find a fair solution when owners of looted works could not be found.

Since none of these principles was legally binding, one may legitimately ask whether anything has really changed. What the conference did was provide international attention and legitimacy to the return of looted Nazi art. Once the imprimatur of the forty-four countries including the United States—the world's largest single art market—was placed on what became known as the Washington Principles, art recovery could no longer be ignored. We effectively internationalized the AAMD principles. "The art world will never be the same," Philippe de Montebello whispered to me as the conference closed. To the conference itself, he was equally direct: "On the issue of the spoliation of art in the World War II/Nazi era, the genie is, at last, out of the bottle, and no resistance, apathy, or silence can ever fit it back inside again."

The Washington Principles changed the way the art world did business.

In the years since the conference, as de Montebello latter pointed out, "this has changed drastically; the whole psychology has changed. Art dealers, galleries, museums now check the ownership of paintings from Europe to determine if there are gaps from the World War II era

which might indicate the painting had been confiscated. And if so, they are posting the information on Web sites."

Major American museums now take the AAMD and Washington Principles seriously, spending money and allocating staff to research provenance to detect whether paintings have been looted. In 1999 the International Council of museums called on its members to follow the Washington Principles. Austria has reviewed the collections of all federal museums and returned more that 250 artworks to the Rothschild family and identified more than 2000 others. In December 1999 the German Ministry of Culture issued a statement promising that the German government would exert its influence to return confiscated art to former owners or their heirs. The provenance of museum collections was to be examined, and suspect works posted on the Internet on Germany's Lost Art Database.

Sweden established a commission to locate art. France was completing research into the provenance of more than 2,000 works returned from Germany after the war. Italy has published a catalog of art treasures lost during the war, including those from the collections of Holocaust victims.

I recommended that President Clinton create an advisory commission on Holocaust assets to study looted assets that made their way to the United State. The commission was chaired by Edgar Bronfman. The art subcommittee, on which I sat, heard the directors of several great museums detail their efforts to identify and return Nazi-looted art. De Montebello reported that after the Washington conference, his museum had found Nazi-era gaps in the ownership records of 393 of it 2,700 European paintings. Although this does not mean that all 393 paintings were looted, it indicates the increased care taken by American museums.

The issue of heirless Nazi-looted art is particularly difficult and one we did not directly address through the Washington Principles. At the Vilnius International Forum on Holocaust-Era Looted Cultural Assets, in Lithuania in October 2000, Colette Avital, Israel's consul general in New York, insisted that her country was the only legitimate heir of what was once Jewish property.

Who should become the owners of the vast amounts of art that are expected to be identified according to the Washington Principles but for which there are no living heirs—the countries in which the unclaimed art was located, the local Jewish communities, or the state of Israel?

Michel Dufour, the French secretary of culture, refused to accept the French Jewish community as owners and certainly not the Israelis as heir to a painting owned by a French Jew killed in the Holocaust. After a contentious and impassioned all-night session during the Vilnius forum, I persuaded all sides to agree to vague language indicating more study of heirless art was required. Clearly there would be no easy solution that would satisfy everyone.

II. IMPLEMENTATION OF THE WASHINGTON PRINCIPLES IN THE U.S.

UNITED STATES MUSEUMS

With this as history, the key is the implementation of the Washington Principles. Clearly, the United States museums, under the leadership of the American Association of Museums (AAM) and the U.S. National Committee of the International Council of Museums (AAM/ICOM), have taken the Washington Principles seriously. The art restitution situation is far better than during the decade that preceded the revelations of the mid-1990s. Curators and other museum officials now routinely ask questions of benefactors who give works to their institutions; record keeping is far better; research into collections, while uneven among U.S. museums, is proceeding in many; and most museum officials want to do the right thing. About 150 AAM members have posted data on the AAM's Nazi-Era Provenance Information Portal (NEPIP) concerning their collections, about half of the total AAM membership. While this is less than we hope, the good news is that the most important museums – Cleveland, Detroit, Chicago, Boston, L.A. County, the Metropolitan Museum in New York, and the National Gallery—have provided good data. The Museum of Modern Art has provided only partial data, while many museums, particularly the smaller ones, have added little or nothing, citing cost considerations.

The AAM Board of Directors has approved guidelines concerning the unlawful appropriation of art objects during the Nazi era in November 1999 and updated them in April 2001. A working group was formed which offered guidance to assist museums in addressing the problem. Moreover, the AAM and the Association of Art Museum Directors (AAMD) worked the Presidential Advisory Commission on Holocaust Assets in the United States to establish standards for disclosure to aid in the identification and discovery of unlawfully appropriated objects in the custody of American museums, which were incorporated in the Commission's January 2001 report.

The Commission, AAMD and AAM agreed that museums should strive to identify all objects in their collections created before 1946 and acquired after 1932, that underwent a change of ownership between 1932 and 1946, and that were reasonably thought to have been in Europe between those dates; they make currently available provenance information on those objects accessible; and to provide priority to continuing provenance research. 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." In addition, museums "may elect to waive certain defenses", although they are not required to do so.

The 2001 Presidential Commission report recommended creation of a searchable central registry. To its great credit, AAM has followed through. It created a task force to develop procedures for posting objects and performing provenance information, identifying 20 categories of information about covered objects that museums should compile and make available. In addition, the task force developed the concept of a Nazi-era Provenance Internet Portal to allow researchers to have easier access to provenance information about covered objects in museum collections. The Portal allows users to search by the artist and nationality of the artist and gain access to information provided by contributing museums, along with links to further information controlled by those museums. This is an important step forward.

There are currently over 18,000 objects from 151 participating museums on the Portal. This is a good start, but is a small percentage of the potential universe of some 140,000 covered objects meeting the AAM definition. Many museums have not submitted the relevant data for the Portal's data base. The AAM committed to developing and manage the Portal for three years, after which it would transfer responsibility to "a more appropriate organization." I do not believe this organization has been identified yet.

But for all the progress, and it is considerable and commendable, many museums are not energetic about researching their collections and many seem to wait for claimants to come to them, rather than be pro-active. Provenance research is costly and museum budgets are tight. Many provenance researchers hired in the last 1990s, when attention was heavily focused on Holocaust art restitution, worked for several years, but did not have their contracts renewed.

The important survey by the Claims Conference and the WJRO indicates that there has been important, but spotty progress by American museums in providing the kind of information that would make the Portal a successful vehicle to identified looted art. Many museums have not responded to the AAM's initiative to list works that have unclear provenance for the years 1932-1946. Congress should press the dilatory museums to get up the standards that many of the leading American museums have already reached, while praising the AAM and those American museums which have followed AAM's lead. Clearly, resources are an issue, particularly for smaller museums. But because of the importance of getting this data base as complete as possible, it should be a higher priority for some American museums than it has been to date. They should emulate the excellent role model set by many U.S. museums.

NEW YORK STATE HOLOCAUST CLAIMS PROCESSING OFFICE

There have been other impressive efforts in the United States. For example, under Governor Pataki's leadership, A New York State Holocaust Claims Processing Office has helped Americans recover a variety of lost assets, including lost and looted art. Their 2005 report indicates that they have accepted 142 art claims from 19 states and 9 foreign countries referencing 25,000 items. The Office has returned 12 works of art.

LITIGATION

Litigation in U.S. courts has been another avenue for art recovery[2]. The U.S. Supreme Court's decision in Republic of Austria v. Altmann, involving the possession of six painting by Gustav Klimt seized by the Nazis from Maria Altmann's aunt and uncle's house, was a landmark in opening up U.S. courts to claims against foreign governments which control looted art. This case is being invoked in the case brought by Claude Cassirrer of San Diego against the Spanish government and Thyssen-Bornemisza Foundation which operates the Thyssen Museum in Madrid to recover a Pissaro painting in the possession of the Thyssen Museum clearly looted by the Nazis from his grandfather.

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[2] Professor Jonathan Petropolous' insights were valuable here.

More generally, the Altmann case has refocused public attention on art restitution, together with the blockbuster exhibition of the restituted paintings at the Los Angeles County Museum of Art, and then Ronald Lauder's acquisition of the *Golden Adele* for more money than any artwork ever sold. The arbitration panel used to ultimately resolve contending claims of ownership represents a new approach to alternative dispute resolution. And the Austrian government's response to give back one of their cultural treasure was significant and laudable, setting an example for other countries, with far less important works.

There is also the "femme En Blanc" litigation involving a Chicago art collector, Marilynn Alsdorf, who purchased Picasso's painting by that name in New York in 1975, after having been informed by the Art Loss Register that the painting had been stolen by the Nazis. Federal prosecutors are invoking the National Stolen Property Act, the first time the U.S. government has attempted to recover a piece of art on the basis of a notification by the Art Loss Register.

There are many examples of current owners sharing in the disposition of works that prove to have been looted by the Nazis, with the families of the original owners.

In a number of cases, current owners and museums raise technical defenses when confronted with claims for the return of potentially looted artwork, such as the statute of limitations. The AAM Guidelines noted that the "AAM acknowledges that in order to achieve an equitable and appropriate restitution of claims, museums may elect to waive certain available defenses." But museums often assert these defenses. I would urge that the holders of artwork against whom claims are asserted for Holocaust-era art focus on substantive, not technical, issues, and that the AAM encourage this.

U.S. ART DEALERS AND AUCTION HOUSES

Professor Jonathan Petropoulos believes that the art trade is an area with the most activity regarding Holocaust-era cultural property. He has pointed out that in the 1990s museums had their collections scrutinized, but the first decade of the 21st century has seen the center of gravity shift to the private market. Many heirs have inherited objects from the war and then put them on the ant market.

Since the Washington conference, the major auction houses, Christie's and Sotheby's, have taken seriously their role in implementing the Washington Principles on Art. Major auction houses publicly distribute catalogues with the paintings and objects they will auction, and their auctions are public. They have an incentive to be certain that the works they auction have no suspect Nazi-era provenance. However, one area of great concern is the handling of art that may have been looted by private art dealers.

As a member of the Advisory Board of Christie's, I am pleased with the actions they have taken. Christie's hired Monica Dugot, a noted expert in the area, who for seven years was the Deputy Director of the New York State Banking Department's Holocaust Claims Processing office, as Director of Restitution, to coordinate Christie's restitution activities globally, she helps to facilitate the sensitive handling of restitution clams and the best solutions for original owners and

good faith purchases. I understand that Sotheby's has done something similar, with the hiring of Lucian Simmons, an experienced researcher.

I know that Christie's believes in the importance of being proactive on Nazi-era art issues, from a moral, commercial and legal standpoint. As intermediaries in the art world, auction houses have a responsibility, which they are assuming, to properly research art works consigned to them and to document their provenance as accurately as possible so purchasers can be confident they are receiving clear title to the work.[3]

The first step in Christie's process is to make certain that internally there is a very high level of awareness of Holocaust-era art issues and to incorporate this awareness into their daily business and culture. Second, if there is a possible restitution problem with an object consigned to Christie's, they try to identify the problem early, allowing time to resolve problems in an acceptable manner for all parties. They encourage consignors to address issues where they arise. Christie's does not adjudicate the claims but facilitates a dialogue between consignor and claimant and assists the parties in reaching a mutually satisfactory resolution.

Auction houses like Christie's generally sell as agents rather than as principals since they do not own the property they sell. Although they ask their sellers to warrant they have good title and to warrant that the property is free from third party claims, but this is no longer sufficient. Most often, sellers legitimately believe the work in their possession is free and clear of claims. So Christie's carefully researches the provenance of works that they offer for sale.

Third, Christie's complete various steps to ensure that the objects are being offered with as accurate and complete a provenance as possible. They use in-house resources, including their Sensitive Names Database, looking for key gaps in provenance, as well as checking lots against the published lists for art that was looted from individuals and museums in all relevant countries.

The last line of defense is for Christie's to send its catalogues to the Art Loss Register for checking, with other copies to claimant representatives such as the New York State Banking Department's Holocaust Claims Processing Office. The catalogues are distributed worldwide and objects coming up for auction are also available on the Christie's website, giving museums, private individuals, law enforcement, and other groups the opportunity to raise claims.

I am informed by Monica Dugot that once the facts are known about a claim, a solution can generally be found. Cooperation among all the parties is necessary to find solutions to many of the looted art claims that arise.

On the other hand, private art dealers work under no guidelines or best practices. The Art Dealers Association of America has not developed any principles similar to those adopted by the AAM or by the public auction houses. The key is access to information, and, sadly, the private dealers

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[3] I appreciate the insight of Monica Dugot of Christie's on the role of auction houses.

are not providing this. It is critical that private art dealers in the U.S. and elsewhere be part of the effort to identify and return looted art.

Art dealers point to the problems of client confidentiality. But these same issues pertain to museums and auction houses. This legitimate concern must be balanced against fundamental principles of fairness and justice for victims and their families of one of the greatest crimes in world history.

I urge the Art Dealers Association to issue clear, transparent guidelines for art dealers as to how to handle issues of provenance research before items are sold. These guidelines should also provide for access to records of previous transactions regarding items that may have been looted and appropriate notification where relevant information comes to the attention of the art dealer.

In general, art restitution has not been a focus of the Bush Administration. Legislation to implement the key findings of the Presidential Commission on Holocaust-era Assets and to establish a "memory foundation" to help victims and heirs (as the New York State Office does), has stalled, despite bipartisan sponsorship that would create and fund this institution. And even many museums now feel they have weathered the storm of public opinion and that it is best to let their lawyers handle the cases that come up, rather than conduct pro-active research themselves.

RECOMMENDATIONS

1. Congress should encourage all American museums that belong to the AAM to complete and then regularly update their data-bases for covered objects and to contribute that data to the AAM Portal. The goal should be that within three years all 140,000 covered objects are on the Portal.

2. Congress and the AAM should encourage museums to litigate cases on the merits, and not to rely upon technical defenses, like the statute of limitations. But it is important to recognize that art objects are usually in the hands of good-faith purchasers who bought the object years ago, only to be told they are now holding tainted property. A solution needs to balance the interests of all parties, including those who may have to give up the art object to its original, rightful owner.

3. Congress should encourage the Art Dealers Association of America to promulgate guidelines in line with the Washington Principles and the AAM/AAMD guidelines, and to have their members implement these guidelines.

4. Congress should pass the bipartisan legislation to create a federally funded Memory Foundation to assist U.S. citizens in pursuing Holocaust-era claims, including for art.

III. IMPLEMENTATION OF THE WASHINGTON PRINCIPLES ABROAD

While some American museums still have additional work to implement the Washington Principles, their progress is generally light years ahead of most other countries who were signatories to the Washington Principles.

There has been a real loss of momentum over the past several years, since the last international conference following the Washington conference, the Vilnius Forum on Holocaust Era Looted Culture Assets, held under the auspices of the Council of Europe and the Prime Minister of the Republic of Lithuania, in October 2000.

Today there is only one dedicated expert, representative body working full-time on the art restitution issue, the Commission for Looted Art in Europe (CLAE), and one independent research and monitoring agency, the Central Registry of Information on Looted Cultural property 1933-1945(CRI). The New York State Banking Department's Holocaust Claims Processing Office is the only U.S.-based institution actively engaged in assisting claimants. The Claims Conference/WJRO is activating its work in 2006, following research into looted works of art in the former East Germany in the 1990s.

The vast majority of countries who signed the Washington Principles have not implemented their commitments to identify Nazi looted cultural property and restitute it to its rightful owners, due to a combination of inertia, unwillingness to confront a sensitive issue, and/or reluctance to give up looted property. To summarize a complex situation involving more than 40 countries who were signatories to the Washington Principles in 1998 and the Vilnius Forum Principles in 2000.[4]

--- The vast majority, around 70%, of these nations have done no provenance research at all or only on a limited basis, for example, for a limited time frame, rather than for all acquisitions from 1932 to today for works of art and culture which underwent a change of ownership between 1932 and 1946. In some countries, such as Germany, repeated calls by the government for provenance research have been ignored by many of their museums;
--- Large amounts of looted cultural property remain unidentified;
--- Where countries have published databases of potential Holocaust-era looted art, use can be impeded because research is provided in inaccessible languages and lacks the details which would enable objects to be easily identified.
--- There is no central international, government-supported monitoring agency with a database and repository of information on looted art and cultural objects, except one created by an independent organization, the Central Registry on Information on Looted Cultural Property 1933-1945
--- Of those countries which have carried out provenance research, most do not make efforts to pro-actively locate original owners or heirs, and do not have restitution laws that permit recovery. For example, Britain, Italy, Hungary and Poland do not have restitution laws that permit the return of looted Holocaust-era art and cultural property. Only four countries have national processes for resolving claims, leaving most claimants without transparent claims procedures and at the mercy of courts and the goodwill of individual institutions. In a number of countries, claims are not possible and governments and museums refuse to respond to inquiries;

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[4] I am grateful for the insights of Anne Webber of the Commission for Looted Art in Europe 1933-1945.

--- Time limits exist on claims in some countries, even where research to identify looted property has not been completed or information on what has been identified is not easily accessible.
--- There are no comprehensive standards to govern provenance research, accessibility of web sites and data bases, identification of claimants, or restitution procedures.
--- There has been no formal international governmental meeting on art and cultural property since the 2000 Vilnius Forum. There have been private sector conferences on the issue, largely attended by NGOs, art experts, and academics. A representative of the U.S. State Department attended a 2003 conference in the Czech Republic initiated by a Czech Institute and supported by the Czech Minister of Culture, which examined methods of research and documentation in determining the provenance of artwork, procedures for restitution in different countries, and international cooperation in recovering stolen artifacts, with a follow-up conference in 2005 also attended by a State Department representative focusing on encouraging and facilitating international cooperation in the discovery and return of cultural artifacts. But neither had any significant attendance from government representatives around the world. In 2005, a State Department representative attended a conference in Moscow that examined property disputes and international legal practices regarding cultural artifacts displaced during World War II, in which Russian government officials attended, but, again, it was largely an NGO.[5]

Of the eleven Principles endorsed at the Washington conference in 1998, eight relate specifically to museums and public collections. These Principles call for three stages of action: (1) All public collections were asked to undertake research to identify looted works of works with gaps in their provenance during the wartime period; (2) the research was to be published and made available to the widest international public; (3) institutions in possession of looted art were to deal fairly and justly with claims for restitution.

PROVENANCE RESEARCH

Some countries and museums are to be commended for conducting and publishing admirable research, especially the federal museums in Austria; a number of museums in the Czech Republic, led by the Ministry of Culture; the Canadian and UK museums; and many museums in the United States, as well as a few in Germany. But many countries have not even begun provenance research, others have substantially circumscribed the research, and others are not investigating acquisitions after the early 1950s, even though looted artworks have been in the art market for decades after that.

Based upon research provided by the Central Registry of Information on Looted Cultural Property 1933-1945, I present the following analysis of the situation in a number of countries:

Spanish museums do not conduct any provenance research, notwithstanding a 1997 Royal Decree to establish a historical commission to investigate Spain's economic relationship with the Third Reich, including works of art. Hungary has not undertaken provenance research into its

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[5] I appreciate the views of Ambassador Edward O'Donnell and John Becker of the State Department's Office of Holocaust Assets on these conferences.

public collections; and as a general practice, attempts by claimants to obtain the return of looted objects has been met with opposition and litigation. Italy appointed a historical commission, the Anselmi Commission in 1998. The report recommended that research into art spoliation and restriction should be carried out by an official Italian claims authority. But the Anselmi Commission recommendations have generally not been implemented, and, overall, Italian museums have not conducted any provenance research, nor will they return looted works of art found with them. Argentina has only investigated works exhibited in Buenos Aires and Rosario between 1933-1955; Brazil compiled a list of suspect works acquired only between the 1940s and 1970s for three museums. Belgium, which has generally done a commendable job on property restitution, established the Buysse Commission, with whom I met, which reported to the Belgian government in 2001. All federal museums participated in the study and 331 looted objects were found with unclear provenance. But this covered only the 1940-1950 period and these objects have not been published. Greek museums do not conduct provenance research nor do they have a claims process in place. Portugal's museums do not conduct provenance research nor is there a clear process in place.

But of those countries likely to have the most extensive collections of looted art, special focus is needed.

Switzerland has done as much as any country to come to terms with its ambiguous and mixed role during World War II, not only with a settlement of claims for bank accounts, but with a massive, comprehensive study of the Swiss wartime role and its relationship to looted assets by the Swiss Bergier Commission. However, the 12 Swiss federal museums and collections have undertaken provenance research only for acquisitions between 1933-1945 and only a small fraction of the far more numerous non-federal, public museums have undertaken any research at all. None have published.

While the research into the Swiss federal collections identified three works in the Swiss National Museum, two of which were documented as having been acquired by Swiss dealers at forced sales in Germany, the Swiss report states that these forced sales were not illegal and no further action was taken. But such forced sales would seem to be illegal and there should be an active effort to locate the heirs to these paintings.

In addition, Swiss banks should search their vaults for any paintings they may have of questionable provenance, as the Swiss federal museums have done so well.

The French Matteoli Commission was a model of probity of the role of Vichy France during the War and the gaps in restitution of property after the War. The U.S. and the Allies sent 60,000 looted artworks and cultural objects back to France after World War II, following their capture from the Nazis. France, in turn, to its credit, returned 45,000 to their owners. Some 2000 unclaimed paintings were picked by French Museum Directors and have become part of the French MNR collection. The balance was sold at auction. While France has published materials about its MNR collection, it has not undertaken provenance research into its public collections for works acquired since 1933.

The Czech Republic passed a restitution law in 2000 and established a database of art originally owned by Holocaust victims that is now in public collections in the Czech Republic. Over 3000 works were identified as confiscated in the initial research published in 2001. Research was to be ongoing but none ha yet been published, although it is known that there are many other looted works of art which remain to be identified. In addition, the effort at actually restituting paintings is often blocked, forcing claimants to go to court, a course of action which runs counter to the spirit of the restitution law.

Germany is a country with whom I negotiated the slave and forced labor agreements. No country has accepted its wartime responsibilities more fully and faithfully, having paid over $60 billion in Holocaust reparations since the early 1950s, constantly expanding the eligible population, and reaching a comprehensive 10 billion DM ($5 billion) agreement in my negotiations. Their recent dedication of a Holocaust monument and museum in the heart of re-united Berlin is testimony to their commitment to justice. I have enormous admiration for Germany.

But German museums have performed and published disappointingly little provenance research. Many German museums seem much more interested in getting back their art looted by the Red Army after the War, than in implementing the Washington Principles. Only about 30 museums of a possible 600-plus have published their research. Some major German museums, whose collections may well contain looted art, have still not carried out, completed or published provenance research. For example, one of Germany's key cultural institutions, the Bavarian State Painting Collections, admits to having acquired up to 7000 works of art between 1933-1945, and appointed a provenance researcher. But funding for the post has been withdrawn, the research has stopped, and there appears to be no desire to complete the work. The director has suggested that people write him if they are looking for a particular work of art and he will indicate if they are in the Collections, a situation the Washington Principles aimed to remedy. In all of Germany, there is only one full-time museum provenance researcher, in Hamburg. Generally, the few German museums which have undertaken provenance research since 1998 and the even fewer who have published it are not investigating all works acquired between 1933 and today.

Another key Germany cultural institution, the Prussian Cultural Heritage Foundation, which administers all 18 Berlin museums, as well as the State Library and Archives, started an ambitious provenance research project in 2002, but this has not yet been published. Recent restitutions from the Foundation's collections show that where research is undertaken, tangible results occur. Indeed, the Germany museums that have undertaken research into Nazi-era acquisitions have identified over 2500 confiscated objects to date, indicating the scale of what might be found if research is undertaken by all of the museums. Almost 20,000 looted books have been identified in just four libraries.

The Federal Ministry of Culture, I believe, sincerely wants to make progress, but the museums simply are not cooperating. In 1999, Germany produced a Declaration from the Federal, State (Laender) and Municipal Authorities committing to identify and return looted cultural property. Because of the failure of so many German museums to cooperate, in 2005, the Federal Commissioner for Cultural Affairs and Media; the Standing Conference of the Ministers of Education and Cultural Affairs of the Laender; the German Association of Cities and Towns; the German Associations of Towns and Municipalities; and the Association of German Counties

issue a unique "Appeal to Search for Cultural Property divested as a result of Nazi persecution in Germany." But this has yet to have a major impact on German museums.

Russia has perhaps the greatest repository of looted art, resulting from the capture of German art treasures by the Red Army after the War, as partial compensation for the truly horrific suffering the Russian people endured from the Nazis. Some was in German public collections, but some was Jewish-owned art pillaged by the Nazis, and then, in turn, taken by the Soviet Army.

During our Washington conference, Russia was a key participant and signatory to the Washington Principles. They were the only country that participated with me in the closing news conference. They passed a law, signed by President Putin, which sharply separates their "trophy art", taken as compensation from the Germans, which they will not return, from art taken by the Soviet Union from the Germans, but originally confiscated by the Nazis from Jewish owners, where claims would be permitted. In 2001, the Minister of Culture signed an MOU with Ambassador Ron Lauder, then the chairman of the Commission on Art Recovery, affiliated with the World Jewish Congress and the WJRO, pledging to publish the results of provenance research. Little has been done, no claims process has been established, and the whole project has stalled.

PUBLICATION OF PROVENANCE RESEARCH

Even where research is done, it is of little practical value to potential claimants and to achieving justice for Holocaust victims and their families, if it is not published in accessible form. This was a key Principle from the Washington conference.

Some research abroad has been published by Australia, Austria, Canada, the Czech Republic, France, Germany, Hungary, the Netherlands, Poland, Russia, the UK and the U.S. But there is no single standard. So, for example, images of the objects are included by some but not by others; some are so brief and lacking in detail that it does not permit easy identification. For instance, the State Museum of Baden-Wuërttemberg in Karlsruhe has identified 37 looted objects but the only information provided is "Karlsruhe 1941".Some research is published in German or Dutch but not translated into English, the common language of commerce and the art trade.

Most of the published research, commendably, is put on the Internet, but with a plethora of sites of varying design, language and search ability.

In Germany, 29 museums, together with four archives and 12 libraries, out of a total of 6000, have listed their research on an official German website, "www.lostart.de". But since 2003, only nine museums and seven libraries have added materials. Around half of the material on the website provides only minimal provenance information, making identification of possible ownership difficult, especially when the details of their provenance research are only available on that web site in German.

ACCESS TO ARCHIVES AND RECORDS

It is difficult to gain access to the archives of the art trade, handicapping provenance research of museums. The Confederation of International Art Dealers committed themselves at the 2000 Vilnius Forum to provide records on particular works of art, when requested. But this has not been implemented, except in rare instances or where dealer records have been deposited at publicly accessible archives.

It is very difficult to gain access to Holocaust-related state archives. For example, the archives of the post-war restitution agency in Italy are closed, as are the state archives in France and Belgium, on grounds of privacy laws, unless they are requested by representatives of heirs in restitution cases. But at this stage, it is unclear whose privacy the laws are protecting. It is much the same situation that was finally resolved only a few months ago, by the opening of the massive Nazi concentration camp records at Bad Arolsen after decades of effort, due to the effective intervention of the U.S. Holocaust Memorial Museum, and the U.S. government. There, too, the argument was privacy, but those whose privacy was supposedly being protected were dead.

A CENTRAL REGISTRY

The Washington Principles sought to establish a central registry of information. In 2001, a Central Registry of Information on Looted Cultural Property 1933-1945 was established as an independent charitable body under the auspices of the Oxford Center for Hebrew and Jewish Studies affiliated with Oxford University, aiming to provide a single searchable repository of research and information. The Central Registry provides data from over 45 countries including on laws, policies, and archival resources, together with original research, and tries to make accessible the object information currently being produced by various countries to different standards, languages, and levels of accessibility. So far information on over 20,000 objects has been provided to the Central Registry from over a dozen governments and other institutions. But there is no governmentally sanctioned and supported institution, unlike the Holocaust Education Task Force in which over 20 countries participate.

ASSISTANCE TO HEIRS

The Washington Principles encourage pre-war owners and their heirs to come forward and make their claims known. They do so, but many are unaware of the existence of research, how to access it, or the location of their lost works of art.

Too many museums and governments, even those that undertake the research, seem to feel that research and publication of provenance research is sufficient. But the identification and tracing of heirs is critical, so that the information reaches the right owners. Only Austria, notably the municipal institutions in Vienna, actively searches for original owners and heirs.

CLAIMS RESOLUTION

We knew that even with research and publication, claims resolution would be complex. Often, current owners purchased their art in good faith, without knowing they may have been looted six

decades earlier by the Nazis. We devoted three of the Principles (Principles Eight, Ten, and Eleven) to facilitating the resolution of claims.

Only three countries have enacted restitution legislation-- Austria, the Czech Republic and Russia. Austria has returned a number of looted works identified in its federal museums and, to their credit, several Austrian states have also adopted restitution legislation.

In the Czech Republic, despite having identified over 3000 looted works of art, they have only agreed to some five claims.

As for Russia, while it seemed at one point that claimants would be able to claim for and recover art which was being listed on the Russian website, this has not materialized.

Germany has restituted many paintings, but much more would be possible if more provenance research was undertaken.

In the UK, while there has been commendable provenance research and publication, with regular updates, there is no restitution law to permit the return of looted paintings. The British government is unwilling to pass a restitution bill, perhaps because of fears it will lead to calls to return treasures like the Elgin Marbles. But the Nazi-era confiscations were treated as a separate item by the Washington conference, and it is disappointing that HMG, having sponsored the first post-war conference on looted gold, has not shown leadership in permitting restitution. The UK Spoliation panel has agreed to provide compensation to claimants in two cases and recommended restitution in two others, but the absence of legal authority has prevented their return.

In the Netherlands, the government-established panel has received 46 claims applications and thus far made 24 recommendations for restitution involving 450 works of art that have been in the custody of the Dutch government since the late 1940s, when they were returned by the Allies after the War for restitution to rightful owners.

There remain legal impediments, such as the statute of limitations to recovery, notwithstanding the important decision by the Council of Europe in November 1999 (Resolution 1205), which called for the removal of legal impediments to restitutions and for a commitment to return looted property to its rightful owners.

RECOMMENDATIONS

1. The U.S. government should take the lead to convene an international conference in 2007 of the 40-plus nations who signed the Washington Principles in 1998 and who attended the Vilnius Forum in 2000 for a stock taking and assessment on progress in implementing these principles. This could be an action -forcing device to encourage foreign governments to do provenance research; to publish accessible data bases; to proactively work with claimants; and to help develop an international data base, along the lines of the U.S. Portal.

2. The Bush Administration should give special attention to bilateral diplomatic efforts to encourage the Russians to live-up to their obligations by publishing a list of all looted art in Russia, and to implement the claims process for that art taken from the Germans, which, in turn was stolen from Holocaust victims, while respecting their decisions to hold onto "trophy art" pending negotiations with Germany. They may have the greatest treasure trove of Holocaust looted art. There has been no movement recently with little prospect of achieving the return of looted art, except where individuals are willing to pay the Russian government compensation.

3. The nations which endorsed the Washington Principles should create an inter-governmental body to encourage provenance restitution, publication of results in accessible form, the development of clear international standards for websites, outreach to original owners and heirs, avoidance of technical defenses to claims, and, eventually, create a central search engine, like the Portal in the U.S. A central database in a neutral, inter-governmental body, to which all nations, museums, art dealers and auction houses could place provenance research and, in turn, could review before the sale of art, would be the single most effective step to assure the restitution of looted Nazi-era art. Until then, the Central Registry should be officially recognized as the central clearing house for all information.

4. All nations should be urged to undertake and to publish detailed provenance research from 1933 to today for objects in their public collections to a timetable, with resources made available to undertake the work. Publication should be in an internationally accessible form.

5. Museums and other institutions with art and cultural property should be encouraged to be proactive in communicating the results of their research to potential claimants, including committing actively to tracing heirs, wide publication of findings, and regular updates.

6. Archives should be opened to enable restitution. The Confederation of International Art Dealers should provide access to records, as they committed to do at the Vilnius Forum.

7. Transparent and accountable procedures for handling claims fairly and justly should be established.

8. Museums should focus on substantive not technical issues in dealing with claims.

If the U.S. Government does not take the lead here, then we can expect little movement from foreign governments. The spotlight of history must again be shined on them if progress is to be made. Otherwise, only the U.S. and one or two other countries, like Austria, will keep the flame of justice for victims burning. It is time for a new burst of energy to combat art restitution fatigue. These hearings will make a real contribution.

Thank you for the opportunity to submit this testimony.

TESTIMONY OF

CATHERINE A. LILLIE

DIRECTOR, HOLOCAUST CLAIMS PROCESSING OFFICE

On behalf of the

NEW YORK STATE BANKING DEPARTMENT

before the

SUBCOMMITTEE ON DOMESTIC AND INTERNATIONAL MONETARY

POLICY, TRADE, AND TECHNOLOGY

UNITED STATES HOUSE OF REPRESENTATIVES

July 27, 2006

Good morning Madam Chairman Pryce, Ranking Member Maloney, and Members of the Subcommittee. Thank you for this opportunity to testify before you today on Holocaust-era asset restitution. The New York State Banking Department has ten years of hands-on experience working with and advocating on behalf of claimants seeking the return of assets lost, looted or stolen during the Holocaust.

Permit me at the outset to take a step back to recount the reason I am here and to summarize the Banking Department's involvement in these issues since 1996, when the world finally began to pay attention to the fate of assets deposited in Swiss financial institutions. Governor Pataki, at the urging of then-Superintendent Neil Levin, encouraged the Banking Department to use its influence, expertise and international reach to help rationally resolve these emotionally charged and politically complex estates.

The Department has been actively committed ever since, first with our investigation into the wartime activities of the Swiss banks' New York Agencies and then with the establishment in 1997 of the Holocaust Claims Processing Office, as a separate and unique division within the Banking Department. Our involvement was extended further still the following year, with the establishment of the International Commission on Holocaust Era Insurance Claims, also a legacy of the late Neil Levin. Ultimately, the Department took on the task of assisting claimants in their quest for works of art lost, looted or stolen during the Holocaust.

The HCPO has a long tradition of quality and substance. It remains the only government agency in the world to offer Holocaust survivors or the heirs of Holocaust victims and survivors assistance with a vast array of multinational claims processes at no cost. To date, the HCPO has received approximately 5,000 claims from 48 states and 37 countries, and has secured the return of more than $55 million as well as 13 works of art. The knowledge and assistance of the HCPO staff have alleviated burdens and costs often incurred by claimants who attempt to navigate the diversity of international claims processes by themselves. Our successes are a direct result of the importance attached to and attention paid by the HCPO to individualized analysis of claims. There is no fee for a claimant to utilize our services, nor is a percentage of the value of the assets retrieved taken by the HCPO. All of our services are provided free of charge.

Since September 15, 1997, the Holocaust Claims Processing Office has worked daily with Holocaust survivors and the heirs of Holocaust victims and survivors. Many of the claimants we work with have lost everything and everyone in the Holocaust and its aftermath – resulting in the need for archival and genealogical research to confirm family relationships and to

uncover details regarding the fate of many original owners. A vivid example of the complexities of the claims process is the research the HCPO did for the Claims Resolution Tribunal in Zurich, Switzerland, which sought the heirs to Nettie Koenigstein, a U.S. citizen residing in Vienna at the time of the Anschluss, who committed suicide in 1938. It took the HCPO 18 months to trace her heirs – through a number of Central European and Scandinavian locations, concentration camps, post-war name changes, and the likes; all told, a total of 16 separate archival inquiries to secure municipal birth, death and probate records, as well as copies of wills and certificates of inheritance.

This is the undeniable reality of the Holocaust: when family, friends and neighbors are murdered, when entire communities perish, there is often no one that one can turn to for documentation or assistance with establishing the facts. Based on the HCPO's work, I know only too well how difficult this path has been and how unbearably long the wait for justice can be.

Moreover, true to its mission the HCPO has over the past decade worked directly and intimately with almost all restitution and compensation processes in existence today. As a result, the HCPO has close working relationships with archival and historical commissions, financial institutions, trade associations, and its colleagues in federal, state and local governments in Europe – simply because many claimants are dependent on the information still available in the banks, insurance companies, museums, records of art dealers, or archives to supplement their memories.

At the same time, many claims processes have sought the HCPO's advice. These include, but are not limited to: the Claims Resolution Tribunal in Zurich, Switzerland; the International Commission for Holocaust Era Insurance Claims in London, England; the International Organisation for Migration in Geneva, Switzerland; and the General Settlement Fund in Vienna, Austria.

From the vantage point of today's hearings, you may be most interested in the work the HCPO did with the American Association of Museums. The AAM worked closely with the HCPO and drew heavily on the HCPO's technical expertise and experience with claimants when creating their Web portal of all art objects in U.S. museum collections that changed hands in Continental Europe from 1933-45.

The HCPO was able to provide essential details about looted art claims, and the information available to claimants as compared to the information available to museums. In the same way that no two claims are the same, no two museums will have the same level of information available, let alone available electronically. In close cooperation with the AAM, the HCPO sought

to find a workable common denominator acceptable to all parties. While far from perfect, it does allow claimants, claimants' representatives, researchers and advocates in the field far greater access to information on more than 18,000 objects currently held in 151 US museums.

In that same spirit, the HCPO has worked with the Conference on Jewish Material Claims Against Germany, the Museums Association of New York and the New York City Bar Association to address concerns that Senate Bill 7677, an act to amend the education law in relation to property of certain museums intended to address situations that arise when property is loaned to museums for extended periods of time, did not adequately protect the rights of Holocaust victims or their heirs. Similar bills had been vetoed by Governor Pataki twice before, given that the bills' previous provisions to allow museums to obtain title to property in their possession would have had the effect of depriving Holocaust victims or their heirs of art or other objects of historic, scientific, or cultural value stolen during the Holocaust-era. In cooperation with the museum community and survivor representatives, the HCPO secured a workable alternative that meets everyone's needs.

Put another way: almost all paths to restitution and compensation for Holocaust-era assets have converged at the HCPO at one point or another [*see Appendix 1: Best Practices in Holocaust Era Claims Restitution, New York State Banking Department Research Paper, May 2005*]. Throughout, the HCPO has had one single purpose: to resolve claims as promptly as possible, and in a sensitive manner given the singularity of the events that preceded them. The passage of time, the ravages of war, the lack of documentation, and the mortality of claimants make this a complex task. In all asset restitution efforts, but particularly in the looted art arena, claimants' memories are of significant importance. Claim forms, regardless how well drafted and exhaustive, are incapable of eliciting all the details required for the complex research that inevitably follows.

Therefore, regular claimant contact is essential as it encourages active participation, spawning greater claimant confidence in the restitution process. Such personal contact can, however, also be highly distressing for claimants. Responding to follow-up questions about a world that was so violently destroyed and being asked to remember loved ones who perished in appalling circumstances can be akin to navigating an emotional minefield. In order to be effective, those directly working with claimants must recognize the singularity of the historical context and the special needs of this particular claimant population.

The HCPO owes its successes to a dedicated team of multilingual and multitalented professionals. Possessing a broad and non-traditional legal,

historical, economic and linguistic skill set, coupled with the ability to communicate with and conduct research in a vast number of European government and private offices, the HCPO staff research, investigate and secure documentation, building upon the foundation provided by claimants. This multi-faceted approach is critical: art claims will more often than not contain documents in a multitude of languages; the circumstances of the seizure may necessitate social, business, economic as well as art historical research. Tracing the time and place of subsequent sales, and testing different hypotheses of how these items might have entered the various parts of the art market, provide critical clues.

Let me try and illustrate this process with an example of an early HCPO success. I should note that this claim, and its settlement, predates the Web portal's existence. In February 1999, two octagenarian sisters in Vienna, Austria, sought the HCPO's assistance in locating and securing the return of their great uncle's pre-war art collection. The sisters sought the return of 45 paintings. Their documentation was exceptional; together with local researchers in Austria they were able to show the seizure of the collection by the Gestapo, and its initial dispersal. What they did not know, was what had subsequently happened to the items.

Together with the Commission for Art Recovery of the World Jewish Congress, the HCPO located one of the paintings -- a Madonna and Child painted by Lucas Cranach the Elder -- at the North Carolina Museum of Art, and reached out to the curators of this public collection in Raleigh, NC. The HCPO was able to show exactly how the painting had been dispossessed, but we had no information about the events subsequent to the spoliation. For that we had to rely on the museum and its records. In an example of collegial and constructive cooperation, the museum, which was initially shocked that the star of their Northern European collection was looted, worked hand in glove with the HCPO to educate its stakeholders, for whom it was understandably difficult to grasp that a painting bequeathed to their institution in 1984 could have such a shocking provenance. The documentation located in the Austrian archives went a long way to demonstrate the pre-war and war-time ownership history; the challenge was to explain that, regardless of the paucity of post-war records, the post-war transactions, including the ultimate bequest to the North Carolina Museum of Art, were tainted, essentially making the North Carolina Museum of Art an innocent victim at the end of a chain of transactions. Never losing sight of its fiduciary responsibility to the citizens of North Carolina, this public collection found a way to settle with the heirs of the original owner, Phillip von Gomperz, while still retaining the painting for North Carolinian art lovers.

Let there be no mistake about it. Even with such complete documentation as was available in the North Carolina case, art claims such as these are a time-consuming task, and the paucity of published records often complicates matters further. Much like the widely publicized return of Maria Altmann's Klimt paintings by the Republic of Austria after a 6-year battle that included a US Supreme Court decision, a Cranach is a significant work; the odds of there being academic publications, which serve as vital tools in our research efforts, are high.

But the Nazis did not limit their spoliation to museum quality pieces. Ordinary middle class collections, second-tier painters, decorative arts, tapestries, antiquities as well as Judaica were looted. In some of these areas the art historical literature is anything but deep. To complicate matters further, information, much like the objects themselves, has often ended up scattered all across the globe.

Claimants seeking the return of such low monetary value, but high emotional and spiritual value items face daunting hurdles, given the lack of historical significance, not to mention the enormous logistical and legal challenges. Again, an example of a more recent HCPO success might help illustrate this further. In late 1999, the Wesel-Bauer family in Brooklyn, NY, approached the HCPO about a piece of Judaica - an embroidered Torah cover the family had located in the Jewish Museum in Vienna, Austria. They presented this as a last ditch attempt, filed only because the HCPO's successful conclusion of their other Holocaust-era asset claims had given them hope. They had little by way of documentation, other than the vivid recollections of a 90+ year old Viennese survivor in Brooklyn, and his sister.

The claimants had discovered the item by accident, when family members happened to be traveling through Vienna and had visited the museum. The inscription on the Torah cover was distinctive: originally commissioned by a grateful wife to commemorate her husband's safe return from the killing fields of World War I, and inscribed with his name. It was used by the family to their small synagogue, *Marpe Lanefesch*, in the backstreets of Vienna's second district. Barely twenty years later, no effort was too great for the Nazis bent on destroying Judaica, along with the rest of Jewish Vienna.

We know little about the Torah cover's fate, let alone how it survived. We do know, however, that there were some in Vienna who cared. Max Berger, himself a Holocaust survivor, returned to Vienna after World War II and actively bought Judaica. He did so in an effort to salvage what was left of Jewish life, at a time when there was little to no local interest in the items he was acquiring. After his death in 1988, the City of Vienna purchased his collection for a planned museum, which opened its doors in 1990.

The Berger Collection is a focal point of the Jewish Museum Vienna, and is where, in 1999, the daughter, herself a survivor of the Holocaust, found the Torah cover commemorating the father's survival in World War I. Logically, the daughter of the man whose survival it specifically commemorates by name sought the Torah cover's return. Yet it still took almost six years of negotiation before the Torah cover, which shares with its congregation the miracle of survival, arrived on New York's shores.

Without the HCPO's contacts in Central Europe, we could not have secured the return of this item, for which initially we had no documentation, only the recollection of those who had seen it at prayer in pre-war Vienna and who, when they closed their eyes, could still recite the embroidered dedication. In close cooperation with local Austrian researchers, the HCPO was able to document the loss - but museums are not in the business of deaccessioning items, which may be part of why it took almost six years, and why the return was ultimately decided in the political arena. The Torah cover's inestimable emotional value is without question, but without the HCPO, where would claimants have gone for help, given its limited monetary value?

As these two examples show, this is piecemeal work, which unlike claims for financial assets such as bank accounts or insurance policies, does not lend itself to wholesale, centralized settlements. Instead, given the individualized nature of these cases, they must be painstakingly resolved painting-by-painting, object-by-object, Torah cover by Torah cover.

The publication of provenance information is critically important to our endeavors as is the ease of access to such information. As we work to piece together each claim's complex mosaic, accessibility is paramount. The AAM's Web portal is an excellent illustration of what is possible. While far from perfect, it is a major step in the right direction, currently allowing 151 museums to make their provenance research available via a single point of entry, with more museums joining all the time as evidenced by the Claims Conference's recent report: *Nazi-Era Stolen Art and U.S. Museums: A Survey*. Web-based access to data is a model that works well. Similarly, the Dutch Ekkart Committee, via the Origins Unknown Project, compiled and published provenance information into a searchable database available on-line, which has made it possible for HCPO claimants to locate both items and information leading to other related items.

In this context particularly, the advantages of inter-agency cooperation cannot be stressed enough. We must all endeavor to prevent isolation and remove information silos often encountered in large-scale, complex and multi-location claims processes. The immediacy of e-mail and the ability to

schedule regular conference calls to enable discussion and information-sharing by cross-functional teams have become fundamental building blocks for effective open communication across time zones as well as specializations.

There remains of course a significant difference between the work done by museums and public collections, and that which is available for private collections and the art market as a whole. The Cranach and the Torah cover mentioned earlier are good examples of how claimants can work with public collections in vastly different places such as the U.S. and Central Europe. There have been many other similar examples; the HCPO has excellent working relationships in particular with German and Dutch museums, curators, and archivists.

The issue becomes trickier once claimants locate items in private collections or indeed in the art market. Sale rooms have learned much in the past decade, and certainly the large auction houses have dedicated staff who work well with the HCPO and our claimants to determine whether items submitted to auctions have a problematic provenance. Smaller sale rooms both in the US and Europe still need encouragement and education. Not all are as willing to pull lots from sales when questions arise. Few are sensitive to the labor-intensive and therefore time-consuming research these cases require. As a result, the HCPO still finds more resistance to clarifying title in these contexts than we would like to see.

Having said that, not all is negative: we have had two cases in recent years that can be cited as model responses by private owners. Both paintings were originally part of Dr. Ismar Littmann's Collection in pre-war Breslau; both were subject of a forced sale in 1935. One painting, *Portrait of Charlotte Corinth* painted by Lovis Corinth, went from the 1935 forced sale to the Berlin National Gallery, and from there was purchased by a dealer in 1940. Ultimately, the painting surfaced in November 2000 in an auction in Germany, identified as the property of the Hamburger Landesbank; the private owner had defaulted on a loan, the painting was collateral. At the HCPO's request, the painting was pulled from the sale, and ultimately returned to the Littmann heirs.

The other painting, *La Procession* by Adrion, was returned by the Ernst Strassmann Foundation in Germany, part of the Friedrich Ebert Stiftung, who had consigned it to a German auction house in 2002. Located by the Art Loss Register in that sale, and despite extensive provenance research, it remains unclear how Ernst Strassmann came to possess the painting. Nonetheless, the Foundation acknowledged the 1935 sale as a sale under

duress, and thus null and void, and returned the painting to the heirs of Dr. Littmann.

Unfortunately, these are the exceptions that prove the rule. We are currently struggling with a number of other cases in Germany and the United States where the auction houses and private owners have seen fit to take a very different (and to our mind overly legalistic and therefore less helpful) view. So continued education of active market participants remains a critical piece in all this, if buyers and sellers are to understand and ultimately accept that transactions conducted in seemingly good faith many years ago may nonetheless be questionable.

Rather than resort to litigation, which comes with its own challenges given the conflicting local laws that might apply, the HCPO prefers to encourage all parties to seek resolution outside the courts. The reasons are manifold, and not just limited to the potential conflict of local laws that may or may not apply, depending on the items' transaction history. Litigation presents other challenges as well. For a start, attorney's fees can exceed the value of the item. Resolutions are unpredictable, possibly cash-driven, and not always amicable. Moreover, litigation brings with it the risk of making these claims a public and emotionally wrenching affair. Instead, the HCPO urges cooperation between parties – by means of clearly, objectively, and convincingly presenting claims outside of the courts– so that claims can be resolved while the current generation of claimants is still with us.

In closing, I would like to share the following thought. We have a unique challenge in a complex market, but we also have the potential to help so many. If we are to achieve our mission, to settle claims for Holocaust-era assets as accurately, sensitively and as promptly as possible, we must encourage open, transparent cooperation both internally and in the larger universe of Holocaust-era restitution and compensation programs. Cross-functional and interagency dialogue between such claims processes encourages new perspectives, expands and enhances coalitions, fosters partnerships, and ensures a more comprehensive approach. By finding creative solutions and mechanisms, agencies can work together to streamline the prolonged claims process for claimants, many of whom are in their 80s and 90s, and for whom time is a disappearing luxury.

As Shakespeare said: "though patience be a tired mare, yet she will plod". The Banking Department is committed to providing continued institutional assistance to Holocaust survivors and their heirs as they seek the return of what is rightfully theirs. We are grateful to you all here today for your continued interest in these matters. For all that has been achieved in the past eight years since the Washington Conference, much remains to be done. We

owe it to those who perished, not to mention that we owe it to those who live, to leave no stone unturned in our quest for justice.

With increased factual precision comes an historical record less likely to be abused by those determined to deny the Holocaust and the theft that preceded it. Lastly it reaffirms our contemporary respect for claimant dignity – an aspect of the claims process that should not be underestimated when working with survivors of one of the darkest periods of modern history.

Finally, let me return briefly to the Torah cover I mentioned earlier. *Marpe Lanefesch*, the name of the congregation that was in effect the Torah cover's birthplace, translates to "the healing of the soul". How better to summarize what I think our collective intent is: the attempt by a few people committed to doing what is right, rather than what is easy, to repair, to the extent possible, a lasting rend in the fabric of life.

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APPENDIX 1
BEST PRACTICES IN HOLOCAUST ERA CLAIMS RESTITUTION
NEW YORK STATE BANKING DEPARTMENT RESEARCH PAPER
MAY 2005

The Bellman himself they all praised to the skies –
Such a carriage, such ease and such grace!
Such solemnity too! One could see he was wise,
The moment one looked in his face!

He had bought a large map representing the sea,
Without the least vestige of land:
And the crew were much pleased when they found it to be
A map they could all understand.

'What's the good of Mercator's North Poles and Equators,
Tropics, Zones, and Meridian Lines?'
So the Bellman would cry: and the crew would reply,
'They are merely conventional signs!

Other maps are such shapes, with their island and capes!
But we've got our brave Captain to thank'
(So the crew would protest) 'that he's bought us the best –
A perfect and absolute blank!'[1]

A decade ago, the world finally began to pay attention to the fate of Holocaust-era assets deposited in Swiss financial institutions without a roadmap for any of the processes that have since been established. Looking back, it appears that many of the process designers took the approach espoused by Lewis Carroll's Bellman, charting unknown territories without reference to parallel efforts underway in Europe and the United States. The result: a complex patchwork of claims processes nigh impossible for claimants to navigate unassisted.

In the last decade of the 20th Century, Governor George E Pataki, at the urging of then Superintendent Neil Levin, encouraged the Banking Department to use its influence, expertise and reach to help. The Department has been actively committed ever since, first with an investigation into the wartime activities of the Swiss banks' New York Agencies and shortly thereafter with the establishment of the Department's Holocaust Claims Processing Office (HCPO). The Department's involvement has extended further still, with the establishment of the International Commission on Holocaust Era Insurance Claims (ICHEIC), also a legacy of the late Neil Levin.

The HCPO has a long tradition of quality and substance. It remains the only government agency in the world to offer Holocaust survivors or the heirs of Holocaust victims and survivors assistance with a vast array of multi-national claims processes. The HCPO has received 4,767 claims from 48 states and 43 countries, and has secured the return of more than $40 million as well as 12 works of art to date. The knowledge and assistance of HCPO staff have

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[1] Lewis Carroll, *The Hunting of the Snark, Fit the Second, The Bellman's Speech*

alleviated burdens and costs often incurred by claimants going it alone – not least as a result of the importance attached and attention paid by the HCPO to individualized analysis. All this is provided free of charge.

True to the HCPO's mission and the New York State Banking Department's commitment to continuous evaluation and improvement, over the years the HCPO has worked closely with almost all restitution and compensation processes in existence today. Moreover, the HCPO has close working relationships with archives and historical commissions simply because many claimants are dependent on the records still available in the banks, insurance companies, or archives to supplement their memories.

At the same time, many claims processes have sought the HCPO's assistance and advice:

> Special Masters Gribetz and Bradfield sought HCPO assistance with the pilot project that evaluated the use of the Initial Questionnaires received by the Court; the CRT together with Special Master Bradfield conducted a matching exercise that sought to match HCPO claims data to the CRT's Total Accounts Database; the CRT has sought assistance with Swiss Banks' New York Agencies accounts frozen under the Trading with the Enemy Act in 1941; and most recently Special-Master Gribetz asked for assistance in locating the heirs to Ms. Nettie Königstein, a US citizen who committed suicide in Vienna, Austria, in March 1938.
>
> ICHEIC has sought technical assistance from the HCPO with a series of large-scale claims review exercises, training of claims processing staff, participation in technical committees such as the Valuation Committee and the Operations Committee, and the 8a2 process.
>
> The IOM sought HCPO assistance with historical and technical research into pre-war banking industry in Czechoslovakia.
>
> The American Association of Museums relied extensively on the HCPO's technical expertise and experience with claimants when creating their Web portal of all art objects in US museum collections that changed hands in Continental Europe from 1933-45.

'You don't know how to manage Looking Glass cakes,' the Unicorn remarked. 'Hand it round first, and cut it afterwards.'[2]

Almost all paths to restitution/compensation for Holocaust-era assets have converged at the HCPO at one point or another. All this combined makes the

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[2] Lewis Carroll, *Through the Looking Glass*

HCPO the only organization with extensive experience working with and comparing the multitude of restitution processes. The net result is that we see many different angles of the same claim simultaneously, as it is often the (re)search for one asset that leads to the discovery of another. Thus, the HCPO has worked with a host of different claims processes, often for one and the same claimants, and is therefore intimately familiar with the various submission and processing guidelines used by the various restitution and recovery agencies. These efforts on all fronts have sensitized the HCPO to the dangers of duplication of effort and misallocation of resources.

While nearly every restitution and recovery agency shares the same goal, there are as many different ways of reaching for that goal as there are entities involved. In scanning the 360° horizon of the universe of claims, the HCPO has found that so-called *Best Practices* can be identified across the multiple claims processes. No single claims processor has them all, and yet all *Best Practices* have something in common: they have identified their outputs and essentially summarized them as what, when, where, how many and how well.

Successful claims processing entities (or parts of such entities) recognize the importance of clear policies and procedures aimed at encapsulating the purpose of the work to be performed. And they focus on clear internal and external communication, both horizontally across specializations and/or divisions and vertically between management levels and outside stakeholders.

> **'Begin at the beginning,' the King said, very gravely, 'and go on till you come to the end: then stop.'[3]**

The first step for all processes is to identify the purpose of the work. Across the board, with respect to looted accounts, the stated purpose is to pay as promptly as possible (and in a sensitive manner given the singularity of the events that preceded it) via a process that is respected for its service and sensitivity to the issues. Having stated the purpose, the "processing" work itself is then broken down into the lowest task level, and tasks are linked in a logical flow of activities.

A common starting point is that fundamental information must be solicited from claimants. All processes, regardless of the assets sought, do this via a claim form that seeks similar but not identical information. Forms are of varying length and complexity, with the GSF's 31-page form (not counting

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[3] Lewis Carroll, *Alice in Wonderland*

supporting documentation requested) by far the longest. By way of comparison, the 1938 Nazi census of Jewish-owned assets in Austria made do with a four page form. The passage of time, the ravages of war, the lack of documentation, and the mortality of claimants makes longer claim forms almost inevitable. And yet, even the most encompassing claim forms cannot, by definition, elicit all details required for the complex research that inevitably follows.

Therefore, further claimant contact is necessary in all processes; in fact it is highly desirable, given that it encourages greater participation (and therefore potentially greater confidence) in the restitution process. Such contact can, however, also be highly distressing for claimants; responding to follow-up questions about a world that was so violently destroyed and loved ones who perished in appalling circumstances can be akin to navigating an emotional minefield. This is true not only of Holocaust survivors, but also of second generation claimants.

> **Best Practice: Given this, all claims processes bar one (the CRT) have found that communicating with claimants in writing is not only less burdensome and more sensitive, but also makes for greater accuracy in responses, with the added advantage that it provides a written record (and therefore greater accountability for all involved).**

Telephone calls to claimants create vastly distorted expectations: a sense of urgency and immediacy that even the most efficient of claims processes cannot live up to. Given that most processes are not accessible to claimants via the telephone (the oft-lamented fact that decision-makers are singularly unavailable to claimants) telephone calls from claims processors exacerbate claimants' sense of powerlessness and inequity.

EPCAP has gone one step further, collating information sought by their decision makers via the HCPO. More often than not, supplementary information sought either already resides in the HCPO's related files or the HCPO's experience allows for a more accurate, timely and streamlined response when additional information or research is needed.

Having collected the relevant information, claims processes must then incorporate the results into their respective systems to fulfill their mission. In order to do this effectively, an accurate and realistic work profile is critical – both for the claims processing entities and those stakeholders in the process that do not make award determinations, e.g. government entities such as US regulators, partner organizations such as the German Foundation, or survivor representatives such as the WJRO. Information technology is an important component here, as it can offer a relatively easy way of compiling workload data to help define necessary steps and communicate progress to stakeholders, partners, claimants and the general public.

Best Practice: ICHEIC provides a monthly report to US regulators that summarizes stage and status of all claims filed by US residents, and/or via a US regulatory office such as the HCPO.

This permits stakeholders to parse the data and determine where any particular type of claim is at any point in the process. At the same time, it addresses data entry and processing errors, as regular stakeholder feedback ensures timely self-correction.

In this manner, stakeholders can quickly and accurately compare handling and outcome of comparable claims, focusing on subsets of claims that appear problematic (such as the recent discovery of the CRT's seemingly contradictory evaluation of comparable documented insurance claims). Interrelationships found this way are particularly important because they provide a broader perspective and often allow solutions to be found outside the box.

Clearly, electronic reports are a particularly efficient means of ensuring accurate processing of large, complex claims. And where they form the basis of sharing decisions on individual claims with claimants and claimant representatives simultaneously, such reports help ensure the timely closure of claims as well as a better understanding of decisions made.

There is another advantage to defining all parts and subparts, and identifying relationships between parts. By focusing on quality, quantity, and timely completion of the constituent tasks, efficiencies can then be identified.

Best Practice: Having weathered considerable criticism in its early days for inadequate service delivery, ICHEIC sought to identify and implement enhancements of the claims process. ICHEIC's Humanitarian Claims Process is a particularly good example of what can be achieved. The so-called 8a2 process (i.e. the evaluation of Eastern European life insurance policies written by companies with no present day successor) replicates in many ways the companies' internal processes found elsewhere in ICHEIC. The results are worth noting: by June 2005, with a team of 4 full-time dedicated staff, and in partnership with the Claims Conference and the HCPO, ICHEIC will have reviewed 6,500 claims in six months.

ICHEIC's decision to stage the process according to its constituent parts, and allowing stakeholders to participate by providing their specific expertise (e.g. Claims Conference technology to allow for timely 'clustering' of duplicate claims, or HCPO's know-how regarding historical insurance records), helped remove any ambiguity of requirements, ensured complete work, which in turn led to better performance. The alternative, i.e. failure to identify component parts, leads to ambiguity and incomplete work, which in turn leads to delayed resolution. Such delays, in addition to reflecting the

overall failure to handle claims appropriately, further erode claimant confidence – one of the very wrongs these processes were established to right.

> **Now, here, you see, it takes all the running you can do, to keep in the same place. If you want to get somewhere else, you must run at least as twice as fast as that.**[4]

Claims processes that permit such granularity and transparency often demonstrate another *Best Practice* critical to overall success of all restitution efforts currently underway: a more holistic view of the restitution and compensation universe. Recognizing both the singularity of the historical context and the special needs of this particular claimant population, some claims processes have taken a more inclusive view.

> **Best Practice: The IOM, a UN Common System agency rooted in an institutional tradition of interagency cooperation, and applying lessons learned in property claims processes in the former Yugoslavia, Kuwait, and Iraq, made sure to forward claims to all other claims processes they may be eligible for. Thus, claimants who mentioned Swiss bank accounts were automatically sent on to the CRT, those who mentioned insurance policies were automatically sent on to ICHEIC. This procedure stands in stark contrast to other claims processes which adopted a more isolationist stance, even where claimants actively sought advice and guidance through the maze of overlapping avenues available at various times.**
>
> **A more specific application of the same principle is the HCPO's recent work with the Claims Conference regarding the Goodwill Fund. Recognizing that the HCPO database contained information that would allow for ready identification of potential claimants, the Claims Conference made the list of pre-war property owners in Germany available to the HCPO electronically. Matching this to the HCPO dataset identified an additional 64 claimants, who applied to the Claims Conference with the HPCO's assistance.**

Entities that recognize the advantages of inter-agency cooperation are also more likely to have identified internal organizational barriers to fostering teamwork and continue to work to eliminate them. In these organizations, the need for broadest-based cooperation is instilled and reinforced by Executive Management, which helps to prevent isolation and remove

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[4] Lewis Carroll, *Through the Looking Glass*

information silos often encountered in large-scale, complex and multi-location claims processes.

The immediacy of email and the ability to schedule regular conference calls to enable discussion and information sharing by cross-functional teams have become fundamental building blocks for effective open communication across time zones as well as specializations. By involving program staff, be they claims processors, call center operators, claimant representatives, or technical specialists, relationships are created that can produce extraordinary results and help overcome cultural inertia.

> **Best Practice: Arguably, ICHEIC's Operations Committee is the single most important component to ensure ICHEIC will meet its closedown target date of 12/31/05. Comprised of representatives of all ICHEIC stakeholders and chaired by New York State's Superintendent of Insurance, this group speaks monthly to review and set benchmarks, verify and evaluate performance data/strategies and resources needed to achieve goals, and identify goals and measures of various ICHEIC component parts. In so doing, the Operations Committee has played a crucial role in rethinking how ICHEIC's work is done to improve service and meet the closedown timeline, while at the same time finding greater efficiencies and reinforcing at the staff level the importance of cross-functional communication.**

The success of ICHEIC's Operations Committee builds on the lasting relationships that are the result of past efforts to incorporate qualified stakeholder staff (Claims Conference and HCPO) for defined projects, such as intermittent claims review exercises. Narrowly defined subsets of claims, such as all denied named company claims, were reviewed and verified by teams assembled specifically for this purpose and composed of ICHEIC, HCPO and Claims Conference staff. By encouraging stakeholders to participate, ICHEIC efficiently combined the need to eliminate claims backlogs with the goal of ensuring greatest possible transparency. And in so doing, these truly cross-functional teams identified further efficiencies as well as the timeliest means for implementing them.

> **Take care of the sense, and the sounds will take care of themselves.**[5]

In closing, it is the HCPO's experience that those claims process that encourage open, transparent cooperation both internally and in the larger

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[5] Lewis Carroll, *Alice in Wonderland*

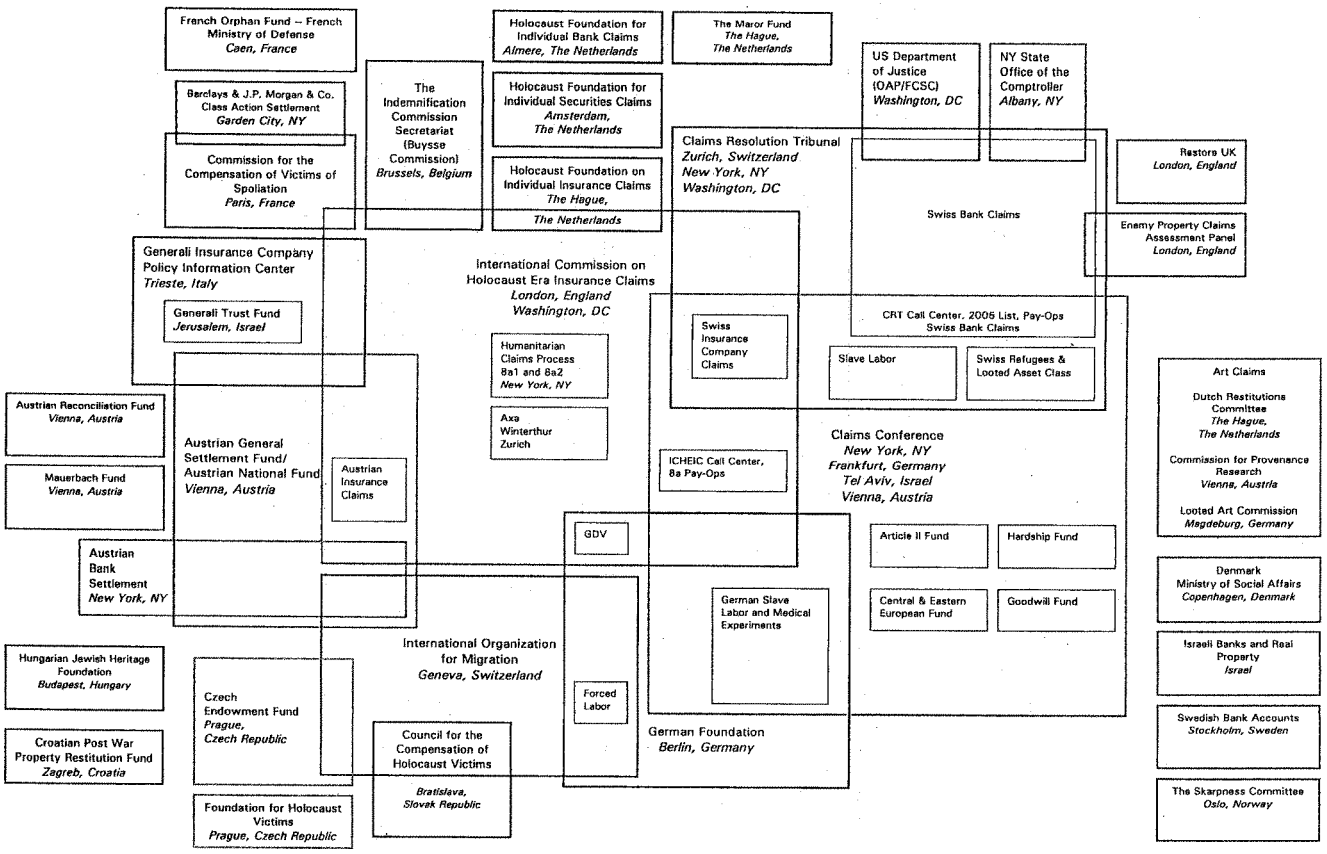
universe of Holocaust-era restitution and compensation programs are those most likely to achieve their mission: to settle claims for Holocaust-era assets as accurately, sensitively and promptly as possible.

Allowing cross-functional and interagency dialogue between such claims processes encourages new perspectives, expands and enhances coalitions, fosters partnerships, and ensures a more comprehensive approach. By finding creative solutions and mechanisms, agencies can work together to streamline the prolonged claims process for claimants, many of whom are in their 80s and 90s, and for whom time is a disappearing luxury.

Interestingly, it has been the HCPO's experience that an individual entity's ability to do this does not correlate to its size, or the number of claims submitted into any particular process. The 35,000 claims filed with the IOM seek compensation for assets located all over Europe (from Norway to Egypt, and from the Netherlands to Moldova). Despite this vast geographic spread and the need for research in outside archives, the IOM will have completed processing its considerable claims volume in just over four years from initial filing to final decision, including appeals. This compares to the CRT, which has to date settled only 1,644 of its 33,000+ claims for assets deposited in Swiss banks.

Greater efficiency, however, is not the only reason to call for greater transparency, cooperation and communication. The advantages of transparency may not always be immediately apparent. ICHEIC, the only claims process to have published all its agreements, valuation guidelines, committee structures and bi-weekly claims processing statistics, has borne the burden of persistent negative press as a result. And yet, ICHEIC's conviction that sunshine is the best remedy remains unshaken. Not only because it allows for greater claimant confidence in the long run, but because it enables the system to self-correct continuously, thereby ensuring greater accuracy in processing and results.

With increased factual precision comes an historical record less likely to be abused by those determined to deny the Holocaust and the theft that preceded it. Last but not least, it reaffirms our contemporary respect for claimant dignity – an aspect that should not be underestimated when working with survivors of one of the darkest periods of modern history: time Elie Wiesel so aptly and pithily termed 'Night'.


French Orphan Fund – French Ministry of Defense
Caen, France
Barclays & J.P. Morgan & Co. Class Action Settlement
Garden City, NY
Commission for the Compensation of Victims of Spoliation
Paris, France
The Indemnification Commission Secretariat (Buysse Commission)
Brussels, Belgium
Holocaust Foundation for Individual Bank Claims
Almere, The Netherlands
Holocaust Foundation for Individual Securities Claims
Amsterdam, The Netherlands
Holocaust Foundation on Individual Insurance Claims
The Hague, The Netherlands
The Maror Fund
The Hague, The Netherlands
US Department of Justice (OAP/FCSC)
Washington, DC
NY State Office of the Comptroller
Albany, NY
Claims Resolution Tribunal
Zurich, Switzerland
New York, NY
Washington, DC
Swiss Bank Claims
Restore UK
London, England
Enemy Property Claims Assessment Panel
London, England
Generali Insurance Company Policy Information Center
Trieste, Italy
Generali Trust Fund
Jerusalem, Israel
International Commission on Holocaust Era Insurance Claims
London, England
Washington, DC
Humanitarian Claims Process 8a1 and 8a2
New York, NY
Axa Winterthur Zurich
Swiss Insurance Company Claims
CRT Call Center, 2005 List, Pay-Ops Swiss Bank Claims
Slave Labor
Swiss Refugees & Looted Asset Class
Austrian Reconciliation Fund
Vienna, Austria
Mauerbach Fund
Vienna, Austria
Austrian General Settlement Fund/ Austrian National Fund
Vienna, Austria
Austrian Insurance Claims
Austrian Bank Settlement
New York, NY
ICHEIC Call Center, 8a Pay-Ops
Claims Conference
New York, NY
Frankfurt, Germany
Tel Aviv, Israel
Vienna, Austria
GDV
Article II Fund
Hardship Fund
German Slave Labor and Medical Experiments
Central & Eastern European Fund
Goodwill Fund
Art Claims
Dutch Restitutions Committee
The Hague, The Netherlands
Commission for Provenance Research
Vienna, Austria
Looted Art Commission
Magdeburg, Germany
Denmark Ministry of Social Affairs
Copenhagen, Denmark
Israeli Banks and Real Property
Israel
Swedish Bank Accounts
Stockholm, Sweden
The Skarpness Committee
Oslo, Norway
Hungarian Jewish Heritage Foundation
Budapest, Hungary
Croatian Post War Property Restitution Fund
Zagreb, Croatia
Czech Endowment Fund
Prague, Czech Republic
Foundation for Holocaust Victims
Prague, Czech Republic
International Organization for Migration
Geneva, Switzerland
Forced Labor
Council for the Compensation of Holocaust Victims
Bratislava, Slovak Republic
German Foundation
Berlin, Germany

THE CLEVELAND MUSEUM OF ART

STATEMENT BY TIMOTHY RUB, DIRECTOR OF
THE CLEVELAND MUSEUM OF ART, TO THE SUBCOMMITTEE ON
DOMESTIC AND INTERNATIONAL MONETARY POLICY, TRADE AND TECHNOLOGY OF THE COMMITTEE ON
BANKING AND FINANCIAL SERVICES UNITED STATES HOUSE OF REPRESENTATIVES
JULY 27, 2006

Good morning, Madame Chairwoman and distinguished members of the Subcommittee. I have come to testify before the Subcommittee on behalf of the Association of Art Museum Directors and the Trustees of The Cleveland Museum of Art, and I would like to express my thanks for the opportunity to share with you the significant efforts museums have undertaken since the Subcommittee first held hearings on this subject in February 1998.

Much progress has been made. All American art museums whose collections might have included art looted during the Holocaust are in the process of researching the provenance, or ownership history, of those objects. As you can well understand, provenance research is time-consuming and costly. Given the significance of this issue, all of these institutions have willingly devoted considerable resources to improving the documentation of their collections, for we recognize that the information that has been gathered in this way is essential if we are to respond in a responsible way to inquiries about our collections. This is important because American museums hold their collections in trust for the benefit of the public, and it is incumbent upon us to proceed in a deliberate fashion to address any concerns that may arise regarding their ownership.

In addition to conducting additional provenance research, American art museums have substantially increased the level of scrutiny they give to new acquisitions, whether these are made by gift, purchase or bequest. Art museums also carefully examine the provenance of works that are requested to be loaned for exhibition. In both cases, museums have committed not to accept or to exhibit works known to have been confiscated illegally during the Holocaust and not restituted after World War II. These practices have become standard among American museums as a result of their voluntary compliance with guidelines articulated in the AAMD's June 1998 *Report on the Spoliation of Art During the Nazi/World War II Era*.

Because provenance research is invaluable to our work in addressing concerns about the ownership of works of art that were created or changed hands during the Holocaust period, I will address this specific effort in greater detail. First, however, I would like to offer an observation about American art museums that may be useful to the Subcommittee. For a significant number of these institutions - perhaps as many as 50% - this is not an issue because they either do not have permanent collections or collect only contemporary art (that is to say, works created long after the Holocaust period). Still others acquire and present works of art - say, Native American art, Latin American art, or early American decorative arts that were unlikely to have been found in European collections during the period in question.

Those museums whose collections might possibly have included art looted during the Holocaust period responded to the efforts of this Subcommittee and others in the latter part of the 1990s with a strong and deeply impressive commitment to investigate the provenance

of works of art in order to address any potential claims. For example, the AAMD surveyed its members in 1999 and determined that 100% of those whose collections included art that might have been looted during the Holocaust period had completed or were in the process of undertaking provenance research. Furthermore, in that survey, 100% of AAMD members indicated that access to their provenance records was open.

Provenance research is often difficult, time-consuming, and expensive. Unlike other forms of property like real estate or automobiles, the sale of works of art does not require a recorded chain of title. Even basic sales documentation, such as a purchase agreement or bill of sale, was not standard practice in art purchases until fairly recently. To the extent that documentation for the sale and transfer of title for works of art does exist, much of it has been lost or may be scattered among individuals and institutions that are located in various countries in files unknown to art historians, officials or others who might recognize the value of these records for provenance research. Dealers and auction houses that had useful records may have gone out of business or may be reluctant to open their records. And invaluable information may be hidden in records maintained for decades by countries behind the Iron Curtain that simply refused all requests to provide information of any type. These barriers make the job of provenance research complicated and more akin to the work of a detective than an art historian.

To put such an undertaking in some context, I would like cite as an example the extensive research conducted by The Cleveland Museum of Art on a single work of art. The CMA has largely completed a review of its holdings of European painting and posted the results of this provenance research on its website. This process has enabled us to identify approximately 373 paintings and 86 sculptures with one or more gaps in their provenance during the Holocaust period.

It is important for the members of the Subcommittee to understand that a gap in the provenance of a work of art during the Holocaust period *does not* mean that this work was seized illegally by Nazis or was the subject of a forced sale and not restituted. Rather, a gap in provenance indicates that we have been unable to find documentation or other evidence that allows us to determine the ownership of a particular work during a certain period of time. In other words, this means, quite literally, the absence of information on an object, not the presence of information that gives rise to, or constitutes justification for, a claim that it was illegally taken and not restituted.

Given the extensive research that has been done by American museums - without, it should not go unremarked, any appreciable public funding - the number of claims received by American museums is very small; and to date only 22 works have been restituted by American museums because they were looted by the Nazis and not returned to their rightful owners after the War. For those who claim that hundreds or thousands of spoliated works exist in American museums, the extensive efforts undertaken during the last decade simply indicate otherwise. In this regard, I would not suggest that the efforts undertaken to research the provenance of Holocaust-era works have been inappropriate or that they should be curtailed. But our experience indicates that the magnitude of this problem does not match the strongly emotional appeal made on occasion by those who seek to recover art that is believed to have been lost and not restituted.

One example of recent provenance research will help to illustrate the often complex story of individual works of art that were in Europe during the Holocaust period. Our institution is fortunate to have a wonderful painting by Henri Matisse called *Interior With An Etruscan Vase*. Before World War II, the great art dealer Paul Rosenberg had a gallery in Paris. Rosenberg is a legendary dealer who, during his long career, encouraged and collected modern art, a style that the Nazi leadership found deeply abhorrent. Although Mr. Rosenberg

fortunately escaped the fate of many of his fellow Jews during the Holocaust, his gallery and much of his collection captured the attention of the German authorities.

Apparently, the Matisse now in the CMA's collection was seized by the Nazis and came into the possession of Hermann Goering. Goering then used the Matisse, together with other paintings, to obtain a painting by Jan Brueghel in an "exchange" with a notorious dealer named Rochlitz. One of the great benefactors of The Cleveland Museum of Art, Leonard Hanna, saw the Matisse in New York in the early 1950s at the gallery of Pierre Matisse, the son of the painter. Pierre Matisse claimed that he had acquired the painting from a "private collection." The painting was sold to the Cleveland Museum of Art in 1952, and it has been in the Museum's collection ever since.

The Museum discovered a "gap" in the provenance of this work in the course of its own research, not as the result of any claim having been made. The painting had no provenance history between the outbreak of World War II and its ownership by Pierre Matisse in the 1950s. Working with a researcher at the National Gallery, a woman who has spent countless hours compiling a book considered the "gold standard" for Holocaust provenance research, the Museum obtained documents that confirmed the wrongful taking of this work by the Nazis. The documents indicated that the painting was taken after the War to the Munich collection point, the major repository for art illegally appropriated during the Holocaust period. The trail went cold beyond that point. However, through the subsequent efforts of the Commission for Art Recovery of the World Jewish Congress, the daughter-in-law of Paul Rosenberg was able to confirm to the Museum that this work had, in fact, been returned to Paul Rosenberg after the war and was later sold.

Had Mr. Rosenberg's daughter-in-law not been found or had she been unable to locate in her family's records that the Matisse was restituted to her father, the gap in provenance would have remained and it might well have appeared that the Museum's ownership was inappropriate, which was not the case. I recount this story as just one of many examples where a "gap" did not mean that our institution did not hold clear title to a work and to illustrate the fact that the effort to complete provenance research is extensive, time-consuming and involves a degree of luck and chance.

While The Cleveland Museum of Art enjoys a world-wide reputation for its comprehensive collection, the Museum has a relatively small number of works - no more than 40,000. Consider the enormity of the task of the provenance research that would need to be undertaken by museums with much larger collections such as The Metropolitan Museum of Art, which holds more than 2 million objects in its collection.

Research on inquiries and claims require persistence, patience and a responsible approach. Like other American museums, The Cleveland Museum of Art has received inquiries with respect to objects in our collection. The approach we have taken to respond to these inquiries - an approach which I believe is shared by all of the members of the AAMD when faced with such claims - has not been confrontational. Rather, we have attempted to obtain all the necessary information and to determine in good faith whether, in fact, an injustice has been done. These kinds of fact-intensive determinations require the skills of trained professionals who understand how to conduct provenance research and make educated judgments about these often difficult and tangled histories. Cooperative investigative efforts are, I believe, much more likely to lead to fair resolutions of claims than litigation.

Thankfully, there have been very few lawsuits involving claims for return of objects, and I hope that both claimants and museums continue to have a constructive and productive dialogue when questions do arise. At times, the Department of Justice may be asked to intervene in matters of Holocaust art, and I can only suggest to this Committee that such an approach generally is neither beneficial nor conducive to a speedy and just resolution.

While I have this opportunity to speak with you this morning, I must also point out to the Subcommittee that in many of the reports and recommendations made on this subject, the cost of research, the cost of maintaining websites, and other costs of sharing available information is invariably mentioned as a barrier to discovering the true history of works that might be questioned. To date, the overwhelming majority of the financial responsibility for provenance research and its publication has fallen on the museum community. We continue to incur substantial expenses to further this work that are significant and difficult to fund, especially in an era of reduced governmental support.

Finally, some critics have questioned the wisdom of continuing the federal immunity which is accorded works of art that are in the United States on loan to American museums and whether that protection should apply when there *might* be a Holocaust issue. Please note the emphasis I have placed on the possibility of a Holocaust- related issue, such as a gap, as opposed to an outstanding, valid but as yet unresolved claim. If this issue comes before the Subcommittee, I urge you to continue to support the federal immunity program. The immunity program is a time-honored and valuable instrument that enables American museums to present to the American public great works of art from around the world. Absent such protection, many foreign-owned works might not be made available to American museums because of the fear that such works will become encumbered with litigation in United States Courts. Furthermore, in making the application for immunity, Holocaust issues are thoroughly addressed as part of the application process.

Is it possible that a work of art for which a Holocaust claimant exists could find its way into an exhibition in the United States for which immunity has been granted? Yes. And, yes, immunity would prevent the claimant from recovering this work through a court proceeding in the United States while the work was under a grant of immunity. The absence of recourse to a United States court for any given object is, however, more than outweighed by the benefit to the American public of making thousands of objects accessible every year through loan exhibitions in American museums. Exhibiting a painting with a gap in its provenance can, in fact, help the process because the exhibition of the work in the United States can bring to the attention of a claimant its existence or make available information that the claimant needs in order to make a claim.

Madame Chairwoman and members of the Subcommittee, let me return to the beginning of my testimony and to the profound conviction that I know my fellow directors share: unlawful and unjustifiable spoliation of art during the Holocaust period should not be forgotten and American museums should sustain their efforts to discover works of art for which legitimate claims may exist. The eight years since the Subcommittee's first hearings on this subject have witnessed significant progress in the development of a broader knowledge of provenance information that has now been made available to potential claimants and the public at large. While the work is not yet complete, research regarding most of the works of art that may be at issue has certainly been undertaken, and America can be very proud of the leadership role that its art museums have played in this effort.

TESTIMONY TO THE
DOMESTIC AND INTERNATIONAL MONETARY POLICY, TRADE AND TECHNOLOGY SUBCOMMITTEE OF THE
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES

GIDEON TAYLOR

EXECUTIVE VICE PRESIDENT, CLAIMS CONFERENCE
TREASURER, WORLD JEWISH RESTITUTION ORGANIZATION

27 July 2006

Art is about family, it is about memory and it is about history. It is about the history of paintings and drawings and sculptures, but it is really about the history of people. For many, it is the last tangible connection with a past that was destroyed and with a family that was lost. It is not important whether the painting was a Monet or a minor work by an unknown artist. It is important because it belonged to a family – it is a legacy of what existed before the horrors of the Holocaust.

The looting of art by the Nazis was a systematic, widespread and unrelenting extension of their racial theories. It was an attempt to obliterate art from the Nazi empire that was considered 'degenerate' whether because it was 'modern' or because the artist was Jewish. But it was more than a policy to 'purify' the art world – it was an opportunity for the insatiable art appetites of Hitler, Goering, Ribentropp and other Nazis to be fed by the confiscation of art from some of the most well known Jewish families of Europe. In addition, the Jews who were to be exterminated in body were also to be plundered of all their assets. For the Nazis, the collections of Jewish art were a vast treasure that would now be available to the Nazis as a by-product of their racial policies. They would be used to build private collections, to swap for other paintings, to sell for personal profit, to create museums or to generate foreign currency for the Reich. A special unit, the Einstazstab Reichsleiter Rosenberg (ERR), was established by the Nazis to carry out this looting.

The art market was alive and thriving during the war – none more so than those in Paris and Switzerland. The Paris market was so vibrant that a Rotterdam newspaper reported on its front page that the Drouet, the famous French auction house, was filled with customers and the year 1941 had beaten all records, citing examples back to 1824. [1] Switzerland in particular, being a 'neutral' country and one that granted 'good title' to owners of artwork after the mere passage of five years, was a haven for looted art. For example, in 1941, Walter Hofer, an art dealer who became Goering's agent, offered 25 Impressionist paintings that had been confiscated in France to the Gallerie Fischer in Lucerne in exchange for six paintings that Goering desired. In October 1941 the

[1] Lynn Nicholas *Rape of Europa The Fate of Europe's Treasures in the Third Reich and the Second World War,* Alfred Knopf Inc 1995 page

Impressionist paintings were brought to Switzerland and a number of them were sold off almost immediately. The Fischer gallery was perhaps the most famous of the many galleries in Switzerland dealing in looted art.

Another example of the journey of families and paintings can be seen in the collection of the Dutch- German banker, Fritz Gutmann. The description of the fate of the family and the fate of the paintings is set forth in Hector Feliciano's book "The Lost Museum".[2] Of the paintings owned by the family and looted by the ERR, some were taken to Germany but two Degas paintings and a Renoir painting were sold or exchanged by the Nazis on the European art market. These painting had been sent for safekeeping to France but were found and plundered by the Nazis. Fritz and Louise Gutman remained in Holland during the war but their son was in England and their daughter Lili was in Italy. Like many assimilated Jews - they believed that no harm would come to them. One day in 1943, a German officer surprisingly announced to the couple that they were being granted safe passage and could leave by train to Florence where they would be met by their daughter, Lili. The SS officer handed them first class train tickets. Their daughter Lili waited for them at the train station in Florence but to no avail. In fact, in Berlin the Gutmanns were taken off the train and sent to Theresienstadt. In April 1944 Fritz Gutmann was found beaten to death in Theresienstadt. In late June or early July 1944 Louise Guttman was sent to Auschwitz, where she died in the gas chambers. After the war, their children Bernard and Lili tried to reclaim their assets. However, many works from the collection seemed to have completely disappeared – including the two Degas pastels and the Renoir. When Bernard Goodman died in 1994, his sons took up the search for the missing paintings. In 1995, one son found the Degas painting in a book that was published to coincide with two major Degas exhibitions. It was located in the United States where it was owned by an American pharmaceutical company executive who had bought it in 1987. The previous U.S. owner had bought it in 1951 from a Swiss textile merchant from Basel. The Swiss textile merchant had bought it from Hans Wendland. Wendland was friendly with officers of the ERR and was a visitor to the Jeu de Paume (where the looted art had been catalogued by the ERR) and was a partner of Theodore Fischer, the infamous Lucerne art dealer. The Goodman children filed suit to recover the painting. After many years of protracted legal battles, a settlement was reached between the Goodmans and the owner. The history of this case symbolizes not only the tragic fate of a family that could not comprehend the impending Holocaust but also the relentless pursuit of art by family members who simply could not forget the art that was part of their family and part of their life. Moreover it shows the long journey by pieces of artwork of thousands of miles from pre-war Jewish families in Europe to the United States.

During the last decade, this Committee has established itself as a leading force in the attempt to secure a measure of justice for Holocaust victims and their heirs. On behalf of Nazi victims and their heirs, we applaud your continuous and unrelenting efforts not to let past injustice remain to taunt the victims of the worst crime in modern history.

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[2] Hector Feliciano *Lost Museum: The Nazi Conspiracy to Steal the World's Greatest Works of Art, 1997* page

The Importance of Information

The information available to survivors of the Holocaust and their heirs is often fragmentary or does not exist at all. Documents of ownership were lost in the turmoil of the Holocaust.

For most potential claimants, information is critical. Without information, it is impossible to know what happened. Without information, survivors and their heirs will not know where to look and the last opportunity we have to right an historic injustice will be gone.

The average age of the Holocaust survivors is over age 80. The generation of the survivors is slipping away and with them will go the personal recollections and memories that may help connect a family with its past.

Art in the United States

In the immediate post-war period the U.S. Customs Service and the Office Military Government of the United States enacted laws and regulations to prevent looted art from entering the United States.

As one well known expert noted:

> "The international agreements and postwar laws and policies of the US and its Allies have been justifiably lauded for their success in the face of enormous obstacles. But despite enactment of many laws from T.D. 51072 by U.S. Customs to Military Government Laws 52, 53 and 59, it is clear that looted art entered the U.S. during and after the war."[3]

Despite their best efforts, these measures were limited in scope and direction and unevenly enforced. [4]

Consequently, it already became apparent in the post war period that looted art was entering the country. The report of the Presidential Advisory Commission on Holocaust Assets in the United States stated:

> "As early as 1946, the State Department notified museums and other institutions that stolen art was entering the country but in the years following the war it was not the standard practice for museums, collectors and dealers to investigate the provenance of works they acquired."

The report also noted that

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[3] Lucille Roussin *Holocaust-era Looted Art: the Routes into the U.S. IFAR Journal Vol 5 No3 2002 page 44*

[4] id.

> "Holocaust era cultural property – that is, works created before 1945, transferred after 1932 and before 1946, and which were or could have been in continental Europe between those dates – is found in museums, libraries, galleries and private collections in the United States."

The question for those involved in attempting to redress this Nazi era wrong became, "How should the art community deal with this issue?"

International Commitments

The issue of the identification and return of Holocaust era art was dealt with in an ad hoc and haphazard way for more than five decades. There were no uniform practices within countries, let alone worldwide consensus on dealing with the issue. Finally, toward the end of the 1990s, the re-examination of many unresolved Holocaust restitution issues resulted in renewed research and focus on the complex problem of the restitution of Holocaust-era art.

The first international forum was the Washington Conference on Holocaust-Era Assets, initiated by Deputy-Secretary Stuart Eizenstat and hosted by the State Department in November – December 1998. It brought together over 40 countries. The unique aspect of the Conference was that the participants included not only governments, non governmental organizations (NGOs), art researchers and historians but also those involved in the field on a daily basis – museums and art dealers. The Conference endorsed the following set of principles:

> **Washington Conference Principles on Nazi-Confiscated Art**
>
> In developing a consensus on non-binding principles to assist in resolving issues relating to Nazi-confiscated art, the Conference recognizes that among participating nations there are differing legal systems and that countries act within the context of their own laws.
>
> **I.** Art that had been confiscated by the Nazis and not subsequently restituted should be identified.
>
> **II.** Relevant records and archives should be open and accessible to researchers, in accordance with the guidelines of the International Council on Archives.
>
> **III.** Resources and personnel should be made available to facilitate the identification of all art that had been confiscated by the Nazis and not subsequently restituted.
>
> **IV.** In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era.
>
> **V.** Every effort should be made to publicize art that is found to have been confiscated by the Nazis and not subsequently restituted in order to locate its pre-War owners or their heirs.
>
> **VI.** Efforts should be made to establish a central registry of such information.
>
> **VII.** Pre-War owners and their heirs should be encouraged to come forward and make known their claims to art that was confiscated by the Nazis and not subsequently restituted.

VIII. If the pre-War owners of art that is found to have been confiscated by the Nazis and not subsequently restituted, or their heirs, can be identified, steps should be taken expeditiously to achieve a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case.

IX. If the pre-War owners of art that is found to have been confiscated by the Nazis, or their heirs, can not be identified, steps should be taken expeditiously to achieve a just and fair solution.

X. Commissions or other bodies established to identify art that was confiscated by the Nazis and to assist in addressing ownership issues should have a balanced membership.

XI. Nations are encouraged to develop national processes to implement these principles, particularly as they relate to alternative dispute resolution mechanisms for resolving ownership issues.[5]

Approximately two years later, the Vilnius International Forum on Holocaust Era Looted Cultural Assets was held under the auspices of the Secretary General of the Council of Europe and the Prime Minister of the Republic of Lithuania. The Forum also tackled the issue of the restitution of Holocaust-era art and made the following declaration:

1. The Vilnius Forum asks all governments to undertake every reasonable effort to achieve the restitution of cultural assets looted during the Holocaust era to the original owners or their heirs. To this end, it encourages all participating States to take all reasonable measures to implement the Washington Conference Principles on Nazi-Confiscated Art as well as Resolution 1205 of the Parliamentary Assembly of the Council of Europe.

2. In order to achieve this, the Vilnius Forum asks governments, museums, the art trade and other relevant agencies to provide all information necessary to such restitution. This will include the identification of looted assets; the identification and provision of access to archives, public and commercial; and the provision of all data on claims from the Holocaust era until today. Governments and other bodies as mentioned above are asked to make such information available on publicly accessible websites and further to co-operate in establishing hyperlinks to a centralized website in association with the Council of Europe. The Forum further encourages governments, museums, the art trade and other relevant agencies to co-operate and share information to ensure that archives remain open and accessible and operate in as transparent a manner as possible.

3. In order further to facilitate the just and fair resolution of the above mentioned issues, the Vilnius Forum asks each government to maintain or establish a central reference and point of inquiry to provide information and help on any query regarding looted cultural assets, archives and claims in each country.

4. Recognizing the Nazi effort to exterminate the Jewish people, including the effort to eradicate the Jewish cultural heritage, the Vilnius Forum recognizes the urgent need to work on ways to achieve a just and fair solution to the issue of Nazi-looted art and cultural property where owners, or heirs of former Jewish owners, individuals or legal persons, cannot be identified; recognizes that there is no universal model for this issue; and recognizes the previous Jewish ownership of such cultural assets,

5. The Vilnius Forum proposes to governments that periodical international expert meetings are held to exchange views and experiences on the implementation of the Washington Principles, the Resolution 1205 of the Parliamentary Assembly of the Council of Europe and the Vilnius Declaration. These meetings should also serve to address outstanding issues and problems and develop, for governments to consider, possible remedies within the framework of existing national and international structures and instruments.

[5] http://www.claimscon.org/index.asp?url=artworks/wash_princ

> 6. The Vilnius Forum welcomes the progress being made by countries to take the measures necessary, within the context of their own laws, to assist in the identification and restitution of cultural assets looted during the Holocaust era and the resolution of outstanding issues. [6]

The common thread that runs through all these international commitments is the need (i) to identify looted art, (ii) publicize confiscated or looted art and (iii) resolve the issue of its return in an expeditious, just and fair manner.

Undoubtedly, in most cases, the second and third aspects noted above are dependent on successful provenance research, sharing of information and transparency of records. Consequently, it is critical to focus on this first aspect. For without progress in this first area, we cannot make progress on any others. Without information there will be no claims and no return of that which was stolen.

Commitments of Museums

International conferences are not the only fora in which American museums have announced their readiness to seriously confront and make progress on provenance research.

It is important to note that the impetus for American museums to do provenance research did not only come from the Washington Conference (and the obligations of the United States at the Vilnius Forum). The Presidential Advisory Commission on Holocaust Assets in the United States attached to its report of December 2000, letters that had been sent to it by the American Association of Museums (AAM) and the Associations of Art Museum Directors concerning the resolve of the members of these organizations to implement the provisions of the Commission report that called for full disclosure of the provenance of Holocaust-era works in their possession.

To achieve these goals, guidelines on the identification of possibly looted art and the commitment to continue to prioritize provenance research were adopted by the American Association of Museums (AAM) in 1998 and updated in 2001. The adoption of these guidelines was an important step forward that should not be underestimated and we applaud the AAM for undertaking this measure. The commitment to undertake provenance research is incumbent on each museum that is an accredited member of the AAM.

In 2000, shortly after these conferences and the adoption of AAM guidelines, expectations were high. The director of the Museum of Modern Art (MOMA) stated before this committee in February 2000: "There is not a single art museum in this country that is not aware of the importance of this issue and urgent need to diligently review the provenance of the works of art in their collections." [emphasis added]

[6] http://www.claimscon.org/index.asp?url=artworks/vilnius

In September 2003, a special website was established to "to provide a searchable registry of objects in U.S. museum collections that changed hands in Continental Europe during the Nazi era (1933-1945)". The AAM Nazi-Era Provenance Internet Portal (NEPIP) – known as the "Portal" - is currently used by 151 museums and has approximately 18,000 listings to date. As the NEPIP's website goes on to note: "The Portal helps people seeking lost objects to refine their searches. By providing a searchable online registry of objects, the Portal helps U.S. museums fulfill their responsibility to make information about objects in their collections centrally accessible". Funding for the Portal was provided by the Federal Government's Institute of Museum and Library Services. In addition, the Claims Conference, in view of the critical need to disseminate information on potentially looted art, provided financial assistance to the AAM for the establishment of the Portal.

These mechanisms were extremely important to the goals in question.

Current Status of Provenance Research

More than seven years have elapsed since the Washington Conference. The issues it is important that we discuss today are: What has been achieved and what can we learn from our experience to date, and what is yet to be done?

In order to obtain an overview of what has been achieved, in February 2006 the Claims Conference sent a survey to 332 art museums throughout the United States that were thought to have the most relevant collections for a survey related to Nazi-era provenance research. The survey covered the following issues:

a) how many relevant or "covered" objects were held by the museum and for how many objects has provenance research been completed;

b) what is the timetable for the completion of provenance research;

c) what staffing and budget is allocated for provenance research;

d) what is the provenance research policy on acquisitions and loans;

e) what is the procedure when claims are made against the museum

A copy of "Nazi-Era Stolen Art and the U.S. Museums: A Survey" dated July 25, 2006 is attached to this testimony.

Prior to the discussion as to the substantive results of the survey, it should be noted that 65% of the museums responded to the survey and 35% did not. The survey was a good faith attempt to compile information on the status of provenance research. Museums were given four months to complete the survey and the AAM sent an email to all Portal participants encouraging them to respond to the Claims Conference survey. The survey was an opportunity for museums to detail their activities and to explain the progress that

had been made during the seven years since commitments on provenance research were given. A list of those museums that declined to respond is attached as Appendix 7 of the survey. Copies of all responses are available at www.claimscon.org/art.

The results of the survey were mixed. In general, while some museums had made good progress others had not. The major findings of the survey were as follows:

- Based on responses to the questionnaire, there are in excess of 140,000 "covered objects" as defined by the AAM (all objects that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates). This definition is, of course, far broader than items of looted art. It identifies a piece of art that needs provenance research. The Nazi-Era Provenance Internet Portal which was established to provide a searchable registry of such objects lists approximately 18,000 items, or slightly higher than 12 percent of the total number of reported "covered objects."

- Of the museums that do clearly state that they are conducting provenance research, 52 percent have completed research on less than half of the relevant items in their collection and a further 33 percent did not provide information on the extent to which they had completed that work.

- What provenance research is conducted is done overwhelmingly on paintings and sculptures, and rarely on other items such as prints and drawings.

- Only about one-third of the museums conducting provenance research maintain a separate budget for the purpose.

- Only about one-tenth of the museums conducting provenance research employ or have ever employed a full-time researcher.

- At least one-third of the museums responding indicated that they do not conduct provenance research on their loans.

Article II of the Washington Conference Principles on Nazi-Confiscated Art states:

"Resources and personnel should be made available to facilitate the identification of all art that had been confiscated by the Nazis and not subsequently restituted."

Seven years later, we are far from that goal. As the generation of Holocaust survivors slips away, it is urgent that the task of provenance research of items of artwork in U.S. museums rapidly be completed.

It is clear that the awareness of the "urgent need to diligently review provenance" described to this Committee in February 2000 has led only to limited progress. Our hope is that renewed commitments will be received today to accelerate this process.

Commitments of Art Dealers

In many cases, looted art is in the hands of private individuals. The only time the art is seen by the general public is if it is either loaned to a museum or when it changes hands. The latter event, involves either an art dealer or an auction house. Yet the potential hurdles to securing information from art dealers can be insurmountable. For example in the case of the Dutch-German banker Gutmann described above – the Renoir painting was identified as having being sold in 1969 through a particular auction house. The heirs tried to find out from the auction house that purchased the painting – but to no avail.[7]

In other instances potential heirs first identify paintings when the owner tries to sell them and when the heirs make a claim, the painting is taken off the market and the auction house or dealer protects the identity of the seller. In 1987 a missing Degas from the collection of Paul Rosenberg was advertised in a full page ad placed by a Hamburg dealer, noting the Rosenberg provenance. However, the picture disappeared again when too many inquiries were forthcoming. [8] Other such instances have reportedly taken place in the United States.

It is clear that a large amount of art will remain unrestituted without the co-operation of the art dealers and auction houses in the United States and worldwide. In recent years, the major auction houses have committed themselves to research the artwork they intend to sell. However, a large amount of artwork passes through art dealers.

The importance of the cooperation of art dealers was highlighted by a noted expert in this area, Jonathon Petropoulus who stated in testimony to this Committee in February 2000: "But how widespread the accepted practice [of the major auction houses conducting detailed provenance research] will become remains to be seen in a trade historically characterized by secrecy and anonymity and as yet largely unregulated by domestic or international law."

The commitment given at the Washington Conference on Holocaust-Era Assets by Mr. Gil Edelson of the Art Dealers Association of America stated:

> "First, we must stop traffic in unrestituted Nazi looted art;
> Second, we must seek to identify works which are the subject to claims and their owners;
> Third, we must seek to resolve all claims fairly and expeditiously"

We are unaware of any guidelines in the American art dealer community regarding these issues. We believe that written guidelines are critical to ensure that there is consistency on how this issue is handled by art dealers. Our view is that such guidelines should cover both the issues of conducting provenance research and also procedures for handling

[7] Hector Feliciano *Lost Museum* page 187
[8] Lynn Nicholas *Rape of Europe* page 421

potentially looted art that is offered to an art dealer or comes into the art dealer's possession. Uniform standards among dealers on these matters are critical to justice and transparency.

In addition, although records of purchases involve client confidentiality issues, the restitution of looted art raises sufficient moral questions that for this small group of transactions, records of previous and prospective purchases and sales should be accessible to claimants. We believe that the obligations to try to return art stolen from victims of the Holocaust can supersede the obligations of client confidentiality in these unique circumstances. Therefore we hope that the Art Dealers Association and other art dealers in the United States and in other countries will permit claimants to see details of previous transactions where there is a basis to assume that an object may have been looted. This would enable claimants to find critical information so that they can pursue their claims.

Furthermore, when dealers learn that an object may have been looted, we believe that there should be an obligation to inform the potential claimants if known, or the authorities if not.

We urge the Art Dealers Association to take a lead in involving the private art market in addressing these issues.

Einstazstab Reichsleiter Rosenberg (ERR)

All involved in this issue, from academics to historians to museum directors to art dealers, agree that ascertaining precisely what was plundered by the Nazi is a critical task necessary to assist in the restitution of looted art.

The largest of the Nazi art looting agencies was the Einsatzstab Reichsleiter Rosenberg (ERR). The records of the ERR are very important to the identification of artworks that the Nazis confiscated and indeed were used at the Nuremberg Trials. The problem has been that these records have been scattered among a large number of archives throughout the world, principally archives in Kiev, Moscow, Berlin, Koblenz, Paris, and Amsterdam in addition to Washington. The Claims Conference has begun a large-scale project to compile, image, and make accessible at least part of the hundreds of thousands of ERR documents. In cooperation with the Bundesarchiv, an electronic finding-aid is being prepared. Records of the ERR held by the State Archives of Ukraine will be published in late 2006.

The Claims Conference is also creating a Database of Cultural and Religious Property Confiscated by the ERR. We have begun with a card file used by the ERR at the Jeu de Paume in Paris. We are also working with the records concerning ERR activity in France and Belgium between 1940-1944 that are held by the National Archives and Records Administration in College Park, Maryland. We are hoping to expand the database through the addition of material from other ERR records.

We hope to make at least a partial Database publicly available by the end of the year. The ERR was not involved in the looting of all art, and not all records of the ERR survived the war. Due to these factors, even all the ERR records cannot provide a full inventory of looted art.

Even though it is limited, we believe that the database will be an important new tool to assist museums, art dealers in identifying works of art that may have been looted.

This will certainly not obviate the need for provenance research for museums and art dealers but we believe it can be a significant additional component of the steps to be taken when provenance of art work is researched.

Claims Process

In light of the unique moral concerns related to Holocaust era restitution issues, it is critical that potential claims be resolved in a fair, expeditious and non-bureaucratic way. A number of claims in the United States have ended up in expensive and lengthy litigation. In other countries, a central panel has been established to provide for speedy and inexpensive solutions to claims for looted artwork.

It would be hoped that potential claims could be solved outside of the court system and perhaps through a central panel system – especially given the age of the claimants.

The Rest of the World

Since the Washington Conference a number of countries have been dealing with the issue of Holocaust-era looted art. The progress in this area varies greatly from country to country. Some of the countries that have made significant progress in conducting provenance research and/or establishing a claims process are:

Austria:

> In 1998, the Federal Minister for Education and Cultural Affairs, Elisabeth Gehrer, appointed a Provenance Commission to investigate looted art in federal museums and in the *Bundesdenkmalamt* (Federal Authority for the Preservation of Monuments). This ultimately lead to the Federal Art Restitution Law of November 5, 1998. While the restitution law has some shortcomings, (only federal cultural institutions are subjected to this law and not private galleries), the law has, so far, been effective. Restitutions under this law have represented one of largest returns of artwork in recent decades. Most recently, Austria restituted five valuable Klimt paintings to the heiress of Ferdinand Bloch-Bauer, Maria Altmann. Among these paintings was the "Goldene Adele". It is relevant to note, that a number of provincial states, foremost Vienna, have similarly adopted a claims process and initiated provenance research. This follows a return of artworks by Austria in 1996 that were found in a monastery in Mauerbach Austria arising out of negotiations carried out by the Claims Conference.

The 1998 Federal Art Restitution Law further stipulated that heirless property identified as a result of this search should be handed over to the National Fund of the Republic of Austria for Victims of National Socialism (the National Fund). The National Fund would then post these artworks online for at least one year, to allow any possible heirs to come forward, and only then would auction off the artworks. The proceeds of the auction are to be made available to victims of National Socialism.

The Netherlands:

The NK collection (Nederlands Kunstbezit-collectie), compromised of 4,217 artworks, all looted and not returned, is still in the state's custody. On 2 October 1997, the Secretary of State for Education, Culture and Science assigned the Ekkart Committee to carry out a pilot study researching the provenance of parts of the NK Collection. The actual research, by expanding its original research scope, has been carried out and is publicly available.

An Advisory Committee on the Assessment of Restitution Applications was set up by the Secretary of State for Education, Culture & Science in 2002 to deal with the independent assessment of claims. The most prominent return of art objects from the Netherlands was that of approximately 200 paintings that had belonged to the Goudstikker collection.

Unfortunately, there are a much larger number of countries that have done very little in order to assist in the restitution of looted art. For example:

Hungary:

No provenance research is being conducted in Hungary's cultural institutions, no Historical Commission was set up and no claims process is in place. Additionally, the Hungarian government decided not to accept the Washington Principles on Holocaust-Era Looted Assets. It has contested claims in court. At the same time, restitution matters are under the responsibility of the Inspectorate of Cultural Heritage, housed in the building of the National Gallery, which is assumed to hold several looted paintings (including items currently being claimed).

Poland:

The proposed private property legislation in Poland rejects any return of looted art in Polish museums and the commentary to the proposed legislation on the return of private property that was introduced into the Sejm (Polish Parliament) earlier this year provides as follows:

> "It should be emphasized that for the last 60 years the collections handed over to museums have been maintained, catalogued, documented by

> pictures, preserved, conserved and exhibited. The State Treasury has made considerable outlays on all these activities. To return the above works of art to their former owners, with no attempt to keep such works in public collections would be both illegal and unjustified."

Progress was certainly made following the Washington Conference and the Vilnius Forum. We believe however, that a renewed international effort is necessary. We urge the U.S. government to assume a leadership role in order to make sure that the tremendous achievements of 1998 and 2000 are not lost and that the principles laid down at that time are fully implemented in a fair and just manner.

Conclusion

In conclusion, while there has been progress, there is clearly a long way to go. The survey of the museums in many ways raises more questions than answers. Prime among the questions is the following: When will museums finish the task started seven years ago? The longer it takes, the harder it will be for Holocaust survivors and their heirs to succeed in identifying that which was stolen from them. Time is not on our side.

The United States has in the past and can in the future show leadership in this field. It can and should be a model for countries around the world that need to deal with these issues.

In view of the distinguished role in reviewing these issues in the past, we respectfully urge the Committee to take the following steps in the future:

Firstly, to maintain its oversight of the progress in the United States in carrying out the principles laid down in the Washington Conference Principles and by the Presidential Commission in December 2000 including through emphasis on the tremendous urgency of U.S. museums completing the task of provenance research quickly.

Secondly, to strongly encourage the private art world in the United States and art dealers in particular to implement these principles with regard to provenance research and handling of claims and to ensure maximum transparency and openness.

Thirdly, to encourage the U.S. government to make a renewed effort regarding this issue in discussions with governments in Europe and around the world.

We thank this Committee for its efforts in the past and request your involvement in the future.

Looted art at the Jeu de Paume, Paris, 1941

Nazi-Era Stolen Art and U.S. Museums: A Survey

A Survey of U.S. Museums Concerning Adherence to the Washington Conference Principles on Nazi-Confiscated Art and the Procedures and Guidelines Recommended by the American Association of Museums Regarding Objects Transferred in Europe During the Nazi Era

July 25, 2006

Report prepared by the Claims Conference and the WJRO

Claims Conference ועידת התביעות
Conference on Jewish Material Claims Against Germany

WJRO

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EXECUTIVE SUMMARY

Over seven years have passed since the United States Government endorsed the *Washington Conference Principles on Nazi-Confiscated Art* and the American Association of Museums (AAM) first recommended Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era. Along with the U.S. government and other funders, the Claims Conference provided initial funding toward the establishment of the AAM's Nazi-Era Provenance Internet Portal, a search tool covering objects in U.S. museums that might possibly have been stolen during the Holocaust. In order to ascertain the progress made by U.S. museums in researching their collections and in dealing with the issues in this area, the Claims Conference – in cooperation with the World Jewish Restitution Organization (WJRO) – surveyed 332 art museums throughout the United States.

The art museums of the United States generally agree in principle with the importance of investigating their collections for works that may have been looted during the Nazi era. However, some museums have treated the issue very seriously and have done an excellent job, whereas others have lagged well behind. In summary, there has been some progress but there is still a lot do.

Of the 332 museums approached to report on their progress, 214 did send a response and 118 (35 percent) declined to respond before the final deadline of July 10, 2006. A list of those that responded and did not respond are in the report's section I.c. and Appendices 5-7.

The principal findings from the survey are as follows:

> Based on responses to the questionnaire, there are in excess of 140,000 "covered objects" as defined by the AAM (all objects that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates). This definition is, of course, far broader than items of looted art. It identifies a piece of art that needs provenance research. The Nazi-Era Provenance Internet Portal, which was established to provide a searchable registry of such objects, lists approximately 18,000 items, or slightly higher than 12 percent of the total number of reported "covered objects."
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Only about one-tenth of the museums conducting provenance research employ or have ever employed a full-time researcher.

At least one-third of the museums responding indicated that they do not conduct provenance research on their loans.

Article II of the Washington Conference Principles on Nazi-Confiscated Art states:

"Resources and personnel should be made available to facilitate the identification of all art that had been confiscated by the Nazis and not subsequently restituted."

Seven years later, we are far from that goal. As the generation of Holocaust survivors slips away, it is urgent that the task of provenance research of items of artwork in U.S. museums rapidly be completed.

INTRODUCTION

Between 1933 and 1945, the Nazis are believed to have plundered approximately 150,000 art and religious objects in Western Europe, and roughly 500,000 in Eastern Europe.[1] Some of these artifacts held significant monetary value, but for many Jewish families they were valuable in more than just the common sense of the word: the objects were emotionally precious.

A part of the stolen items were returned. Many were not. Today, 60 years after the end of World War II, these artworks are among the few material remnants of what was once a thriving European Jewish population. These objects are now scattered around the globe, in the possession of museums, governmental institutions and private collectors.

The United States has played a significant historic role in international restitution efforts, but it has also been a recipient of looted art. In the postwar years, objects found their way to the United States, but given the intensive demand for cultural objects at that time, it was not standard practice for museum collectors and dealers to investigate the provenance of works that came into their possession.[2] It is clear that a significant number of works with questionable provenance entered both public and private collections in the United States.[3]

One of the first global initiatives to focus on the question of looted cultural property was the Washington Conference on Holocaust-Era Assets, which was hosted by the Department of State and the U.S. Holocaust Memorial Museum at the Department of State from November 30 through December 3, 1998. More than 40 governments as well as numerous international non-governmental organizations with a stake in these issues sent delegations to the conference, which built on the work of the December 1997 London Conference on Nazi Gold.[4]

On December 3, 1998, all participating governments endorsed the "Washington Conference Principles on Nazi-Confiscated Art," which read as follows:

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[1] Jonathan Petropoulos, "Art Looting during the Third Reich: An Overview with Recommendations for Further Research" in *Proceedings of the Washington Conference on Holocaust-Era Assets*, http://www.state.gov/www/regions/eur/holocaust/heac4.pdf (last accessed on July 3, 2006)

[2] Presidential Advisory Commission on Holocaust Assets in the United States: http://www.pcha.gov/PlunderRestitution.html/html/Findings_RestitutionEur.html (last accessed on June 23, 2006)

[3] Lucille Roussin, Holocaust-Era Looted Art: The Routes into the U.S., In: IFAR Journal, Volume 5, Number 3, 2002, pages 36-44;
Lynn Nicholas, The Rape of Europa. The Fate of Europe's Treasures in the Third Reich and the Second World War, New York 1994, page 439;
Statement by Theodore Rousseau, former officer in the OSS, who became curator of paintings at the Metropolitan Museum of Art in which he advocated for the acquisition of recovered paintings:
"America has a chance to get some wonderful things here during the next few years. German museums are wrecked and will have to sell ... think it's absurd to let the Germans have the paintings the Nazis bigwigs got, often through forced sales, from all over Europe. Some of them ought to come here, and I don't mean especially to the Metropolitan, which is fairly well off for paintings, but to museum in the West which aren't." (cited in Nicholas above)

[4] For more information please see: http://www.state.gov/www/regions/eur/wash_conf_material.html, or www.claimscon.org

Washington Conference Principles on Nazi-Confiscated Art

In developing a consensus on non-binding principles to assist in resolving issues relating to Nazi-confiscated art, the Conference recognizes that among participating nations there are differing legal systems and that countries act within the context of their own laws.

I. Art that had been confiscated by the Nazis and not subsequently restituted should be identified.

II. Relevant records and archives should be open and accessible to researchers, in accordance with the guidelines of the International Council on Archives.

III. Resources and personnel should be made available to facilitate the identification of all art that had been confiscated by the Nazis and not subsequently restituted.

IV. In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era.

V. Every effort should be made to publicize art that is found to have been confiscated by the Nazis and not subsequently restituted in order to locate its pre-War owners or their heirs.

VI. Efforts should be made to establish a central registry of such information.

VII. Pre-War owners and their heirs should be encouraged to come forward and make known their claims to art that was confiscated by the Nazis and not subsequently restituted.

VIII. If the pre-War owners of art that is found to have been confiscated by the Nazis and not subsequently restituted, or their heirs, can be identified, steps should be taken expeditiously to achieve a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case.

IX. If the pre-War owners of art that is found to have been confiscated by the Nazis, or their heirs, can not be identified, steps should be taken expeditiously to achieve a just and fair solution.

X. Commissions or other bodies established to identify art that was confiscated by the Nazis and to assist in addressing ownership issues should have a balanced membership.

XI. Nations are encouraged to develop national processes to implement these principles, particularly as they relate to alternative dispute resolution mechanisms for resolving ownership issues.[5]

While there were some European initiatives[6] that followed the Washington Conference, the next international conference to involve the United States followed in 2000. Specifically, between October 3 and 5, 2000, 38 governments, including the United States, participated in the Vilnius International Forum on Holocaust-Era Looted Cultural Assets. The Conference was held under the auspices of the Secretary General of the Council of Europe and the Prime Minister of the Republic of Lithuania, and was seen as a successor conference to the previous Washington Conference on Holocaust-Era Assets. Similar to

[5] http://www.claimscon.org/index.asp?url=artworks/wash_princ

[6] On November 5, 1999, the Parliamentary Assembly of the Council of Europe, consisting of 41 nations, passed Resolution 1205 calling for the restitution and research of stolen Jewish art. (http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2FDocuments%2FAdoptedText%2Fta99%2FERES1205.htm, last accessed on 30 June 2006)

the Washington Conference, a Final Declaration was endorsed by all participating governments. While the eleven principles of the Washington Conference on Holocaust-Era Assets were given support, additional actions were suggested to enable the restitution of Nazi-looted cultural property. Among these six suggestions, the Vilnius International Forum called on

"...governments, museums, the art trade and other relevant agencies to provide all information necessary to such restitution. This will include the identification of looted assets; the identification and provision of access to archives, public and commercial; and the provision of all data on claims from the Holocaust era until today.

...The Forum further encourages governments, museums, the art trade and other relevant agencies to co-operate and share information to ensure that archives remain open and accessible and operate in as transparent a manner as possible."[7]

The Presidential Advisory Commission on Holocaust Assets in the United States (PCHA), was established by the U.S. Holocaust Assets Commission Act of 1998 (P.L. 105-186) and was passed with unanimous bipartisan support in the Congress and signed into law by President William Jefferson Clinton on June 23, 1998. At the Commission's hearing in New York on April 12, 2000 several museum directors reaffirmed their policies for disclosure of provenance for Holocaust-era works in their collections.[8]

Following discussions with individual museums, the Commission commenced holding discussions with their representatives, the American Association of Museums (AAM) and the Association of Art Museum Directors (AAMD). Both the AAM and the AAMD committed themselves to full disclosure and restitution.[9]

Subsequently in December 2000, the Commission issued its final report in which it recommended that "*museums should disclose all currently known object and provenance information as soon as practicable and continue to supplement this information as it becomes available*" (Point A, 2).[10]

The American approach to restitution issues has largely been coordinated by institutions themselves. In 1998 the Association of Art Museum Directors (AAMD) established a Task Force on the Spoliation of Art during the Nazi/World War II Era and adopted guidelines[11] detailing procedures on how to deal with Nazi-era looted art.

In November 1998, the American Association of Museums (AAM) first published its "Common Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era." These guidelines were subsequently amended in April 2001. The guidelines

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[7] http://www.claimscon.org/index.asp?url=artworks/vilnius

[8] In an effort to forge a common policy in response to the Commissioners' concerns, the directors agreed to full disclosure: (1) all Holocaust-era works will be identified and disclosed and all provenance information in the possession of the museums regarding those works will be disclosed; (2) provenance information will be disclosed, even where there are no known gaps; and (3) provenance research by museums will be a continuing process with additional information disclosed as it becomes known.

[9] http://www.pcha.gov/PlunderRestitution.html/html/Findings_Agreements.html (last accessed on June 29, 2006)

[10] *Plunder and Restitution: Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report*, December 2000 (http://www.pcha.gov/PlunderRestitution.html/html/Home_Contents.html)

[11] Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945), from June 4, 1998 (http://www.aamd.org/papers/guideln.php, last accessed on June 29, 2006)

noted that the "*PCHA, AAMD, and AAM have agreed that museums should strive to: (1) identify all objects in their collections that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects"); (2) make currently available object and provenance (history of ownership) information on those objects accessible; and (3) give priority to continuing provenance research as resources allow. AAM, AAMD, and PCHA also agreed that the initial focus of research should be European paintings and Judaica.*"[12] The full texts of the "AAM Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era" and of the "AAM Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe During the Nazi Era" are appended to this report.

In order to implement the Guidelines and Recommended Procedures that had been adopted by the museum field, the American Association of Museums developed an Internet-accessible search tool covering objects in US museums collections that had changed hands in Continental Europe during the Nazi era. The "Nazi-Era Provenance Internet Portal" (www.nepip.org) was opened to the public in September 2003 with funding from a number of sources, including the Federal Government's Institute of Museum and Library Services and the Conference on Jewish Material Claims Against Germany (Claims Conference). As of February 15, 2006, there were 145 museums participating in the Portal.[13]

The mission of the Portal is "to provide a searchable registry of objects in U.S. museum collections that changed hands in Continental Europe during the Nazi era (1933-1945). By providing a single point of contact to dozens of U.S. museum collections, the Portal helps people seeking lost objects to refine their searches. By providing a searchable online registry of objects, the Portal helps U.S. museums fulfill their responsibility to make information about objects in their collections centrally accessible."[14]

In 2005, seven years after the Washington Conference Principles and the first AAM Guidelines were adopted, the Claims Conference began a discussion with the AAM concerning the participation of U.S. museums in the Nazi-Era Provenance Internet Portal and the adherence generally of U.S. museums to the AAM Guidelines. In meetings and in correspondence, the AAM kindly provided statistics on participation in the Portal and ways in which it was trying to increase such participation. However the AAM felt that, as a voluntary association of museums and not a regulatory or "policing" body, it would be inappropriate for the Association to inquire or examine the extent to which its members were or were not following the Guidelines.

In cooperation with the World Jewish Restitution Organization (WJRO), the Claims Conference had begun a comprehensive effort toward the restitution of Jewish-owned art and other cultural property plundered during the Holocaust. The Claims Conference believed it necessary that a review occur of the progress made in this area by U.S. museums at least through self-declaration by museums regarding their progress to date in this field. The Claims Conference therefore undertook a survey of U.S. art museums to

[12] www.aam-us.org/museumresources/ethics/nazi_guidelines.cfm
[13] There has been an increase since February 16, 2006, the date the current survey was sent. As of July 13, 2006 there were 151 museums participating and 18,101 objects listed. The entire list of museums participating in NEPIP can be found at: www.nepip.org
[14] www.nepip.org

establish the current status of provenance research and other activities called for in the AAM Guidelines and Procedures and in the Washington Conference Principles.

From February 16 to March 1, 2006, a questionnaire based on the Washington Conference Principles and the AAM Guidelines and Procedures was sent to 332 art museums throughout the United States. Although these 332 art museums do not include all art museums in the country, they do include those with collections thought to be most relevant to the question of Nazi-era looted art. All the 145 museums then participating in the Nazi-Era Provenance Internet Portal were included, and the remaining 187 museums were primarily those that the AAM committee overseeing the Portal thought relevant for the Portal. While a few relevant institutions may have been overlooked, the survey clearly covered the most relevant museums nationwide. Museums were notified that their responses would be made public.

In order to ensure as many responses as possible, the Claims Conference provided for submission of completed questionnaires or statements electronically, by fax, and by mail. From May 11 to May 18, 2006, e-mail reminders were sent to all museums that had not responded, and from June 12 to June 14, 2006, letters were sent via registered mail to all those museums that still had not responded, and the deadline for submissions was extended to June 30, 2006. Although the survey was being done by the Claims Conference and not by the American Association of Museums, the AAM kindly e-mailed all Portal participants on February 21, 2006 to notify them that they might receive a communication from the Claims Conference and to encourage them to respond to the inquiry. The AAM also spoke by phone or e-mail with approximately 40 museums that contacted the AAM in regard to the survey and encouraged them to respond to the Claims Conference's request for information. In addition, so as to provide every opportunity for museums to participate in the survey, the Claims Conference continued to accept responses submitted even after the extended deadline. Copies of all responses to the questionnaire are available at www.claimscon.org/art. [15] We are grateful to the AAM for the assistance it provided with regard to this survey.

When reviewing the scope of provenance research, account was taken of the extent to which the provenance research was posted on the Nazi-Era Provenance Internet Portal, which was established specifically to enable claimants to search one central site rather than having to search hundreds of individual museums' websites.

[15] Although not included in the findings or conclusions, submissions by museums received July 10, 2006 or later are listed in Appendix 6 to this report and appear among the responses on www.claimscon.org/art.

FINDINGS

I. Responses to the Questionnaire

I.a. Response Rate

The majority of U.S. art museums consider the question of Nazi-era provenance sufficiently important so as to have responded to the Claims Conference/WJRO's request for information. Overall 214 out of 332 museums, or 64.5 percent, responded to the Claims Conference/ WJRO questionnaire, and 118 museums, or 35.5 percent, did not respond by the extended deadline of July 10, 2006, the date as of which data were compiled (see I.c. below and Appendices 5-7 for a list of museums that responded and did not respond).

Many museums responded diligently and provided extensive information, while a number of museums did not address all questions raised on the questionnaire or responded by other means and thus provided only partial information.

I.b. Response Rate of AAM Accredited Museums

The AAM Accreditation Commission requires each museum aspiring to become an AAM accredited museum to fulfill certain requirements. Among these requirements is the AAM commission's expectation that *"an institution [to] legally, ethically and responsible acquire, manage and dispose of collection items as well as know what collections are in its ownership/custody, where they came from, why it has them, and their current condition and location."*[16]

At its April 2006 meeting, the AAM's Accreditation Commission approved revisions to two policy documents, one of which addresses unlawful appropriation of objects during the Nazi era. Formerly known as "Position Statements," the updated documents are now called "Statements on Best Practice."[17] Consequently, on 5 April 2006, the AAM Accreditation Program outlined its *Accreditation Commission's Position Statement on Unlawful Appropriation of Objects During the Nazi Era.*[18]

Accreditation does appear to cause museums to take the question of Nazi-era provenance more seriously. Of those museums that responded to the Claims Conference/WJRO questionnaire, 136, or 63.5 percent were from museums that are accredited with the AAM. Nonetheless, of those museums that did *not* respond, 41, or 34.5 percent, are accredited with the AAM.

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[16] http://www.aam-us.org/museumresources/accred/upload/Standards.pdf (last accessed on July 3, 2006)

[17] http://newsmanager.commpartners.com/aama/issues/2006-07-01/4.html (last accessed on July 7, 2006)

[18] http://www.aam-us.org/museumresources/accred/upload/BP%20on%20Objects%20during%20Nazi%20Era%20.pdf (last accessed on July 3, 2006)

I.c. Response Rate of Some Major U.S. Museums

For the most part, the major art museums of the United States with relevant collections take the issue of Nazi-era provenance sufficiently seriously as to have responded to the Claims Conference/WJRO request for information. But some major museums did not. Below is a list of what might be considered 25 highly important museums in the United States that have most relevant collections:

Name of Museum	Responded	Did not Respond
Birmingham Museum of Art		X
Brooklyn Museum of Art[19]	X	
Cleveland Museum of Art	X	
Fine Arts Museum of San Francisco	X	
Harvard University Art Museum	X	
Iris & B. Cantor Center for Visual Arts	X	
Metropolitan Museum	X	
MOMA (Museum of Modern Art)	X	
Museum of Fine Art, Houston	X	
Museum of Fine Arts, Boston	X	
National Gallery of Art	X	
North Carolina Museum of Art	X	
Princeton University Art Museum		X
San Francisco Museum of Modern Art		X
Seattle Museum of Art	X	
Smithsonian Institution	X	
Solomon R. Guggenheim Museum[20]		X
The Art Institute of Chicago	X	
The Frick Collection	X	
The J. Paul Getty Museum		X
The Jewish Museum, New York	X	
The Los Angeles County Museum	X	
The Phillips Collection	X	
Wadsworth Athenaeum Museum	X	
Yale University Art Gallery	X	

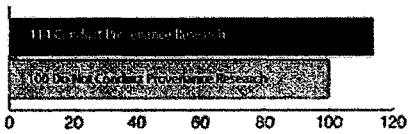
II. Provenance Research

Art museums in the United States generally agree in principle to conduct provenance research, not all actually do so.

Of the 214 museums that sent in completed questionnaires or substitute letters, approximately 114 museums[21], or 53 percent, clearly stated that they are actively conducting provenance research, whether with separate staff, existing staff, or volunteers/interns doing the work. Approximately 100 museums, or 47 percent, indicated on the Claims Conference/WJRO questionnaire that they are not conducting provenance research (or were not clear on the matter).

[19] The response from the Brooklyn Museum of Art was received on July 17, 2006. As this was after the response deadline, the information from its response is not included in the survey results.
[20] A draft response from the Solomon R. Guggenheim Museum was received on July 21, 2006.
[21] Please note that some questions were not directly answered.

Museums responding to CC/WJRO questionnaire



Some museums explained their lack of any provenance research by noting the lack of any covered objects in their collections. Undoubtedly some museum collections were formed before the Nazi era, while others contain exclusively American art that was unlikely to have been in Europe between 1932 and 1946. Some museums stated that they do not have any covered objects in their collections although they do have European art. Provenance research would definitively establish whether there are covered objects among these items.

Other museums noted in their response to the Claims Conference/WJRO questionnaire that while they would like to conduct provenance research, the necessary financial or staff means are not available. For example, one museum noted that "*Due to staff limitations, the [museum] is unable to research provenance of objects in the collection at this time.*"

II. a. Staffing for Provenance Research

Of the approximately 114 US museums that indicated in their response to the Claims Conference/WJRO questionnaire or substitute letter that they conduct provenance research, only 12 museums stated that they employ, will employ, or have previously employed a full-time researcher.

These museums are the Art Institute of Chicago, the Chrysler Museum, the Cincinnati Art Museum (employed a full-time provenance researcher for 2 ½ years), the Los Angeles County Museum of Art (employed a full-time provenance researcher but due to financial difficulties was unable to maintain that position), the Museum of Fine Arts Boston, the National Gallery, the Timken Museum of Art (employed an independent art historian), the Neue Galerie (employed an independent art historian for its recent Schiele exhibit), the University of Michigan Art Museum, the Museum of North Carolina, the Smith College Museum of Art, and the Smithsonian Institution.

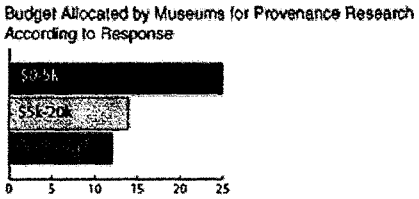
In most museums the registrar, curator, or other staff members (including volunteers and/or interns) conduct provenance research in addition to their regular work assignments.

II. b. Funding for Provenance Research

Of the 214 museums that responded to the Claims Conference/WJRO questionnaire, only 42 museums indicated that they maintain a separate budget for provenance research.

Budgets allocated for provenance research range between $500 (e.g. University of Kentucky Art Museum) to $650,000 (e.g. Detroit Institute of Art).[22]

However, some museums did not answer the question, among them the National Gallery, the Metropolitan Museum and the Museum of Modern Art.



The combined operating budgets of the 134 museums that provided relevant information totaled $687 million.

II. c. Focus of Provenance Research

The 2001 AAM Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era, state that "*AAM, AAMD, and PCHA also agreed that the initial focus of research should be European paintings and Judaica.*"[23]

Perhaps consequently, a number of museums have restricted their provenance research to their respective European painting collections. Among the approximately 114 museums that noted that they conduct provenance research, 35 museums, or 30 percent, stated that they only conduct provenance research on their painting collection, irrespective of the presence of other possible covered objects in their collections.

II. d. Scope of Provenance Research

The definition of "covered objects" established by the AAM (all objects that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates) is, of course, far broader than items of looted art. It identifies a piece of art that needs provenance research. Based on the responses to the questionnaire, the number of "covered objects" in museum collections in the United States, totals in excess of 140,000. The total number is likely significantly higher, as there are a number of museums that did not provide this information regarding their collections, or did not respond at all.

The Nazi-Era Provenance Internet Portal lists approximately 18,000 items, or slightly higher than 12 percent of the total number of reported "covered objects."

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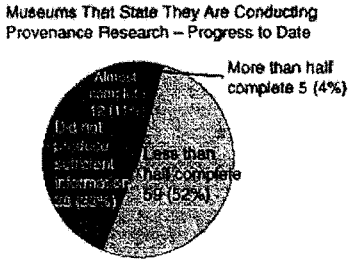
[22] Please note that the Museum of Fine Arts Boston indicated that it allocated $220,000, LACMA $500,000, RISD $64,550 and Yale University Art Museum $600,000.

[23] http://www.aam-us.org/museumresources/ethics/nazi_guidelines.cfm (last accessed on July 12, 2006)

Of the museums that clearly state that they are conducting provenance research, 12 (11 percent) gave indications that they had almost completed provenance research and a further five (4 percent) that they had reviewed more than half of the relevant part of their collections. Fifty-nine (52 percent) had completed research on less than half of the relevant part of their collections. Thirty-eight (33 percent) did not provide sufficient information regarding the extent to which they had completed this work.



II. e. Provenance Research for Acquisitions

Diligence regarding provenance research on a proposed acquisition, whether it be a prospective purchase or acceptance of a donated item is clearly critical to ensure that the acquisition policy of the museum going forward is an appropriate one. The AAM guidelines state *"It is the position of AAM 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."*[24] Of all 214 responses received, 149 museums indicated on the Claims Conference/WJRO questionnaire that they conduct provenance research on acquisitions. Ten museums responded that they do not, 24 museums stated that the question is not applicable to them, and 31 did not answer the question.

II. f. Provenance Research for Loans

The AAM guidelines state, "*It is the position of AAM that in their role as temporary custodian of objects on loan, museums should be aware of their ethical responsibility to consider the status of material they borrow as well as the possibility of claims being brought against a loaned object in their custody.*"[25] Of all 214 responses received, 89 museums responded that they conduct provenance research on their loans, 46 museums responded that they do not conduct provenance research on their loans, 36 museums stated that this question is not applicable to them, 41 museums did not answer, and two museums provided inconclusive answers.[26]

[24] http://www.aam-us.org/museumresources/ethics/nazi_guidelines.cfm (last accessed on July 3, 2006)
[25] http://www.aam-us.org/museumresources/ethics/nazi_guidelines.cfm (last accessed on July 3, 2006)
[26] Three (3) museums indicated that museum policies will be implemented both for the acquisition and the loan program, and six (6) museums noted that their respective loan policies will be amended to incorporate provenance research.

Thus, even of those that responded affirmatively or negatively, 34 percent do not conduct provenance research on loans. Taking into account those that did not answer, the total figure is probably higher.

II. g. Reporting the Results of Provenance Research

The Nazi-Era Provenance Internet Portal of the Association of American Museums lists objects that participating museum consider as having unclear provenance. As noted above, potential claimants are far more likely to visit the one central U.S. website established for this purpose than to visit the websites of hundreds of different museums. It is clear from the responses to the Claims Conference/WJRO request for information that in some cases the listings on the Portal reflect only part of the objects that museums consider as having unclear provenance. In other words, in addition to the fact that not all relevant museums participate in the Portal, there are a good many objects with unclear provenance that museums have not yet been uploaded to the Portal.

III. Claims for Restitution

The following museums noted on the Claims Conference/WJRO questionnaire that they were faced/or are faced with a claim against their museum:

Art Institute of Chicago
Cleveland Museum of Art
Columbus Museum of Art
Cummer Museum of Art and Gardens
Detroit Institute of Arts
Jewish Museum
Los Angeles County Museum
Milwaukee Public Museum
Museum of Fine Arts, Boston
Nasher Museum of Art at Duke University
National Gallery of Art
North Carolina Museum of Art
Philadelphia Museum of Art
Saint Louis Art Museum
Seattle Art Museum
Spencer Museum of Art at University of Kansas
Timken Museum of Art[27]
Virginia Museum of Fine Arts
Vizcaya Museums and Gardens
Worcester Art Museum[28]

This is not a comprehensive list of US museums that have faced or are facing claims for restitution but simply a list of those that provided the information in their responses.

[27] The Timken Museum of Art stated that while it was faced with a claim, research conducted clarified that the claim was invalid.
[28] The Worcester Museum of Art stated that while it was faced with a claim, research conducted clarified that the claim was invalid.

APPENDICES

Appendix 1)

http://www.aam-us.org/museumresources/ethics/nazi_guidelines.cfm (Last checked July 17, 2006)

Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era

Approved, November 1999, Amended, April 2001, AAM Board of Directors

Introduction

From the time it came into power in 1933 through the end of World War II in 1945, the Nazi regime orchestrated a system of theft, confiscation, coercive transfer, looting, pillage, and destruction of objects of art and other cultural property in Europe on a massive and unprecedented scale. Millions of such objects were unlawfully and often forcibly taken from their rightful owners, who included private citizens, victims of the Holocaust, public and private museums and galleries, and religious, educational and other institutions.

In recent years, public awareness of the extent and significance of Nazi looting of cultural property has grown significantly. The American museum community, the American Association of Museums (AAM), and the U.S. National Committee of the International Council of Museums (AAM/ICOM) are committed to continually identifying and implementing the highest standard of legal and ethical practices. AAM recognizes that the atrocities of the Nazi era demand that it specifically address this topic in an effort to guide American museums as they strive to achieve excellence in ethical museum practice.

The AAM Board of Directors and the AAM/ICOM Board formed a joint working group in January 1999 to study issues of cultural property and to make recommendations to the boards for action. The report that resulted from the initial meeting of the Joint Working Group on Cultural Property included the recommendation that AAM and AAM/ICOM offer guidance to assist museums in addressing the problems of objects that were unlawfully appropriated during the Nazi era without subsequent restitution (i.e., return of the object or payment of compensation to the object's original owner or legal successor).

The efforts of the Working Group were greatly informed by the important work on the topic that had gone before. In particular, three documents served as a starting point for the AAM guidelines, and portions of them have been incorporated into this document. These include: *Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945)*; *ICOM Recommendations Concerning the Return of Works of Art Belonging to Jewish Owners*; and *Washington Conference Principles on Nazi-Appropriated Art* (released in connection with the Washington Conference on Holocaust-Era Assets co-hosted by the U.S. Department of State and the United States Holocaust Memorial Museum).

The Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) was created in June 1998 to study and report to the President on issues relating to

Holocaust victims' assets in the United States. AAM and the Association of Art Museum Directors (AAMD) worked with the PCHA to establish a standard for disclosure of collections information to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums. In January 2001, the PCHA issued its final report, which incorporated the agreed standard for disclosure and recommended the creation of a searchable central registry of the information museums disclose in accordance with the new standard. AAM and AAMD agreed to support this recommendation, and these guidelines have been amended to reflect the agreed standard for disclosure of information.

Finally, AAM and AAM/ICOM acknowledge the tremendous efforts that were made by the Allied forces and governments following World War II to return objects to their countries of origin and to original owners. Much of the cultural property that was unlawfully appropriated was recovered and returned, or owners received compensation. AAM and AAM/ICOM take pride in the fact that members of the American museum community are widely recognized to have been instrumental in the success of the post-war restitution effort. Today, the responsibility of the museum community is to strive to identify any material for which restitution was never made.

General Principles

AAM, AAM/ICOM, and the American museum community are committed to continually identifying and achieving the highest standard of legal and ethical collections stewardship practices. The AAM Code of Ethics for Museums states that the "stewardship of collections entails the highest public trust and carries with it the presumption of rightful ownership, permanence, care, documentation, accessibility, and responsible disposal."

When faced with the possibility that an object in a museum's custody might have been unlawfully appropriated as part of the abhorrent practices of the Nazi regime, the museum's responsibility to practice ethical stewardship is paramount. Museums should develop and implement policies and practices that address this issue in accordance with these guidelines.

These guidelines are intended to assist museums in addressing issues relating to objects that may have been unlawfully appropriated during the Nazi era (1933-1945) as a result of actions in furtherance of the Holocaust or that were taken by the Nazis or their collaborators. For the purposes of these guidelines, objects that were acquired through theft, confiscation, coercive transfer, or other methods of wrongful expropriation may be considered to have been unlawfully appropriated, depending on the specific circumstances.

In order to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums, the PCHA, AAMD, and AAM have agreed that museums should strive to: (1) identify all objects in their collections that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects"); (2) make currently available object and provenance (history of ownership) information on those objects accessible; and (3) give priority to continuing provenance research as

resources allow. AAM, AAMD, and PCHA also agreed that the initial focus of research should be European paintings and Judaica.

Because of the Internet's global accessibility, museums are encouraged to expand online access to collection information that could aid in the discovery of objects unlawfully appropriated during the Nazi era without subsequent restitution.

AAM and AAM/ICOM acknowledge that during World War II and the years following the end of the war, much of the information needed to establish provenance and prove ownership was dispersed or lost. In determining whether an object may have been unlawfully appropriated without restitution, reasonable consideration should be given to gaps or ambiguities in provenance in light of the passage of time and the circumstances of the Holocaust era. AAM and AAM/ICOM support efforts to make archives and other resources more accessible and to establish databases that help track and organize information.

AAM urges museums to handle questions of provenance on a case-by-case basis in light of the complexity of this problem. Museums should work to produce information that will help to clarify the status of objects with an uncertain Nazi-era provenance. Where competing interests may arise, museums should strive to foster a climate of cooperation, reconciliation, and commonality of purpose.

AAM affirms that museums act in the public interest when acquiring, exhibiting, and studying objects. These guidelines are intended to facilitate the desire and ability of museums to act ethically and lawfully as stewards of the objects in their care, and should not be interpreted to place an undue burden on the ability of museums to achieve their missions.

Guidelines

1. Acquisitions

It is the position of AAM 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.

a) Standard research on objects being considered for acquisition should include a request that the sellers, donors, or estate executors offering an object provide as much provenance information as they have available, with particular regard to the Nazi era.

b) Where the Nazi-era provenance is incomplete or uncertain for a proposed acquisition, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before acquiring it. Such research may involve consulting appropriate sources of information, including available records and outside databases that track information concerning unlawfully appropriated objects.

c) In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the acquisition. Currently available object and provenance information about any covered object should be made public as soon as practicable after the acquisition.

d) If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the donor, seller, or estate executor of the nature of the evidence and should not proceed with acquisition of the object until taking further action to resolve these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

e) AAM acknowledges that under certain circumstances acquisition of objects with uncertain provenance may reveal further information about the object and may facilitate the possible resolution of its status. In such circumstances, the museum may choose to proceed with the acquisition after determining that it would be lawful, appropriate, and prudent and provided that currently available object and provenance information is made public as soon as practicable after the acquisition.

f) Museums should document their research into the Nazi-era provenance of acquisitions.

g) Consistent with current practice in the museum field, museums should publish, display, or otherwise make accessible recent gifts, bequests, and purchases, thereby making all acquisitions available for further research, examination, and public review and accountability.

2. Loans

It is the position of AAM that in their role as temporary custodians of objects on loan, museums should be aware of their ethical responsibility to consider the status of material they borrow as well as the possibility of claims being brought against a loaned object in their custody.

a) Standard research on objects being considered for incoming loan should include a request that lenders provide as much provenance information as they have available, with particular regard to the Nazi era.

b) Where the Nazi-era provenance is incomplete or uncertain for a proposed loan, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before borrowing it.

c) In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the loan.

d) If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the lender of the nature of the evidence and should not proceed with the loan until taking further action to clarify these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

e) AAM acknowledges that in certain circumstances public exhibition of objects with uncertain provenance may reveal further information about the object and may facilitate the resolution of its status. In such circumstances, the museum may choose to proceed with the loan after determining that it would be lawful and prudent and provided that the available provenance about the object is made public.

f) Museums should document their research into the Nazi-era provenance of loans.

3. Existing Collections

It is the position of AAM that museums should make serious efforts to allocate time and funding to conduct research on covered objects in their collections whose provenance is incomplete or uncertain. Recognizing that resources available for the often lengthy and arduous process of provenance research are limited, museums should establish priorities, taking into consideration available resources and the nature of their collections.

Research

a) Museums should identify covered objects in their collections and make public currently available object and provenance information.

b) Museums should review the covered objects in their collections to identify those whose characteristics or provenance suggest that research be conducted to determine whether they may have been unlawfully appropriated during the Nazi era without subsequent restitution.

c) In undertaking provenance research, museums should search their own records thoroughly and, when necessary, contact established archives, databases, art dealers, auction houses, donors, scholars, and researchers who may be able to provide Nazi-era provenance information.

d) Museums should incorporate Nazi-era provenance research into their standard research on collections.

e) When seeking funds for applicable exhibition or public programs research, museums are encouraged to incorporate Nazi-era provenance research into their proposals. Depending on their particular circumstances, museums are also encouraged to pursue special funding to undertake Nazi-era provenance research.

f) Museums should document their research into the Nazi-era provenance of objects in their collections.

Discovery of Evidence of Unlawfully Appropriated Objects

g) If credible evidence of unlawful appropriation without subsequent restitution is discovered through research, the museum should take prudent and necessary steps to resolve the status of the object, in consultation with qualified legal counsel. Such steps should include making such information public and, if possible, notifying potential claimants.

h) In the event that conclusive evidence of unlawful appropriation without subsequent restitution is found but no valid claim of ownership is made, the museum should take prudent and necessary steps to address the situation, in consultation with qualified legal counsel. These steps may include retaining the object in the collection or otherwise disposing of it.

i) AAM acknowledges that retaining an unclaimed object that may have been unlawfully appropriated without subsequent restitution allows a museum to continue to care for, research, and exhibit the object for the benefit of the widest possible audience and provides the opportunity to inform the public about the object's history. If the museum retains such an object in its collection, it should acknowledge the object's history on labels and publications.

4. Claims of Ownership

It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved. Each claim should be considered on its own merits.

a) Museums should review promptly and thoroughly a claim that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution.

b) In addition to conducting their own research, museums should request evidence of ownership from the claimant in order to assist in determining the provenance of the object.

c) 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.

d) If a museum receives a claim that a borrowed object in its custody was unlawfully appropriated without subsequent restitution, it should promptly notify the lender and should comply with its legal obligations as temporary custodian of the object in consultation with qualified legal counsel.

e) When appropriate and reasonably practical, museums should seek methods other than litigation (such as mediation) to resolve claims that an object was unlawfully appropriated during the Nazi era without subsequent restitution.

f) AAM acknowledges that in order to achieve an equitable and appropriate resolution of claims, museums may elect to waive certain available defenses.

5. Fiduciary Obligations

Museums affirm that they hold their collections in the public trust when undertaking the activities listed above. Their stewardship duties and their responsibilities to the public they serve require that any decision to acquire, borrow, or dispose of objects be taken only after the completion of appropriate steps and careful consideration.

a) Toward this end, museums should develop policies and practices to address the issues discussed in these guidelines.

b) Museums should be prepared to respond appropriately and promptly to public and media inquiries.

Commitment of AAM

As part of its commitment to identifying and disseminating best practices, AAM will allocate resources:

a) to disseminate these guidelines widely and frequently along with references to other guidelines, principles, and statements that exist on the topic

b) to track the activity and purpose of the relevant databases and other resources and to compile bibliographies for dissemination to the United States museum community

c) to collect examples of best practices and policies on Nazi-era provenance research and claims resolution from the museum field, both in the United States and abroad, as guidelines for other museums

d) to make the above information available to the museum community through reports, conference sessions, and other appropriate mechanisms

e) to assist in the development of recommended procedures for object and provenance information disclosure

f) to provide electronic links from AAM's Web site to other resources for provenance research and investigate the feasibility of developing an Internet tool to allow researchers easier access to object and provenance information about covered objects in museum collections.

g) to encourage funding of Nazi-era provenance research.

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Appendix 2)

http://www.aam-us.org/museumresources/prov/procedures.cfm (last checked July 17, 2006)

AAM Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era

Introduction

These recommended procedures have been formulated by the American Association of Museums (AAM) pursuant to an agreement reached in October 2000 between AAM, the Association of Art Museum Directors (AAMD), and the Presidential Advisory Commission on Holocaust Assets in the United States (PCHA). The PCHA was created in June 1998 to study and report to the President on issues relating to Holocaust victims' assets in the United States.

Provisions of the Agreement

Under this agreement the parties concurred (a) on the desirability of expanded online access to museum collection information that could aid in the discovery of objects unlawfully appropriated during the Nazi era, (b) on the need to identify the categories of objects for which this information should be made available, and (c) toward those ends, that every museum should:

1) Identify all objects in its collection that were created before 1946 and that it acquired after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects"). In the event that a museum is unable to determine whether an object created before 1946 and acquired after 1932 (a) might have been in continental Europe between 1932 and 1946 and/or (b) underwent a change of ownership during that period, it should still be treated as a covered object;

2) Make currently available object and provenance (history of ownership) information about covered objects accessible online; and

3) Give priority to continuing provenance research on those objects as resources allow.

The parties also agreed on the creation of a search tool on the Internet that would assist claimants, claimants' advocates, and researchers in accessing information on covered objects in museum collections.

For practical and historic reasons, AAM, AAMD, and PCHA agreed that the initial focus of research and online postings should be on European paintings and Judaica[1]. Other covered objects in collections should be dealt with in a similar manner as resources allow.

Previously, some museums had provided online information only about objects with an incomplete provenance or a provenance containing a problematic name. The agreement calls for a more inclusive approach that PCHA, AAM, and AAMD believe is the best way for museums to aid the discovery process.

Development of Recommended Procedures

In December 2000, AAM convened a task force of museum professionals and other experts to advise staff on developing procedures for posting object and provenance information on museum Web sites and to consider mechanisms for making this information accessible from a single Internet site. The task force also addressed the issue of access to such information from museums without online collection information.

The task force identified 20 categories of information about covered objects that museums should compile and make available. Any additional information a museum is able to make available could further assist the process of discovery. The task force also developed the concept of a Nazi-era Provenance Internet Portal to assist users in conducting searches.

AAM views these procedures as consonant with the fundamental mission of museums to document and publish their collections and recognizes that, because of the Internet's global reach, posting collection information online should be a goal. Museums are encouraged to construct online searchable databases in which the posting of information about covered objects should be a priority.

Recommended Procedures

1. Making Object and Provenance Information for Covered Objects Accessible

The following 20 categories of object and provenance information are key for aiding potential claimants in identifying or ruling out a specific object. Museums should make this information accessible, organizing it according to their own standards. Museums should also include an explanation of how to interpret their provenance listings.

Museums should identify objects that fit the definition of Judaica contained in this document even if such objects have not been classified as Judaica in their databases.

Museums should provide currently available information immediately, adding to it as time allows.

Category	Comments
Artist/Maker	To include artists' names, alternate names, and previous attributions.
Nationality of Artist/Maker	---
Life Dates of Artist/Maker	---
Place or Culture of Object	Only if artist unknown.
Object Title or Name	To include alternate titles.
Date of Work	To include approximate date, if specific date is unknown.

Medium/Materials	---
Measurements	---
Date of Acquisition	---
Accession Number	---
Object Type	Painting, sculpture, decorative arts, etc/
Subject Type	Landscape, portrait, mythological subject, historical, religious, genre, Judaica, etc.
Signature and Marks (obverse)	To include signatures, inscriptions, and marks; for paintings, what appears on the front
Labels and Marks (reverse, frame, mount, etc.)	To describe marks and labels (prior to 1960) on the reverse of an object (including frame, mount, etc.). Indicate if images are available.
Description	To contain description of object (its content, subject, etc.). Museums should make this a priority.
Provenance	To contain, at the minimum, known owners, dates of ownership, places of ownership, method of transfer (sale, gift, descent, etc.). To include, if known, lot numbers, sale prices, buyers, etc. To include information on unlawful appropriation during the Nazi era and subsequent restitution. Museums should ensure that provenance information is understandable and organized chronologically.
Exhibition History	---
Bibliographic History	---
Other Relevant Information	To contain anything about the object that would be useful in identifying it for this purpose. If the object fits the definition of Judaica contained in this document, so state.
Image	An image is key to identifying an object. Museums should make every effort to include an image with their records.

2. Nazi-Era Provenance Internet Portal

It is the view of AAM that museums should control the research, presentation, and maintenance of information about covered objects in their collections. This allows museums to organize their information according to their own standards and provide all relevant introductions, explanations, and avenues for inquiry.

In order to expedite searches for information about covered objects in museum collections, AAM will launch a search tool called the Nazi-era Provenance Internet Portal. The Portal initially will allow users to search by the artist/maker and the nationality of the artist/maker (or of the object if the artist is unknown). Additionally, users will be able to learn which museums contain covered Judaica. The Portal will provide the user with basic information contributed by museums about objects that fit the search criteria as

well as links to further information controlled by those museums. The Portal ultimately will have the capacity to allow users to search on additional categories of information, such as object type and description of the object.

Museums should submit to AAM a set of descriptive data about covered objects in their collections. This information will constitute the registry. It will be the responsibility of the museum to update this information whenever there are changes, additions, or deletions.

a. Submitting Information to the Portal Registry

The information that the Portal will use to assist searchers will be housed in a database. It will contain, for each museum, basic contact and URL information (if applicable) and an indication as to whether the museum's collection contains any covered Judaica. An associated searchable object registry will house object descriptive information that will be provided by museums in phases. In the initial phase, this will be artist/maker, nationality of artist/maker, and culture/nationality, if artist is not known. In later phases museums will be asked to add title, object type, and searchable free-text descriptions. In addition, museums without online collection information will be asked to supply one PDF file[2] for each covered object. A link will be created from the object registry to the PDF file. Instructions for converting a document to Adobe PDF will be available from AAM.

Information about museums and their covered objects may be entered directly onto the Portal's Web site or submitted electronically. Whether a museum's registry records are linked to its Web site or to a PDF, the museum will receive a password giving access through AAM's Web site to the data it contributes. Museums will be responsible for updating and adding to these data. Instructions for submitting data to these tables will be available from AAM.

Museums should strive to provide the 20 categories of information listed above either in their online collection information or in their PDF files.

b. Searching the Portal

When a search is conducted, the Portal will return the registry information for all objects that match the search criteria and either: (a) links to the Web site of each museum where more information about these objects can be found or (b) links to each PDF file that contains more information about these objects.

AAM will employ an enhanced search facility developed by the Getty based on the Union List of Artist Names® to increase the precision and recall of searches on the artist name by accommodating various spellings and making the searcher aware of related artists and artists who share the same name.

Commitment of AAM

Because of the urgent need to create a search tool for covered objects, AAM has committed to developing and managing the Portal for three years. However, in recognition that a project of this technological complexity falls outside the range of AAM's customary activities and services, after three years AAM will seek to transfer the project to a more appropriate organization.

To address any issues that may arise regarding the Portal, AAM will establish an independent commission to guide this effort. This independent commission will be appointed by the AAM Board of Directors and will include museum professionals and experts from outside the museum field. Significantly for the museum community, claimants, and researchers, it is envisioned that the commission will continue when the portal is transferred to another organization.

For more information contact:

Erik Ledbetter
Senior Manager, International Programs
Email: eledbetter@aam-us.org
Phone: 202/289-9121

Surface mail:

American Association of Museums
1575 Eye St., NW, Suite 400
Washington, DC 20005

Endnotes

1) The term "Judaica" is most broadly defined as the material culture of the Jewish people. First and foremost this includes ceremonial objects for communal or domestic use. In addition, Judaica comprises historical artifacts relating to important Jewish personalities, momentous events, and significant communal activities, as well as literature relating to Jews and Judaism. Many museums also have acquired material of everyday life that expresses a uniquely Jewish identity.

2) Adobe® Portable Document Format (PDF) is a universal file format that preserves the appearance of any museum's source document, regardless of the application and platform used to create it. Adobe PDF files are compact and can be shared, viewed, navigated, and printed with Adobe Acrobat® Reader™ software, available on the Internet at no cost. More information can be found by visiting http://www.adobe.com/products/acrobat/readermain.html.

Appendix 3)
Questionnaire

Conference on Jewish Material Claims Against Germany, Inc. & *World Jewish Restitution Organization*

Washington Conference Principles on Nazi-Confiscated Art, AAM Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era, AAM Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era, and General Activity of American Institutions Regarding Looted Art and Cultural Property

REQUEST FOR INFORMATION

February 10, 2006

1) Name of museum

2) Name, address, telephone, fax, and e-mail address of museum director

3) Name, address, telephone, fax, and e-mail address of principal person responsible for provenance matters

A. PROVENANCE RESEARCH

1) What is the *total number of objects* of all types in your collection that you estimate were created before 1946 and acquired after 1932?

2) Of the *total number of objects* created before 1946 and acquired after 1932, how many do you estimate underwent a change of ownership between 1932 and 1946 and were or might reasonably be thought to have been in continental Europe between those dates ("covered objects")?

3) Has the museum focused in its provenance research solely on paintings and Judaica? If so, is this because of the AAM recommendation to concentrate first on paintings and Judaica before also researching other types of objects? Other reasons? If not, please indicate other types of objects that have been or are being researched (sculpture, drawings, etc.).

4) For each type of object, please estimate the total number in your collection that were created before 1946 and acquired after 1932 (paintings, Judaica, sculpture, drawings, etc.).

5) Of the total number of each type of object (paintings, Judaica, sculpture, drawings, etc.), how many do you estimate underwent a change of ownership between 1932 and 1946 and were or might reasonably be thought to have been in continental Europe between those dates ("covered objects")?

6) What is the number of objects concerning which provenance information has been provided on line?

	Own website Portal	Nazi-Era Provenance Internet
Total		
Paintings		
Sculpture		
Drawings		
Graphic Art		
Decorative Art		
Judaica		
Other		

7) What is the museum's estimated timetable for completion of on-line provision of provenance information?

8) Please briefly describe how provenance research is being conducted by the museum. For example, what archives are consulted? Does the museum use the 20 categories of information recommended by the AAM?

9) What is the number of staff members working full-time on provenance research? What is the number of staff members working part-time?

10) What is the approximate amount of money spent by the museum per year on provenance research?

11) What is the museum's total annual operating budget?

12) Has the museum applied for grants or other funding specifically to conduct provenance research?

13) When seeking funds for applicable exhibition or public programs research, does the museum incorporate Nazi-era provenance research into its proposals?

B. ACQUISITIONS

1) Does the museum regularly request that the sellers, donors, or estate executors offering an object provide as much provenance information as they have available, with particular regard to the Nazi era?

2) If credible evidence of unlawful appropriation without subsequent restitution is discovered, does the museum notify the donor, seller, or estate executor of the nature of the evidence? Does it notify other interested parties of the museum's findings?

3) Does the museum document its research into the Nazi-era provenance of acquisitions?

4) Does the museum publish, display, or otherwise make accessible recent gifts, bequests, and purchases, thereby making all acquisitions available for further research, examination, and public review and accountability?

C. LOANS

1) Does the museum regularly request that lenders provide as much provenance information as they have available, with particular regard to the Nazi era?

2) Where the Nazi-era provenance is incomplete or uncertain for a proposed loan, does the museum consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before borrowing it?

3) If credible evidence of unlawful appropriation without subsequent restitution is discovered, does the museum notify the lender of the nature of the evidence? Does the museum notify other interested parties of its findings?

4) Does the museum document its research into the Nazi-era provenance of loans?

D. COMPLIANCE WHEN INDIVIDUAL CLAIMS ARE MADE

1) If the museum determines that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution, does the museum seek to resolve the matter with the claimant in an equitable, appropriate, and mutually agreeable manner?

2) Does the museum seek methods other than litigation (such as mediation) to resolve claims that an object was unlawfully appropriated during the Nazi era without subsequent restitution?

3) In order to achieve an equitable and appropriate resolution of claims, does the museum waive available defenses?

4) If the museum currently holds an unclaimed object in its collection, does it acknowledge the object's history on labels and publications?

WE WOULD GREATLY APPRECIATE RECEIVING A COPY OF ANY POLICIES AND PRACTICES THAT THE MUSEUM HAS DEVELOPED TO ADDRESS THE ISSUES DISCUSSED IN THE AAM GUIDELINES.

IF THERE ARE ADDITIONAL MATTERS NOT COVERED BY THE ABOVE QUESTIONS, WE WOULD BE GRATEFUL FOR ANY OTHER COMMENTS.

Signed: _____ Title: _____ Date: _____

Please note that the information contained herein will be made publicly available.

Prepared by the Conference on Jewish Material Claims Against Germany (Claims Conference)

Appendix 4)
Communications with Museums

February 16, 2006

[MUSEUM DIRECTOR
NAME OF MUSEUM
ADDRESS]

Dear [MUSEUM DIRECTOR],

The Conference on Jewish Material Claims Against Germany, along with the World Jewish Restitution Organization, represents world Jewry in negotiating for restitution on behalf of victims of Nazi persecution and their heirs.

The issue of Holocaust-era looted art is of great concern to us as well as to the wider public.

We have been in discussions with the American Association of Museums for some time now regarding their efforts with regard to Nazi-confiscated art.

As part of our effort to review progress to date and to educate the public on these issues, we are writing to major art institutions to ask them to advise us on their progress in implementing the Washington Conference Principles on Nazi-Confiscated Art of December 1998, the American Association of Museums Guidelines of November 1999 concerning unlawful appropriation of objects during the Nazi era, as well as their general activity in this area.

As we would like to understand this progress clearly, we have taken the liberty of preparing a request for information that goes through the major issues of interest to us.

A hard copy of the request for information is attached. If it would be easier for you, by February 22 we will place a copy of the document on a special website (artrfi.claimscon.org) which can be completed electronically.

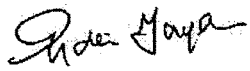
We are planning to make these responses available to the public through our website.

We would be most grateful if we could receive these responses by April 14, 2006 or sooner if at all possible.

We believe that this information will greatly assist all concerned in understanding the issues and challenges in dealing with these complex matters.

We thank you in advance for your assistance and look forward to hearing from you.

Sincerely,



Gideon Taylor
Executive Vice President

GT/ag

E-MAIL MESSAGE SENT MAY 11-18, 2006

-----Original Message-----
From: Wesley A. Fisher
Sent: Wednesday, May 10, 2006 1:06 PM
To: Galit Dardashtian
Subject: Survey questionnaire regarding art and other cultural property looted during the Nazi era

Dear Sir or Madame:

A few months ago, we sent you a survey questionnaire concerning the activity of your museum regarding art and other cultural property looted during the Nazi era in light of the Washington Conference Principles on Nazi-Confiscated Art, the AAM Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era, and the AAM Guidelines Concerning the Unlawful Appropriation of Objects during the Nazi Era. We have not yet received a response from your institution.

May we ask you to be so kind as to complete the survey questionnaire on-line at http://artrfi.claimscon.org. We are aware that the questionnaire is long, due in part to the specifics of the AAM Procedures and Guidelines. If you prefer, please send us instead a signed statement or letter for posting on the database. Please respond as soon as possible, preferably within the next 4-5 weeks. As you know, it is our intention is to make the responses publicly available.

Thank you.

Sincerely yours,

Wesley A. Fisher

Dr. Wesley A. Fisher
Director of Research
Conference on Jewish Material Claims Against Germany, Inc.
15 East 26th Street, Suite 1405
New York, NY 10010

(1) 646-536-9105 office
(1) 212-481-9607 fax
wesley.fisher@claimscon.org

REGISTERED MAIL June 12, 2006

[MUSEUM DIRECTOR
NAME OF MUSEUM
ADDRESS]

Dear [MUSEUM DIRECTOR],

Some months ago, we sent you a survey questionnaire concerning the activity of your museum regarding art and other cultural property looted during the Nazi era in light of the Washington Conference Principles on Nazi-Confiscated Art, the AAM Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era, and the AAM Guidelines Concerning the Unlawful Appropriation of Objects during the Nazi Era. More recently, we sent you an e-mail reminder or telephoned you regarding this survey. However, we have not yet received a response from your institution.

As you know, it is our intention to make the responses publicly available. We are hereby extending the deadline for receipt of responses to June 30, 2006. After that date, we plan to prepare our announcement and issue a public statement regarding this matter.

We ask you to complete the survey questionnaire on-line at http://artrfi.claimscon.org If you prefer, please send us a hard copy with a signed statement or letter for posting on the database. If you have any difficulty with completing the questionnaire on-line, wish us to fax another copy of the questionnaire, or have any questions, please contact Ms. Galit Dardashtian via e-mail at Galit.Dardashtian@claimscon.org.

Thank you.

Sincerely yours,

Wesley A. Fisher

Appendix 5)
Museums That Responded by July 10, 2006

MUSEUM	STATE	AAM MEMBERSHIP
Academy Art Museum	MD	Accredited
Ackland Art Museum	NC	Accredited
Akron Art Museum	OH	Accredited
Alice C. Sabatini Gallery	KS	Member
Allentown Art Museum	PA	Accredited
Annmarie Garden	MD	Member
Arkansas Arts Center	AR	Accredited
Art Complex Museum	MA	Member
Art Gallery, University of New Hampshire	NH	Member
Art Institute of Chicago	IL	Accredited
Art Museum of the University of Memphis	TN	Member
Art Museum of Western Virginia	VA	Accredited
Bakersfield Museum of Art	CA	Accredited
Ball State University Museum of Art	IN	Accredited
Baltimore Museum of Art	MD	Accredited
Bass Museum of Art	FL	Accredited
Bates College Museum of Art	ME	Member
Beloit College / Wright Museum of Art	WI	Member
Berman Museum of Art	PA	Accredited
Blanden Memorial Art Museum	IA	Accredited
Blanton Museum of Art	TX	Accredited
Block Museum of Art	IL	Member
B'nai B'rith Klutznick National Jewish Museum	DC	Member
Boca Raton Museum of Art	FL	Accredited
Bowdoin College Museum of Art	ME	Accredited
Calvin College - Center Art Gallery	MI	Member
Canton Musem of Art	OH	Accredited
Carleton College Art Gallery	MN	Member
Carnegie Museum of Art	PA	Not Member
Charles Allis/Villa Terrace Art Museums	WI	Member
Cheekwood Botanical Garden and Museum of Art	TN	Accredited
Chrysler Museum of Art	VA	Accredited
Cincinnati Art Museum	OH	Accredited
Cleveland Museum of Art	OH	Accredited
Columbia Museum of Art	SC	Not Member
Columbus Museum of Art	OH	Accredited

Concord Museum	MA	Accredited
Coos Art Museum	OR	Member
Corita Art Center	CA	Member
Cornell Fine Arts Museum, Rollins College	FL	Accredited
Crocker Art Museum	CA	Accredited
Cummer Museum of Arts and Gardens	FL	Accredited
Currier Museum of Art	NH	Accredited
Dallas Museum of Art	TX	Accredited
Daura Gallery, Lynchburg College	VA	Member
David Winton Bell Gallery, Brown University	RI	Member
Dayton Art Institute	OH	Accredited
Des Moines Art Center	IA	Member
Detroit Institute of Arts	MI	Accredited
Dubuque Museum of Art	IA	Accredited
Dumbarton Oaks	DC	Member
Eagle Rock Art Museum	ID	Member
El Paso Museum of Art	TX	Accredited
Ellen Noel Art Museum	TX	Accredited
Everson Museum of Art	NY	Accredited
Figge Art Museum	IA	Accredited
Fine Arts Museums of San Francisco	CA	Accredited
Fitchburg Art Museum	MA	Accredited
Flint Institute of Arts	MI	Accredited
Florida State University Museum of Fine Arts	FL	Accredited
Fort Wayne Museum of Art	IN	Accredited
Fred Jones Jr. Museum of Art	OK	Accredited
Fred L. Emerson Gallery	NY	Member
Frederick R. Weisman Art Museum, University of Minnesota	MN	Member
Frick Collection	NY	Accredited
Frye Art Museum	WA	Accredited
Georgia Museum of Art	GA	Accredited
Gibson Gallery, SUNY Potsdam	NY	Member
Gilcrease Museum	OK	Accredited
Grand Rapids Art Museum	MI	Accredited
Greenville County Museum of Art	SC	Accredited
Grey Art Gallery, New York University	NY	Member
Guild Hall	NY	Accredited
Hallie Ford Museum of Art, Willamette University	OR	Member
Harvard University Art Museums	MA	Accredited
Heckscher Museum of Art	NY	Accredited
Herbert F. Johnson Museum of Art	NY	Accredited
High Museum of Art	GA	Accredited

Hillstrom Museum of Art	MN	Member
Hillwood Art Museum	NY	Member
Hillwood Museum and Gardens	DC	Accredited
Honolulu Academy of Arts	HI	Accredited
Hood Museum of Art	NH	Accredited
Hunter Museum of American Art	TN	Accredited
Huntington Art Collections	CA	Not Member
Huntington Museum of Art	WV	Accredited
Indiana University Art Museum	IN	Accredited
Indianapolis Museum of Art	IN	Accredited
Iris & B. Gerald Cantor Art Gallery	MA	Member
Iris & B. Gerald Cantor Center for Visual Arts	CA	Accredited
Jacques Marchais Museum of Tibetan Art	NY	
Jewish Museum	NY	Accredited
Judah L. Magnes Museum	CA	Accredited
Judaica Museum of The Hebrew Home at Riverdale	NY	Member
Jule Collins Smith Museum of Fine Art	AL	Member
Kent State University Museum	OH	Member
Krannert Art Museum	IL	Accredited
La Salle University Art Museum	PA	Member
Lauren Rogers Museum of Art	MS	Accredited
Los Angeles County Museum of Art	CA	Accredited
Louisiana Art & Science Museum	LA	Accredited
Lowe Art Museum	FL	Accredited
LSU Museum of Art	LA	Member
Lyman Allyn Art Museum	CT	Accredited
Marywood University Art Galleries	PA	Member
Mead Art Museum	MA	Accredited
Memorial Art Gallery of the University of Rochester	NY	Accredited
Memphis Brooks Museum of Art	TN	Accredited
Metropolitan Museum of Art	NY	Accredited
Michelson Museum of Art	TX	Member
Middlebury College Museum of Art	VT	Accredited
Mildred Lane Kemper Art Museum	MO	Accredited
Milwaukee Public Museum	WI	Accredited
Minneapolis Institute of Arts	MN	Accredited
Mint Museum of Art	NC	Accredited
Mississippi Museum of Art	MI	Member
MIT List Visual Arts Center	MA	Accredited
Mitchell Gallery	MD	Member
Montana Museum of Art & Culture	MT	Member
Montgomery Museum of Fine Arts	AL	Accredited

Morris Museum of Art	GA	Member
Munson Williams Proctor Arts Museum	NY	Accredited
Muscarelle Museum of Art	VA	Accredited
Muscatine Art Center	IA	Accredited
Museum of Art and Archaeology, University of Missouri - Columbia	MO	Accredited
Museum of Art, Rhode Island School of Design	RI	Accredited
Museum of Fine Arts, Boston	MA	Accredited
Museum of Fine Arts, Houston	TX	Accredited
Museum of Modern Art	NY	Accredited
Museum of Religious Arts	IA	Member
Museum of Russian Art	MN	Member
Nasher Museum of Art	NC	Accredited
National Academy Museum	NY	Accredited
National Gallery of Art	MD	Accredited
Nelson - Atkins Museum of Art	MO	Accredited
Neue Galerie New York	NY	Not Member
Nevada Museum of Art	NV	Accredited
Nora Elles Harrison Museum of Art	UT	Accredited
North Carolina Museum of Art	NC	Accredited
Northern Illinois University Art Museum	IL	Member
Norton Museum of Art	FL	Accredited
Oklahoma City Museum of Art	OK	Accredited
Old Jail Art Center	TX	Accredited
Orlando Museum of Art	FL	Accredited
Palm Springs Art Museum	CA	Accredited
Palmer Museum of Art	PA	Member
Paul & Lulu Hilliard University Art Museum	LA	Member
Philadelphia Museum of Art	PA	Accredited
Philbrook Museum of Art	OK	Accredited
Phillips Collection	DC	Accredited
Phoenix Art Museum	AZ	Accredited
Polk Museum of Art	FL	Accredited
Portland Art Museum	OR	Accredited
Potsdam Public Museum	NY	Member
Prairie Museum of Art and History	KS	Member
Provincetown Art Association and Museum	MA	Member
Putnam County Museum	IN	Member
Robert Hull Fleming Museum, University of Vermont	VT	Accredited
Rockford Art Museum	IL	Member
Rosenwald-Wolf Gallery	PA	Member
Saginaw Art Museum	MI	Accredited
Saint Anselm College, Chapel Arts Center	NH	Member

Saint Louis Art Museum	MO	Accredited
Samuel Dorsky Museum of Art	NY	Member
Sarah Moody Gallery of Art	AL	Member
Seattle Art Museum	WA	Accredited
Sheldon Swope Art Museum	IN	Accredited
Slater Memorial Museum	CT	Member
Smart Museum of Art	IL	Accredited
Smith College Museum of Art	MA	Accredited
Smithsonian Institution	DC	Accredited
Snite Museum of Art	IN	Accredited
Speed Art Museum	KY	Accredited
Spencer Museum of Art	KS	Accredited
Sterling and Francine Clark Art Institute	MA	Accredited
Suzanne H. Arnold Art Gallery	PA	Member
Swedish American Museum	IL	Member
Syracuse University Art Collection	NY	Member
Tacoma Art Museum	WA	Not Member
Tampa Museum of Art, Inc.	FL	Accredited
Terra Foundation for the Arts	IL	Not Member
Timken Museum of Art	CA	Member
Toledo Museum of Art	OH	Accredited
Tucson Museum of Art	AZ	Accredited
Tufts University Art Gallery, Aidekman Arts Center	MA	Member
Ukrainian Museum	NY	Not Member
UNI Permanent Art Collection & UNI Gallery of Art	IA	Accredited
University Art Museum, UCSB	CA	Accredited
University at Albany Museum	NY	Not Member
University at Buffalo Art Galleries	NY	Member
University of California / Berkeley Art Museum & Pacific Film Archive	CA	Accredited
University of Iowa Museum of Art	IA	Accredited
University of Kentucky Art Museum	KY	Accredited
University of Mary Washington Galleries	VA	Member
University of Michigan Museum of Art	MI	Accredited
University of Virginia Art Museum	VA	Accredited
University of Wyoming Art Museum	WY	Accredited
USC Fisher Gallery	CA	Accredited
Van Every/ Smith Galleries, Davidson College	NC	Member
Virginia Museum of Fine Arts	VA	Accredited
Vizcaya Museum & Gardens	FL	Accredited
Wadsworth Atheneum Museum of Art	CT	Accredited
Walters Art Museum	MD	Accredited
Washington County Museum of Fine Arts	MD	Accredited

Weatherspoon Art Museum	NC	Accredited
Wichita Art Museum	KS	Accredited
Widener University Art Gallery	PA	Member
William & Florence Schmidt Art Center	IL	Member
William Benton Museum of Art	CT	Member
William King Regional Arts Center	VA	Not Member
Wolfsonian-Florida International University	FL	Accredited
Worcester Art Museum	MA	Accredited
Yale University Art Gallery	CT	Accredited
Zanesville Art Center	OH	Member

Appendix 6)
Museums that Responded after July 10, 2006

MUSEUM	STATE	AAM MEMBERSHIP
Brooklyn Museum	NY	Member
Davis Museum & Cultural Center	MA	Member
Gibbes Museum of Art	SC	AAM Accredited
Housatonic Museum of Art	CT	Member
Museum of Art, University of Arizona	AZ	Accredited
Museum of Art, Washington State University	WA	Member
Muskegon Museum of Art	MI	Accredited
Norton Simon Museum of Art	CA	Member
Sarah Campbell Blaffer Foundation	TX	Member
Wiregrass Museum of Art	AL	Member

Appendix 7)
Museums That Did Not Respond

"Member" means member museum of the American Association of Museums. "Accredited" means museum has been accredited by the American Association of Museums. "Not Member" means no formal affiliation with the American Association of Museums.

MUSEUM	STATE	AAM membership
Alexandria Museum of Art	LA	Accredited
Allen Memorial Art Museum	OH	Accredited
Anderson Gallery	VA	Member
Appleton Museum of Art	FL	Member
Art Museum of Greater Lafayette	IN	Accredited
Arthur Ross Gallery	PA	Member
Baum Gallery of Fine Arts	AR	Member
Beard & Weil Art Galleries	MA	Member
Birmingham Museum of Art	AL	Accredited
Boise Art Museum	ID	Accredited
Bruce Museum of Arts & Science	CT	Accredited
Caramoor Center for Music & Art	NY	Member
Casa del Herrero	CA	Member
Castellani Art Museum	NY	Not Member
Chazen Museum of Art	WI	Accredited
Colorado Springs Pioneers Museum	CO	Accredited
Coral Springs Museum of Art	FL	Member
Corcoran Gallery of Art	DC	Accredited
Corning Museum of Glass	NY	Accredited
Cranbrook Art Museum	MI	Accredited
Denver Art Museum	CO	Accredited
Douglas F. Cooley Memorial Art Gallery, Reed College	OR	Not Member
Edison Community College Gallery of Fine Art	FL	Not Member
Eide-Darymple Gallery, Augustana College	SD	Member
Elmhurst Art Museum	IL	Member
Ewing Gallery of Art & Architecture	TN	Member
Flaten Art Museum	MN	Member
Frances Lehman Loeb Art Center	NY	Accredited
Freeport Arts Center	IL	Member
Fresno Art Museum	CA	Accredited
Frost Art Museum	FL	Accredited

Fullerton Art Museum	CA	Member
Fullerton College Art Gallery	CA	Member
Gadsden Museum of Art	AL	Not Member
Gerald Peters Gallery	NM	Member
Gerald Peters Gallery	NY	Not Member
Godwin-Ternbach Museum	NY	Not Member
Grand Valley State University Art Gallery	MI	Member
Grants Pass Museum of Art	OR	Member
Guilford College Art Gallery	NC	Member
Haggerty Museum of Art	WI	Member
Haggin Museum	CA	Member
Handwerker Gallery, Ithaca College	NY	Member
Hudson River Museum	NY	Accredited
Hutchinson Art Center	KS	Member
Isabella Stewart Gardner Museum	MA	Accredited
J. Paul Getty Museum	CA	Accredited
Jane Voorhees Zimmerli Art Museum	NJ	Member
Joslyn Art Museum	NE	Accredited
Katzen Arts Center	DC	Member
Kennesaw State University Art Gallery	GA	Member
Kreeger Museum	DC	Member
Kresge Art Museum	MI	Accredited
Lakes Art Center	IA	Member
Lightner Museum	FL	Member
Longue Vue House & Gardens	LA	Not Member
Longview Museum of Art	TX	Member
Mabee-Gerrer Museum of Art	OK	Member
Madison Museum of Fine Arts	GA	Member
Marion Koogler McNay Art Museum	TX	Accredited
Maryhill Museum of Art	WA	Accredited
Menil Collection	TX	Not Member
Milwaukee Art Museum	WI	Not Member
Mount Holyoke College Art Museum	MA	Member
Museum of Art, Brigham Young University	UT	Member
Museum of Art, University of Maine	ME	Member

Museum of the Southern Jewish Experience	MS	Member
Neuberger Museum of Art	NY	Accredited
New Orleans Museum of Art	LA	Accredited
New Visions Gallery, Inc.	WI	Member
Newark Museum	NJ	Accredited
Nicholas Roerich Museum	NY	Member
Northern Arizona University Art Museum	AZ	Member
Pensacola Museum of Art	FL	Accredited
Plains Art Museum	ND	Accredited
Pomona College Museum of Art	CA	Member
Portland Museum of Art	ME	Not Member
Princeton University Art Museum	NJ	Accredited
Rahr-West Art Museum	WI	Accredited
Reading Public Museum	PA	Not Member
Ringling Museum of Art	FL	Accredited
Salvador Dali Museum	FL	Not Member
Samek Art Gallery	PA	Member
San Diego Museum of Art	CA	Accredited
San Francisco Museum of Modern Art	CA	Accredited
Sands Point Preserve Ref. Library	NY	Not member
Santa Barbara Museum of Art	CA	Accredited
Schneider Museum of Art	OR	Member
Schumacher Gallery	OH	Member
Shafer Gallery	KS	Member
Sherwin Miller of Jewish Art	OK	Member
Solomon R. Guggenheim Museum	NY	Accredited
Springfield Art Association	IL	Member
Springfield Museum of Art	OH	Accredited
Springville Museum of Art	UT	Member
Sweet Briar College Art Gallery	VA	Not Member
Temple Museum of Religious Art	OH	Member
Textile Museum	DC	Accredited
Trout Gallery	PA	Not Member
Tweed Museum of Art	MN	Member
UCLA Hammer Museum	CA	Member
University Art Gallery, Western Illinois Univ.	IL	Member
University Art Museum, Arizona State Univ.	AZ	Not Member

University Art Museum, Univ. of New Mexico	NM	Member
University of Maryland	MD	Member
Utah Museum of Fine Arts	UT	Accredited
William S. Fairfield Art Museum	WI	Member
Zigler Museum	LA	Member

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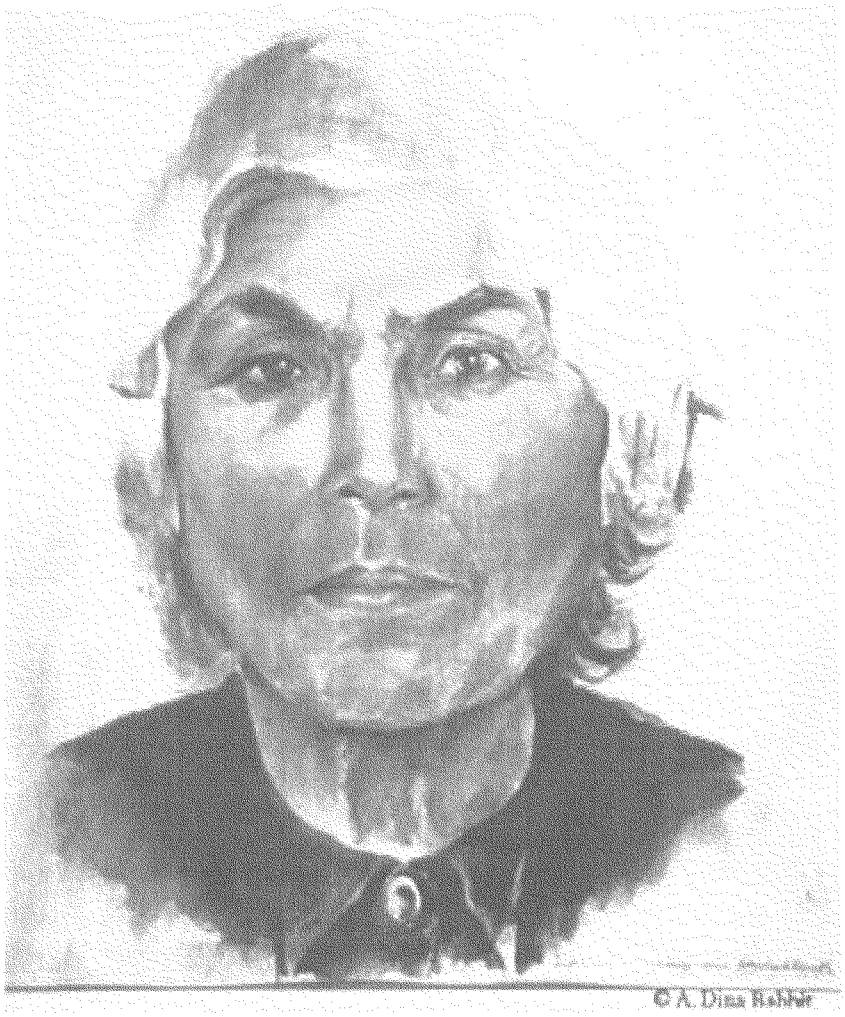
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The New York Times

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July 25, 2006

Museums' Research on Looting Seen to Lag

By RANDY KENNEDY

A major survey of American museums has found that many have not yet done significant research to determine whether works in their collections were looted during the Nazi era, despite a collective agreement seven years ago to make such work a priority.

The survey of 332 museums, to be released today, was conducted by the Conference on Jewish Material Claims Against Germany, known as the Claims Conference, a New York-based organization created after World War II to help restore Jewish property to Holocaust survivors and their families.

The group decided to become more involved in the question of looted art last year after concern arose that the American Association of Museums, which adopted guidelines in 1999 urging its members to examine their collections and later created a special Internet site for such information, was not doing enough to monitor museums' progress.

According to Gideon Taylor, the executive vice president of the Claims Conference, the museum association said that it was not its job, as a voluntary organization, to examine the extent to which its members were following the guidelines.

"It was an unknown," Mr. Taylor said. "There was no way to evaluate or judge what individual museums or museums collectively were doing to implement those principles to which they had all agreed."

But the museum association, while conceding that it does not collect the kind of detailed information that the Claims Conference was seeking, disagrees strongly with the conclusions of the survey. It contends that the conference cast too wide a net, seeking information from many museums whose collections probably have no works that could have been looted.

"I think the thrust of their survey was in many ways asking the wrong questions," said Edward H. Able Jr., president and chief executive of the museum association. He argued that most American museums have made such research a priority and that the 18,000 artworks now listed at the museums' special Web site, the Nazi-Era Provenance Internet Portal (www.nepip.org), represent "a major, major portion of the material that meets the criteria" of work that could possibly have been confiscated by the Nazis.

The new survey found that while some museums with major holdings of European art — including the Metropolitan Museum of Art and the Museum of Fine Arts, Boston — have made substantial headway in provenance research, others have done little beyond identifying which of their works fall within the parameters that might mean they were looted.

The Museum of Fine Arts in Houston and the Wadsworth Atheneum Museum of Art in Hartford, for example, reported that they were spending no money on provenance research and had no staff members devoted to it. Houston said that its collection included 61 paintings and sculptures that fell within the parameters, and the Wadsworth said it had 70 paintings that did.

Of the 332 museums that were sent questionnaires by the conference in February, 214 responded before a deadline of July 10. Of those, approximately 114, or slightly more than half, said that they were actively conducting provenance work. The remaining 100 museums either said they were not doing such work or did not provide enough information for the Claims Conference to be able to make a determination.

The association's guidelines specify that museums should focus on objects created before 1946 and acquired by museums after 1932, and that underwent a change of ownership between those two dates and might reasonably be thought to have been in Europe during that period.

While the vast majority of those objects are not assumed to have been taken illegally, the only way to know is to pin down their provenance and publish as much information as possible for potential claimants, a job that can be very difficult because ownership histories are often murky and documentation nonexistent.

Exact numbers are impossible to determine, but some experts believe that the Nazis seized 600,000 important works from 1933 to 1945. As many as 100,000 pieces are still thought to be missing, and some have undoubtedly been destroyed.

Estimates of the number of seized works that ended up in the United States vary widely. In the last eight years, as more provenance information has been made available, only 22 works have been returned to owners or their heirs, and another 6 cases are pending, museum officials said. In addition to museums, some private galleries and collections could also contain looted art, but information about those works is even more difficult to come by.

American museums began to focus seriously on the issue only in the 1990's, and the effort to make information available on the Web site was delayed for more than a year by lack of financing. Eventually, several groups, including the Claims Conference, provided funds.

Among the larger museums that did not respond to the conference's survey in time were the Solomon R. Guggenheim Museum in New York and the J. Paul Getty Museum in Los Angeles.

The Guggenheim, which has taken part in the museum association's Internet portal since the site's founding, said it had completed the survey but that it was delayed in the museum's legal office. The museum sent its responses to the conference on Friday.

The Getty has also long conducted provenance research, and its grant program provided money for the association's Web portal. But in a statement, the museum said it was simply unable to complete the survey before its deadline. "I do not want to excuse our tardiness, but the many issues we have been dealing with distracted us," said Ron Hartwig, the museum's spokesman. "We take this issue very seriously and truly regret not being included in the survey results."

The museums that responded to the survey collectively listed 140,000 works that fall within the period in question, considerably more than the 18,000 works that are now listed on the museums' Internet portal. Of the museums that clearly responded that they were conducting provenance research, the survey found, 52 percent had completed work on less than half of the relevant items in their collections, and most research was being conducted on paintings and sculpture, not on drawings and prints. The survey also found that only 10 percent of the museums conducting provenance research employ or have ever employed a full-time researcher.

"There has been progress, but there is still a lot to do," Mr. Taylor said. He added that the conference, which conducted the survey in association with the World Jewish Restitution Organization, was "disappointed that some museums declined to report at all on what steps they have or have not taken."

"We believe that this is an issue that is not only important; it is also one that must be resolved quickly if it is to be effective," he said. "The generation who survived the Holocaust is slipping away. This may be a last chance for them to be reunited with a tangible connection to a family that was lost."

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August 31, 2006

Gilbert S. Edelson
Administrative Vice President and Counsel
Art Dealers Association of America
575 Madison Ave.
New York, NY 10020

Dear Mr. Edelson:

Thank you for your informative testimony before the Domestic and International Monetary Policy Subcommittee hearing on July 27th, which provided an insightful view from the perspective of art dealers of standards and developments in the area of restitution of Nazi-looted art.

As you know, I asked you several questions regarding your association's efforts in this area, and I would very much appreciate if you could answer a few follow-up questions for the record, as follows.

In your testimony you noted that responsible art dealers make an effort to undertake provenance research. Can you please elaborate on the specific efforts your association has made to assist your members in conducting such research, such as identifying sources of information, or providing training?

I was also interested to review the ADAA Guidelines on this topic. Because many of the panelists were not aware of these Guidelines, we appreciated your providing them to us and your willingness to discuss them in your testimony. I hope that you can make a concerted effort to make these guidelines more available to the public and other interested parties, including, for example, by posting them on your website.

Before you do that, however, I hope that you will take the opportunity to clarify and strengthen the Guidelines where, in my view, they appear ambiguous. For example, I was surprised to read this portion of the Guidelines:

"If evidence of looting is discovered and there is no evidence of restitution, the dealer should not proceed to acquire the object and should notify the seller. *Depending on the*

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circumstances of the particular case, additional steps may be prudent or necessary, such as notifying appropriate government authorities." (Italics added)

I must tell you that I cannot think of any circumstances in which it would not be in the public interest for a dealer in such a position to notify the appropriate authorities, and I am surprised that this sentence seems to suggest otherwise. It seems to me this language should clearly reflect an ethical obligation to report evidence of Nazi looting to the authorities.

Similarly, I would note the Guidelines state that:

> "if a dealer is presented with evidence that a work that he or she sold may have been looted, a dealer *should endeavor* to make available any record which may serve to clarify the history of the work in question."

I am struck by the surprising ambiguity in this language. I am sure you expect your members to take every possible step they can to help reveal the facts when presented with evidence that a sale may have involved a Nazi-looted work in order to make the provenance of this particular work complete, thorough, and fully available. I hope this language would also be clarified to reflect this expectation.

Again, thank you for your assistance and testimony.

Sincerely,

Carolyn B. Maloney

CAROLYN B. MALONEY
Member of Congress

ART DEALERS ASSOCIATION OF AMERICA

September 22, 2006

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Honorable Carolyn B. Maloney
2331 Rayburn House Office Building
Washington, DC 20515-3214

Dear Ms. Maloney:

I am responding to your letter of August 31 in which you pose a number of questions about the Guidelines Regarding Art Looted During the Nazi Era ("the Guidelines") which the Art Dealers Association of America ("ADAA") published in 1998.

I was pleased and honored to be asked to testify before the Committee on July 27. When I returned to New York after the hearing it was agreed that the Guidelines should be re-visited in light of developments in the years after 1998, when they were first published. It is for this reason, and because the ADAA website is being revised, that the Guidelines have not as yet appeared there. I assure you that they will appear shortly, even if our review is not completed.

Your letter and comments are welcome because they will help us in our ongoing review. In fact, all comments are welcome. The Guidelines are a work in progress to be re-visited periodically and brought up to date as we learn more.

Your letter says that you cannot think of a case where a dealer who has evidence of looting should not make a report to the appropriate authorities. I suggest that there are at least two such general situations:

1. There are many instances in which, while there is some evidence of looting, such as a suspicious gap in the provenance of a work, it is not clear that the work has in fact been looted. Many works have gaps in their provenance, including many in the collections of major museums. A dealer may decide not to acquire or handle a work because the dealer is not satisfied that the work has not been looted. But there is nothing, other than a suspicious gap in provenance, to report. And it is not clear as to which government authority a report should be made.

2. Even where there is concrete evidence that a given work has been looted, it is not clear that a dealer should report the matter to the authorities in every case. The evidence to be reported is that more than half a century ago a theft of a work of art took place, whether by forced sale or outright expropriation. In the vast majority of cases the circumstances surrounding the theft are ambiguous and the thief, even if he or she is still alive, cannot be identified. For these reasons a report to the police is not generally useful. Nearly all cases of Nazi looting of which we are aware have been resolved civilly and without the involvement of the police.

Your letter also states that you find ambiguous the statement in the Guidelines that if a dealer is presented with evidence that a work that the dealer sold may have been looted, the dealer "should endeavor" to make available any record that may serve to clarify the history of the work in question. The phrase "should endeavor" was intended to cover the situation where one or more of the relevant records are in the hands of others, such as previous collectors or other dealers. In those cases, the dealer can only endeavor to make such records available; the dealer cannot compel their production. As this sentence is ambiguous, we will of course review it and make it clearer.

Your letter requests information about efforts that ADAA has made to assist members in conducting research on provenance. In addition to a public meeting at the Metropolitan Museum of Art that ADAA sponsored for a discussion of Nazi-looted art, ADAA has discussed the issues raised by this problem at a number of meetings of its members. Our members who deal in the secondary market do provenance research as an essential part of their activities. They are skilled in research on provenance and authenticity, for their livelihoods depend on their expertise in these areas, among others.

We are pleased to have your comments which we will certainly carefully consider as we go through the process of re-visiting the ADAA Guidelines.

Sincerely yours,

Gilbert S. Edelson

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CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, INC. ועידת התביעות
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October 18, 2006

Rep. Wasserman Schultz
U.S. House of Representatives
C/o Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Attn: Terrie Allison
Fax: 202-225-4254

Dear Rep. Wasserman Schultz,

Thank you for your letter of August 17, 2006.

I hope that you will find the following information helpful.

1&2. Survivor Needs/Disclosure of Allocation of Funds

All allocations of the Claims Conference are listed on the Claims Conference website www.claimscon.org. You will find there a list, under each country of the name of the agency, the city, the purpose and the amount of the grant. For your convenience a copy of the current list is attached.

The Claims Conference has conducted or assisted in the preparation of various assessments of needs of Nazi victims in different locations in the world. In addition, many other such assessments have been prepared by interested parties. I would refer you to the following documents which are among those used by the Claims Conference in determining allocations: A Plan for Allocating Successor Organization Resources – Claims Conference Planning Committee; An Estimate of the Current Distribution of Jewish Victims of Nazi Persecution; Review of Relevant Demographic Information on World Jewry; Neediness Among Jewish Shoah Survivors – Key to Global Resource Allocation; Holocaust Survivors in Israel – Current and Projected Needs in Home Nursing Care; Holocaust Survivors of European Origin in Israel – Estimates of Current and Projected Utilization of Hospital Beds in General Hospitals; Health Problems and Socioeconomic Neediness among Jewish Shoah Survivors in Israel; Nazi Victims Now Residing in the United States – Findings from The National Jewish Population Survey 2000-2001; Jewish Elderly Nazi Victims –

DRAFT AS AT OCTOBER 18

A Synthesis of Comparative Information on Hardship and Need in the United States, Israel, and the Former Soviet Union; The Social and Economic Situation in Countries of the FSU – Case Studies of Ukraine, Russia and Moldova; Proposal to Expand Services to Nazi Victims in the United States – Special Report on Nazi Victims in the New York Area; Presentation on the Condition and the Needs of Jewish Victims of Nazi Persecution in the Former Soviet Union. There are of course many other documents – these are simply the major ones most of which are available on our website or links from our website.

Decisions on allocations of social welfare funds for particular programs are made based on the following criteria:

- The number of needy Nazi victims;
- The extent and nature of need;
- The level of government services and social safety nets;
- The availability of other resources (e.g., restitution, compensation, philanthropic and governmental);
- Types of services being provided;
- Professional standards of organization (e.g., service delivery, budgets, quotes/bids, public tenders, plans, etc.)

A copy of the document entitled "Institutional Allocations Program -- General Guidelines" is also available on the Claims Conference website and includes a more extensive description of the guidelines. The allocations are, of course, made after very thorough and detailed review.

The social needs of Nazi victims are certainly extensive. Once the Claims Conference commenced receiving funds from Jewish property in the Former East Germany, it established programs throughout the world to assist Nazi victims. Over 50 programs exclusively for Nazi victims in different communities in the United States are now operational as a result of this Claims Conference initiative.

It should also be noted that the Claims Conference is not the only source of funds for these projects. Additional restitution funds (with the involvement of the Claims Conference) are provided by the Swiss Banks Settlement, the International Commission on Holocaust Era Insurance Claims, the German Government, the Austrian Government and the Hungarian Gold Train Settlement. Furthermore, with our encouragement, local philanthropic

fundraising has made additional resources available to support programs assisting Nazi victims.

Regarding available resources, please find attached a copy of our audited Financial Statements which can also be found on our website.

3. Database or Real Estate, Property Values and Inventory

Please find attached a copy of the announcement of September 30, 2003 which describes the background of the issue. As was noted in the announcement:

Upon German reunification in 1990, the Claims Conference negotiated for the rights of Jewish asset owners and heirs to file claims for assets in the former East Germany. To ensure that unclaimed assets did not revert back to the state or postwar non-Jewish owners, the Claims Conference also negotiated to recover any assets that went unclaimed.

The deadline for filing claims under the German law for restitution of assets located in the territory of the former East Germany expired on December 31, 1992 for real estate claims, and on June 30, 1993 for claims for moveable assets. Thousands of Jewish claimants filed timely claims and recovered a significant number of assets or substantial amounts of compensation in lieu of restitution. The Claims Conference was designated under the German Property Restitution Law to be the successor for unclaimed Jewish assets (through its Successor Organization).

Notwithstanding its legal position with respect to the unclaimed Jewish assets, the Claims Conference established a Goodwill Fund in order to set aside funds for payments to certain Jewish asset owners or heirs who had not filed claims by the German-mandated deadline and thus were no longer legally entitled to the assets or its proceeds under German law, and who meet the criteria of the Goodwill Fund.

In 1998, in a major advertising campaign, the Claims Conference informed the general public that certain owners or heirs who had failed to meet the legal deadline for filing claims for Jewish assets in the former East Germany could participate in the Claims Conference Goodwill Fund.

DRAFT AS AT OCTOBER 18

In September 2003 the Claims Conference published a list of former owners of Jewish assets in the former East Germany that it had either recovered or for which it had received a compensation payment under German restitution law covering East Germany, or for which it had filed claims that were not yet adjudicated.

The Claims Conference advertised in approximately 100 Jewish publications around the world announcing the publication of this list on its website. Owners and their heirs had six months, until March 31, 2004, to file applications to the Goodwill Fund.

The Claims Conference does conduct appraisals of properties it recovers. The large majority of claims remaining to be processed are for compensation in lieu of restitution and no specific property is recovered.

The market value of properties that have been recovered but remain unsold is approximately €42.2M ($49.9M). This estimate is included in Note 11 of the Financial Statements (a copy of which are attached and which are also available on the Claims Conference website).

4. Decision-Making Process for Non Survivor Program

All decisions regarding allocations are made (after very extensive discussion) by the Board of Directors of the Claims Conference. Of the Successor Organization funds (the funds originating from property in the Former East Germany), 80% is allocated for social welfare programs and 20% for programs of Holocaust research, education and documentation. Those in favor and those against the funding of such programs include both survivors and non-survivors. Incidentally, the Government of Israel has expressed support for the use of restitution funding for such purposes. A copy of letters and materials submitted on the subject in advance of the Board discussion in 2003 can also be found on the Claims Conference website.

The majority of the funds secured by the Claims Conference are distributed either through the Goodwill Fund to heirs or in direct payments to Nazi victims. Thus in 2005, of the $538 million distributed by the Claims Conference, approximately $18M (or 3.4%) was for programs of Holocaust research, education and documentation.

The criteria for eligibility are on the Claims Conference website. Applications are submitted to the Institutional Allocations Program of

the Claims Conference. All applications are thoroughly reviewed by one of two experts committees – a Professional Educational Advisory Committee or a Professional Research and Documentation Advisory Committee. These committees are composed of experts from around the world who help guide the staff in developing recommendations to the Allocations Committee.

In addition, the following factors are taken into account in review of applications:

- Need for the project and type of project;
- Professional ability of the institutions;
- Reasonableness of the budget;
- Experts involved in project implementation;
- Ability to commit matching funds;
- Willingness to coordinate with other institutions;
- Evaluative component built in to process

As previously noted, all individual allocations are presented to the Board for approval after committee review.

5. Claims Conference Make Up

The Claims Conference Board of Directors is composed of 24 organizations (each of which has one vote) and 10 ad personam members (each of whom have one vote). Of the organizations, two are specifically Holocaust survivor organizations and one represents Jews originating from Germany. Of the 10 ad personam members, 7 are Holocaust survivors. Of the 24 organizations, many are represented by Holocaust survivors and others by children of Holocaust survivors.

6. Art Claims

Claims for art and cultural property refers to anything from paintings to books to small silver objects.

The Claims Conference filed approximately 110 claims (some of which may have been for a collection of items). Of these 28 were withdrawn as ineligible or rejected and in 28 cases, the items were returned to the heirs (either directly or through the Claims Conference) or there was a settlement with the heirs. In a further 3 cases the Claims Conference is waiting for certificates of heirship from claimants. The Claims Conference has not sold any items or received compensation for any items. It does not hold title to any

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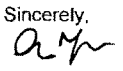
items that were formerly privately owned (although we have recovered one antique that formerly belonged to the Jewish community). The remainder are primarily open claims upon which no decision has been reached.

I hope that this information is helpful to you and I would be most happy to discuss any of these issues in further detail with you if that would be useful.

Sincerely,



Gideon Taylor

GT/ag
Attachments