STATEMENT OF MARTHA NIERNBERG
TO THE
COMMITTEE ON BANKING AND FINANCIAL SERVICES
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES
FEBRUARY 10, 2000

Good afternoon, Mr. Chairman, Mr. LaFalce, and other members.

I am Martha Nierenberg. I am here to tell you of my quest, so far unfulfilled, to recover my family's heirlooms lost as a result of the Holocaust. Among those heirlooms are ten paintings now in the possession of two state-owned Hungarian museums and exhibited by them as part of the "Herzog Collection." These ten paintings include works by Anthonis van Dyck, Lucas Cranach, Gustave Courbet and Mihaly Munkacsy.

The Herzog Collection was assembled by my grandfather, Baron Mor Lipot Herzog, a banker in pre-War Budapest, Hungary. My grandfather selected and purchased the art in this collection before his death in 1934. The Herzog Collection was inherited by my mother, Erzsebet, or Elizabeth, Herzog Weiss de Csepel; and her two brothers, Istvan and Andras Herzog.

This was a large collection, containing hundreds of items, including paintings by Old Masters as well as modern works by Renoir, Monet and other impressionists. It also contained one of the largest private collections of paintings by El Greco. My mother and uncles divided the collection among them.

Unfortunately, World War II began with Hungary among the Axis Powers. Just as in Germany, laws against Jews and people of Jewish origin were gradually passed, requiring their property to be sequestered and catalogued. However, the situation for Hungarian Jews and people of Jewish origin did not become truly desperate until March
1944 when the Germans occupied Hungary. Adolf Eichmann was delegated to the country for the explicit purpose ofexterminating all Hungarian Jews and persons of Jewish origin. Eichmann personally led the Waffen SS efforts to exterminate the Jews from Budapest. Some 600,000 Jews were deported from Hungary, and many went to their deaths. My uncle, Andras, was placed in a forced labor unit and did not survive the War. We do not know how he died, but it certainly was the result of the Holocaust.

My mother and father, along with many others, sought to save their art works from the Nazis. The Herzog collection was mainly hidden in the cellar of one of my father's family's industrial factories. Despite my parents' efforts to prevent the looting of their art, the Nazis found the hiding place and took the art to the Majestic Hotel, Eichmann's headquarters, for his inspection. Eichmann shipped much of the looted Herzog collection to Germany.

Fearing for our lives, my father's family agreed to a Nazi plan to lease my father's factories and equipment for a period of twenty-five years. If my father's family would agree to this lease, the Nazis would allow us to escape to the West. That is what happened in May 1944. My mother and I, together with my siblings, made it to Portugal, while my father stayed behind in Austria as a hostage.

In Portugal, I came to the attention of the American Ambassador, Mr. Samuel Baruch, because I played competitive tennis. He urged me to go to America, which I did on December 27, 1946. I went on to do graduate study at Harvard, to work, and eventually to marry and have four children and ten grandchildren. My mother, sister and two brothers came to America a little later. My father eventually joined us, and my immediate family was reunited. We all became naturalized U.S. citizens. My mother
who had been trained as a psychiatrist in Budapest, and who had studied in Vienna with Anna Freud, was re-licensed and practiced in New York for many years. When she died in 1992, I inherited that portion of the Herzog Collection she had inherited from her father, Baron Herzog.

I fondly remembered the Herzog paintings from my grandfather’s house and my own family’s home. Until the fall of the Berlin Wall, and the transformation of the former East Bloc countries, little if any information could be obtained about the state of the Herzog Collection or other looted properties. For this reason, and because my family had left Hungary, I was unaware of what had become of the lost Herzog Collection.

With the opening of Hungary to the West, and the rise of a democratic regime in Budapest, we made inquiries. We learned that many pieces of the Herzog Collection, both those I owned as well as ones inherited by my cousins, were being openly exhibited as the “Herzog Collection” in two museums in Budapest -- the Museum of Fine Arts and the National Museum. These paintings, while taken to Germany during the War, were shipped back to Hungary in 1946 and 1947 by American forces. The Hungarian museums then received the paintings but only for the express purpose of safeguarding them until their owners could be identified and located.

In September 1995, I retained counsel and approached the museums and the government about rectifying this situation and returning my paintings to me. There followed many months of negotiations, and in April 1996, I personally traveled to Budapest to meet with the Minister of Education and Culture and his assistant. This resulted in the creation of a so-called “Experts Committee” to determine the ownership of these paintings. The Experts Committee met several times over another long period and
concluded that I did indeed own these paintings. Based on the Experts Committee's findings, we made a friendly proposal to resolve all issues.

Unfortunately, then a new government came into power and was unwilling to continue this process. They apparently believed they could not support anything done by the prior government. The new government suggested we start the negotiation and Experts Committee process over from the beginning. The new government expressed no interest in negotiating on the basis of the proposal we had made.

Due to the endless delays and numerous broken promises, we felt there was no choice but to commence a lawsuit in the Hungarian courts, which we did in October 1999 with the assistance of the Commission for Art Recovery. By that point, we had been in contact with the Hungarian authorities for almost four years, and there had been no progress. These delays are significant in part because of my age. As the Hungarians continue to delay, it seems to me they expect there will be a point at which I will no longer be able to pursue my claims.

Since we believe Hungarian law clearly supports my right to possession of the paintings, litigation in Hungary was a logical decision. I am told that a lawsuit in the United States was virtually impossible and may well have involved months or years of litigation over jurisdiction, venue, sovereign immunity and other preliminary matters. We hoped that suing in Hungary would lead to a decision on the basic issue -- my ownership rights -- more quickly than in the United States, where the merits of the case might never be heard at all.

However, the Hungarian government continues to delay. The defendants have asserted several, minor procedural defenses and have not yet stated in court their position
on the basic elements of my case. For example, they are raising formal, petty and invalid arguments about authentication of a U.S. affidavit. They also formally raised an objection because my late brother's estate was not a party to this lawsuit, ignoring the fact that his will left all his rights to the art to me. Finally, the Hungarian government is asking the Court to impose a cost deposit requirement on me as a non-Hungarian litigant, although the government knows I am a Hungarian citizen in addition to being a U.S. citizen. If the cost deposit were imposed, I would be required to pay the Hungarian court several hundred thousand dollars to secure a claim by the government for legal fees. I believe the government is just trying to scare me away, but it will not work. However, most claimants of looted art in Hungary must deposit large sums before asking the court to decide their case.

Mr. Chairman, I am determined to do everything I can to obtain justice and recover my family's legacy. I would hope that a country clearly wishing to be a part of the West -- Hungary is a member of NATO and is seeking membership in the European Union -- would deal with the merits of claims such as mine for recovery of Holocaust Art rather than engaging in old, tired bureaucratic games. The Hungarian government should do what is right -- it should accept the conclusion of its own Experts Committee, acknowledge my ownership rights and negotiate an end to the lawsuit.

Yet this lawsuit is not just about me and my family's legacy but also about broader principles of right and wrong. The Hungarian government should do what is right for all owners and heirs of looted art. It should begin by acknowledging that it controls an unknown number of fine art pieces that were stolen from Jews and people of Jewish origin. It should make a serious and renewed effort to identify those artworks and
return them to their rightful owners. It should also provide a clear, short, workable process for all others who may wish to assert art claims -- a process that doesn’t require hiring lawyers or posting hundreds of thousands of dollars in bonds.

Instead, the Hungarian government has done everything it could to make it impractical or impossible for me to recover my paintings. My attorneys have pressed my claims both through diplomatic channels and the lawsuit, but the response from the Hungarian government has been uniformly discouraging. Hungary’s position is remarkable in that it differs from that taken by many other European countries which have faced the issue of returning looted Holocaust art. Germany, for example, has renewed its work on the principle that looted art must be returned. France, in recent years, has made exhaustive efforts to examine its museums and archives to determine what objects were stolen during World War II. Even the Russian Federation has passed laws recognizing victims of Nazi persecution. Hungary, however, continues to benefit from the horror involved in the exploitation of property stolen from Jews and people of Jewish origin during World War II. In effect, they are ratifying Eichmann’s actions. My hope is that Congress and this Administration would intervene in Hungary and advise the government in the strongest terms that its prize collections cannot be founded upon stolen art.

Thank you.
Testimony of
Ronald S. Lauder, Chairman
Commission for Art Recovery
World Jewish Congress
Before The
House Committee on Banking and Financial Services
February 10, 2000

Mr. Chairman, Mr. La Falce, thank you for the opportunity to address this committee’s second hearing on the subject of Nazi-looted art. As Chairman of the World Jewish Congress Commission for Art Recovery, I have been evaluating the problem and monitoring developments in the United States and in Europe. There have been many events; some promising and some that are dismaying. The Commission has been working on two fronts -- with claimant families and negotiations with the German government -- and we are looking at the picture to see how we can be most useful and effective.

I first confronted the issue of art stolen by the Nazis as U.S. Ambassador in Austria. In 1986, I was shown a huge cache of art stored at the Monastery of Mauerbach, near Vienna. It was stolen by the Nazis from Jewish families and never returned. Political pressure led to Austria passing a law to sell the art at auction for the benefit of survivors and Jewish charitable organizations. The Austrians said the works were third-rate and not very valuable, but the sale realized over $13 million.

I have been involved in restitution through my activities in many Jewish organizations: the World Jewish Congress and the World Jewish Restitution Organization among them. I am a member of the Volcker Commission that is overseeing the Swiss Bank settlement. Restitution from governments is a simple concept. Return property. No penalties. No interest. Just undo the grievous wrong that was done decades ago.

Among the heinous crimes of the Nazis, art theft is not the worst. No return of art, no material restitution can make the Jewish people whole, make up for the loss of lives, the destruction of family bonds, the death of the vital culture of Europe’s Jews. Through my foundation I have set up 58 educational and community programs to help revitalize Jewish life in fifteen eastern European countries. We reach 7,500 children and several thousand adults. I believe that each generation has a responsibility to right past wrongs as best we can. Theft of cultural goods was a crime at the Nuremberg Trials, and uncovering and telling the truth about it is an important component of Holocaust remembrance. Every demonstrated fact makes it harder to deny the Holocaust.

I took up the art restitution cause over two years ago at the request of the World Jewish Restitution Organization. Since then, the Commission for Art Recovery has been active on behalf of families, here and abroad. Through our research, we have helped
families locate art taken by the Nazis over fifty years ago. We found it in public and private collections in many countries, or traced it through an auction sale to a dealer. Identifying and locating is the essential first step in the process of return.

Last week, the North Carolina Museum of Art agreed to return a Madonna and Child by Lucas Cranach the Elder to two elderly sisters in Vienna. The museum had received it in the 1960’s as a gift, and it came to the museum at the owner’s death in the 1980’s. Until the sisters told the Commission for Art Recovery about the theft, no one had located the painting in sixty years. We found it. The family had good documentation, and the museum in Raleigh weighed the evidence. They returned it without a lawsuit. Ten months from start to finish. This is the first case I know of in which an American museum has returned Nazi-looted art to a claimant without court proceedings. It should be an example for other museums – here and abroad.

Raleigh is a long way from Vienna. The museum did not look the proverbial gift horse in the mouth. If they had, I am not sure that they would have been able to identify it back in the 1960’s as the property of this Austrian family. Today, museums would be more careful, and many museums now call on the Commission for Art Recovery for guidance in researching potential acquisitions.

I want to emphasize that art is different from other assets. Once stolen and re-sold, it can move around the marketplace, and around the world, without anyone taking much notice. In the last fifteen years the International Foundation for Art Research and the Art Loss Register have made that much more difficult. But because so many years have passed when the art world paid no attention, art that was taken by the Nazis or was sold under duress can – and does – turn up anywhere: Raleigh, Leipzig, Berlin, Seattle, and Chicago.

In art restitution, there are no “Swiss Banks” that retained assets in the face of survivors’ pleas; there are no insurance companies that demanded death certificates from the children of Jews who were gassed by the Nazis.

Although Jews who owned art were a minority, the systematic plundering of Jewish possessions by the Nazis is an important chapter in the Holocaust, and one that is not completely understood. In spite of the good work that has been done, national commissions, including our own, are taking a new look at the history. New research will expand on the work of Lynn Nicholas and Jonathan Petropoulos. Today the committee will hear from commissions from Holland and from the United States.

One of the most important areas for research is the history of the Jew Auctions held by the Nazis for the benefit of the Third Reich. Beginning in the mid-30s, Germany held auctions of Jewish collections. Before the war, these works were up for grabs. Anyone who wanted to attend and bid was free to do so; there was nothing illegal about doing business with Nazi Germany at that point. Many of the records of those sales are still classified by German authorities, and the Commission is pressing for the declassification of these documents. The world does not yet know the names of all the families whose
collections were stolen and dispersed in this way. In the Jew Auction catalogues, sometimes an asterisk before an item signals that it was "non-Aryan" property.

One family that came to the Commission for Art Recovery are the heirs of Gustav and Clare Kirstein, prominent citizens of Leipzig. Gustav was a principal in a distinguished art printing firm in Leipzig and a patron of artists. He was forced out of his business by the Nuremberg laws and died in the 1930's. His widow stored everything with art dealers in preparation for shipment to the United States. She hoped to join her daughters there, but when the Gestapo took her passport away in 1939, Clare Kirstein committed suicide. The family lawyer, a Jew who was reduced to functioning as a notary serving a greatly diminished population of Jews, authorized the 1942 auction of the Kirstein collection in Leipzig. The auction house, still based in Germany, answered the Commission's inquiry and told us that the proceeds of that sale went to the Reich. We identified more than fifty works from the Kirstein collection in the Museum of Fine Arts in Leipzig, and we have reason to hope that as a result of our discussions they will be returned. We found another in a museum in Hannover, and its return to the family is almost assured because of our efforts.

Before this Committee's first hearings on art, the world was aware of the unfinished business created by the Nazi art looting machine. We learned about the art that was returned to European countries after the war and how imperfectly the different countries dealt with the problem. Some are working now to clean up this unfinished business. But others are not.

Ten years ago, the world learned that thousands of works of art missing for fifty years had survived behind the Iron Curtain. As ArtNews revealed, Red Army Trophy Brigades took these home in 1945. They include masterpieces of Impressionism and Post-Impressionism as well as Old Master Drawings and Asian art and the Gold of Troy.

This art is still being held hostage in the Russian Federation. It is caught up in politics; the Russians refuse to return anything to Germany. However, many of the works of art that the Red Army took home from Germany did not belong to Germany or even to Germans. Instead, the Nazis took them from Hungary during Adolf Eichmann's heartless regime. He put the art on display in his headquarters at the Hotel Majestic and later sent them to Germany where the Soviets took them. Russia today is also holding art acquired by the Nazis in Holland and claimed by The Netherlands.

The Commission for Art Recovery is in touch with several families whose art is in Russia today, and we are planning to undertake negotiations on their behalf. We have also offered our good offices to Germany, since their discussions with Russia have stalled.

Hungary managed to keep a lot of art that the Nazis took from its citizens of Jewish descent. Martha Nierenberg is here to tell you about that.
Let me turn to Austria. I mentioned earlier that the government eventually agreed to the 1996 auction of the Mauerbach art. Austria’s legislature passed a good law in 1998, under the leadership of Elisabeth Gehrer, Minister of Culture. The goal was to identify works of art in Austria’s national museums that were taken from victims of the Nazis, and to return them to the heirs. I understand that the museum in Graz has just published a book on art it acquired under questionable circumstances.

Austria had a unique political history. It was governed as part of the Third Reich, during which time Jews were deprived of their possessions and their lives. After the war, the United States chose to view Austria as a friend. In those years, Austrian museums took possession of the art property of its surviving Jewish citizens. For those who had fled and chose not to return, the art was exacted as a quid pro quo for allowing them to export some of their other assets.

Under the new law, a special office was set up to look into the facts surrounding the museums’ acquisitions. It also established a committee to review the researchers’ findings and make recommendations. Now claimants knew where to write. From what we know, the responses were fairly prompt. The new law led rather quickly to the identification of almost 1,000 pieces of art, arms and armor, and decorative arts that had been “given” by the Austrian branch of the Rothschild family. These “gifts” were extorted. The art was returned and auctioned by the family at Christie’s last summer.

Many speakers praised Austria at the 1998 State Department Conference here in Washington. Sadly, those first cases were the exception, and other families have been denied the return of their art. I see this as part of the movement to the far right, and the party of Jörg Haider, whose pro-Nazi and anti-Semitic remarks have been widely quoted. Following the Rothschild returns, Austria selectively refused the claim of an American citizen, Maria Altmann, who is an heir to the Bloch-Bauer art collection. In this case, the committee recommended that the porcelain sets and pencil drawings could be returned, but it refused to return the magnificent portraits of her Aunt Adele, by Gustav Klimt. Elisabeth Gehrer immediately ratified the committee’s recommendation and invited Mrs. Altmann to sue in Austrian court. But with property as valuable as Mrs. Altmann’s Klimts, Austrian courts require a bond of half a million dollars just to get started. Yes, you heard me correctly.

Maria Altmann’s story has been submitted to the Committee and is included in the record.

It is terribly difficult for Maria Altmann or Martha Nierenberg to sue a government an ocean away. It is daunting, expensive, time-consuming, and dismaying, since courts are often not politically independent. Our Department of State, which took the lead in bringing 44 nations together for the Washington Conference and in drafting Principles on Nazi-Confiscated Art can -- and should -- do more. I believe that each relevant country needs a claimant friendly and transparent procedure. We proposed an Action Plan to Germany that can be modified for other countries (Appendix I): Our State Department should encourage countries to set up a procedure to put teeth into the Washington
Principles and make the words real. In some cases, countries that signed agreements with the United States after the war exaggerated their returns of confiscated property; it is time for the State Department to look into this and see that those claims are made real, even though it is fifty years later.

In France, Hector Feliciano publicized the situation. He was especially effective in getting the French government to focus on the works of art it held for fifty years without even trying to find the pre-war owners. By dispersing it among many museums, the French made it almost impossible for a Nazi art theft victim to find his property. Largely because of Feliciano's goading, the National Museums posted all these works of art on the Internet.

The French government set up a national commission to research the role that France played during the occupation and after the war. The Matteoli Commission has issued interim reports; the final report is to be issued this month. The art report will take a few months more and is expected in April. France still must account for 13,000 works of art found in Germany that American forces returned to France along with some 45,000 that France identified and returned to their pre-war owners. France did not bother to research the ownership of the 13,000 and auctioned them after the war. These works of art, perhaps taken from France's Jewish citizens and residents, were not deemed to be museum quality. How much money went into the national treasury as a result is yet to be determined by the Matteoli Commission.

The Commission has been in discussions with German officials in the Ministry of Culture and with Minister Naumann for eight months. Germany also has a group of unclaimed works of art that it calls the Linz List, in the belief that the works were acquired for the world-class museum that Hitler planned for his boyhood hometown of Linz. When Germany's unilaterally determined period of restitution ended in 1962, the art was put on display for museum directors. Over the next 20 years, the art was dispersed -- lent to 102 museums and more than 50 government offices. No list was available. If a claimant imagined that their art survived the war and might be in Germany, it was unclear how to determine if it was. The art is administered by the Finance Ministry; upon request, they provided the Commission for Art Recovery with a computerized list of about 2,200 works of art. However, a German government press release in November referred to 13,000 works of art, and no one has been able to explain the huge gap in the numbers.

Some German museums have been honest about art in the inventories that they know or believe were taken from Jews, and almost all have been responsive to the Commission's queries on behalf of claimants. The museum in Mainz, for example, published over 30 paintings in one of its catalogues that it actually states were "Taken from Jewish possession between 1933 and 1945." Recently, the consortium of Berlin museums has returned art to the heir of Max Silberberg. Others have returned art from the Littmann collection to the heirs. A museum in former East Berlin has published a booklet with paintings of doubtful provenance in its collection. The Bavarian State Museums had undertaken a provenance review of its vast collections. Our months of
negotiations with the Ministry of Culture hastened the release in December of a statement
issued by all German museums “On the Tracing and Return of Nazi-confiscated art,
Especially from Jewish Property” (Appendix II). Although it is an important step, we
were disappointed with its tone. It begins by reviewing Germany’s good works in this
field (which ended by Germany’s unilateral decision in 1962) and then declares a number
of good intentions. But each intention is modified with a “where applicable” or “when
appropriate” -- and all to be decided by the current possessor of the art and the
information! I only wish the German museum community had asked to hear the point of
view of the victims. They would have found out how unfriendly and bureaucratic their
well-meaning words seem to a family shut out of the process for 50 years and still
haunted by the Nazi past.

In its discussions with the German Ministry of Culture, the Commission presented an
Action Plan to create a straightforward and simple procedure for claimants. I am happy to
say that Minister Naumann personally wrote to me last week to tell me of the adoption of
most of our suggestions. Just two days ago, one of the ministry’s officials wrote to the
Commission’s director to provide even greater detail on many of the new programs. He
credited our meetings and suggestions with many of the steps Germany will take.
Germany will set up a central office for claims with substantial funding from the federal
government and a committee to oversee its operations. We urged the publication of the
so-called Linz List on the Internet. In March, Germany will put the list on the Internet,
with English translations of the titles provided by the Commission. At last, claimants
whose art is missing may be able to locate it. Our discussions continue, and with the
good will that exists on both sides, we will bring about the necessary changes to make the
appropriate art returns from Germany.

I believe that Minister Naumann will continue to use his influence to bring about
major changes Germany and clear up this unfinished business. This week, The Jerusalem
Post published an interview with him (Appendix III). Minister Naumann is clearly
sympathetic to our suggestions and is moving forward with them. With modifications, the
Action Plan could serve well for other European countries whose governments are still in
possession of art taken from Jewish owners.

Radio Prague announced that museums in the Czech Republic will be looking into
their inventories, and I hope that all museums will do this, including those in countries
that were not invaded. Museums are public institutions, and no part of their collections
should be based on theft.

I hope this report gives the Committee a sense of the developments as we have been
following them. Much remains to be done. I urge our State Department to work with
each country to set up a procedure with the advice of those who understand the point of
view of victims whose suffering began under the Nazis.

Thank you.
Appendix I

ACTION PLAN

1. It is the policy of the Federal Republic of Germany that, in recognition of its moral obligation arising out of the Nazi persecution of Jews, (i) all works of art taken from Jewish owners during the period 1933-1945 by the National Socialist regime that are currently held or controlled by the Federal Republic and federal organizations shall be returned to their rightful owners, and (ii) no legal technicalities, such as statutes of limitations, preclusion periods or postwar global settlements shall impede the return of this art. The art includes, but is not limited to, art forcibly taken from Jewish owners, art that Jewish owners were forced to sell at distress sales, art sold at “Jew auctions” and art that Jewish owners were prompted to relinquish. The government of the Federal Republic regards morality as the primary basis for the restitution of works of art to families dispossessed by the National Socialist regime for reasons of race, politics, religion, or other beliefs.

2. The government of the Federal Republic will take an active role, in cooperation with the Commission for Art Recovery, to seek out the rightful owners (or their heirs) of art with a dubious provenance during the years of 1933 - 1945. Toward this end, the government has undertaken, as announced on November 15, 1999, to assure the publication on the Internet of a catalogue of the art known as the “Linz Collection.” These works of art were mostly acquired for Hitler’s planned museum in Linz. Today, the Linz list comprises approximately 13,000 objects of varying quality and includes paintings, works on paper, sculpture, tapestries, carpets, furniture, decorative arts, manuscripts, books and rare coins. Among the most valuable objects are 1,500 paintings, including works by major Italian and Flemish artists from the 16th and 17th centuries as well as Austrian and German 19th century art. The Linz Collection was administered by the government and, by 1982, was dispersed among German museums and federal organizations, making it difficult for a potential claimant to identify his property. This Internet catalogue will illustrate each artwork and provide for each item the name of the artist, the title of the artwork and, to the extent available, its provenance. In addition, the Internet catalogue will “user-friendly” search mechanisms. The availability of the catalogue will be widely advertised internationally by the Federal Republic in leading newspapers, media and on the Internet. The government of the Federal Republic anticipates publication of this catalogue in March of 2000. The catalogue will also be periodically updated with additional information as it becomes available.

3. The government of the Federal Republic will facilitate and coordinate the return of the art currently held or controlled by the Federal Republic and federal organizations. A “Claims Office” will be designated as the central clearinghouse for the receipt of all inquiries by claimants for art, in effect, a “one-stop shop.” The Claims Office will be a cooperative effort of the Federal Government and the Länder. The office will coordinate a review of archives, records and other materials that may have any bearing on any inquiry or claim. Within the next few months, to further assist claimants in the claims process, a “Guide to the Art Claims Process” will be published and widely
distributed in print and on the Internet. The guide will explain in detail the claims process and provide the addresses, telephone and facsimile numbers and email addresses for the contact persons in the Claims Office. The Guide will also detail examples of the documentation or other evidence that will be required to substantiate a claim for art; but it will also make clear that such examples will not be exclusive and that other evidence will also be considered. Each claimant will receive a written response from the Claims Office within three weeks of receipt of the claim. The response will either acknowledge the validity of the claim and request the claimant to contact the Claims Office to arrange for the return of the art or will, clearly and in detail, explain what type of further documentation to substantiate the claim may be needed. The response will include the name of an official to contact to resolve any issues concerning the claim. Art that is confirmed as belonging to a claimant will be promptly returned to the claimant. If the claimant or other owners of the art have previously received compensation for the art, such compensation shall be repaid (without interest) to the federal government. The claims process shall continue for a reasonable period of time.

4. The government of the Federal Republic recognizes that many new sources of information have become available in recent years, and art that is currently held or controlled by the Federal Republic or federal organizations that may have been the subject of a lump sum or “global” settlement with any successor or restitution organization will be returned to proper claimants notwithstanding the terms and conditions of any such prior settlement. The government of the Federal Republic will make available records of art that was subject to such global settlements.

5. The Federal Republic has worked with the Länder and local governments to develop a joint statement of principle on the restitution of art looted from Jewish families by the Nazis. This statement will provide a framework, within the guidelines of the Washington Conference on Holocaust-Era Assets, for the identification and restitution of Nazi-looted art.

6. After the completion of the claims process, art that is not claimed after a reasonable period of time shall be turned over to the Conference on Jewish Material Claims Against Germany, as successor organization, for disposition.

7. The Federal Republic may acquire any art that is not claimed after a reasonable period of time by payment of prices to be agreed upon with the Conference on Jewish Material Claims Against Germany. As a matter of historic soundness, the Jewish provenance of such art, as well as its acquisition by the Federal Republic, will be noted in an appropriate form (e.g., plaques, etc.) if such art is publicly displayed in museums, government offices or other public institutions.

8. The Federal Republic will prepare periodic (but at least semi-annually) reports for the public on the progress of the return of the art. These reports will be published in print form and will be made available on the Internet.
9. In order to provide for the protection of United States claimants, procedures will be adopted to ensure that the return of any art to citizens of the United States will be compliant with the tax-exemption provisions of the United States-Federal Republic of Germany Income Tax Convention of 1989. Similar procedures will be adopted for art returned to citizens of other countries, whenever applicable.

10. The Federal Republic believes that the art taken by the Soviet forces as the result of World War II includes many works of art looted by the Nazis from Jewish families. The efforts of the Federal Republic and the Länder to recover this art is an integral part of their program to restitute art to rightful Jewish owners. To the extent that any of this art is returned to Germany, the Federal Republic will handle this art in accordance with the principles set out in this plan, and, in particular, paragraphs 2, 3 and 6.
Appendix II

Statement
by the Federal Government,
the Laender (Federal States) and
the national associations
of local authorities
on the tracing and return
of Nazi-confiscated art,
especially from Jewish property

of 14 December 1999
(text as of 9 December 1999)

English version provided by the German Chancellor’s Office to the
Commission for Art Recovery

In accordance with the requirements of the Allied restitution provisions, the Federal Act
on Restitution and the Federal Indemnification Act, the Federal Republic of Germany has
fulfilled merited claims on grounds the confiscation of works of art by the Nazi regime
after WWI, and set up the necessary procedures and institutions for enabling persons
entitled to such indemnification to enforce their claims vis-à-vis other parties liable to
restitution. The claims primarily arose to those who immediately suffered damage and
their legal successors or, in case of Jewish assets without heirs or Jewish assets that were
not claimed, to the successor organisations established in the Western zones and Berlin.
The material restitution was effected either on a case-to-case basis or by global
settlement. The restitution law and the general civil law of the Federal Republic of
Germany thus finally and comprehensively provide for issues of restitution and
indemnification of Nazi-confiscated art, especially from Jewish property.

In the German Democratic Republic (GDR) the compensation pursuant to Allied law of
wrongs perpetrated under National Socialism did not go beyond a rudimentary stage. In
the course of German reunification, the Federal Republic of Germany has undertaken to
apply the principles of restitution and indemnification law. Nazi-confiscated art was
returned or indemnified in accordance with the provisions of the Vermögensgesetz
(Property settlement Act) and the NS-Verfolgtenentschädigungsgesetz (Federal
Indemnification Act concerning persons who suffered damage at the hands of the
National Socialist regime). Thanks to the global filing of claims on the part of the
Conference on Jewish Material Claims against Germany Inc. (JCC) in its capacity as
today’s association of successor organisations claims situated in the accession area with
regard to cultural property of Jewish parties having suffered loss. As formerly in the
West German Laender, material indemnification on a case-to-case basis was sought;
where this was not possible, compensation was effected by global settlement.
Irrespective of such material compensation, the Federal Republic of Germany declared its readiness at the Washington Conference on Holocaust-Era Assets on 3 December 1998 to look for and identify further Nazi-confiscated cultural property in so far as the legal and factual possibilities allow and, if necessary, take the necessary steps in order to find an equitable and fair solution. Against this background, the decision by the Foundation Board of the Prussian cultural Heritage Foundation of 4 June 1999 is welcomed.

The Federal Government, the Länder and the national associations of local authorities will bring their influence to bear in the responsible bodies of the relevant statutory institutions that works of art that have been identified as Nazi-confiscated property and can be attributed to specific claimants are returned, upon individual examination, to the legitimate former owners or their heirs, respectively. This examination includes a match with material compensation already provided. Such a procedure allows to identify the legitimate owners and avoid duplicate compensation (e.g. by repayment of compensations already paid).

The relevant institutions are recommended to negotiate the extent and procedure of return or other material indemnification (e.g. in the form of permanent loans, financial or material equilisation) with the clearly identified legitimate former owners or their heirs, respectively.

II.

The German public institutions such as museums, archives and libraries have supported the tracing of Nazi-confiscated art already in the past by means of

1. exploitation of and access to the data research findings and records available to them
2. investigations in case of concrete inquiries and research, on their own initiative, in case of new acquisitions
3. search activities in the framework of the institutions' tasks
4. providing information on the history of Nazi-confiscated art in collections, exhibitions and publications.

These efforts shall be carried on wherever there is sufficient reason.
Furthermore, the Federal Government, the Länder and the national associations of local authorities consider in accordance with the principles of the Washington Conference to provide a website on the Internet with information on the following:

1. What the institutions involved can do for publicising art of unclear origin to the extent that is presumed to have been confiscated by the Nazis.

2. A search list in which every claimant may enter the items he is looking for and thus report for investigation by the relevant institutions and the interested public.

3. Information on the transfer abroad of Nazi-confiscated art during or immediately after the war.

4. Establishing a virtual information platform where the interested public institutions and third parties may enter their findings relating to the tracing of Nazi-confiscated art in order to avoid duplicate work on the same subjects (e.g. at which auction was Jewish cultural property of which collection sold?) and make such information available by the way of fulltext retrieval.

This statement refers to archives maintained by public institutions, museums, libraries and their inventory. The public bodies funding these institutions are called upon to ensure the implementation of these principles by taking decisions to this effect. Institutions under private law and individuals are called upon also to apply the principles and procedures laid down at the Washington Conference.
Appendix III

The Jerusalem Post, February 7, 2000

"PLUNDERED ART ON THE LINE: Germany will inaugurate a Web site to help restore Nazi-looted art to its rightful owners"

By Marilyn Henry

Germany's culture minister is cleaning house.

Michael Naumann, intending to root out Nazi-looted art, called on all major German museums to inspect the provenances of the artwork in their possession to ensure they are "clean." Those that are not are destined for the Internet.

"We are amassing a list on the federal museum level of pictures and artwork, including coin collections and artifacts, that have dubious provenances, either because they come out of the so-called Linz collection of Hitler and his henchmen or because they were found in depots with unclear provenances," Naumann said.

The materials are being reviewed at a center in Magdeburg by art historians and other experts, who also are investigating millions of artworks, books, and artifacts that were plundered after 1945 by the Soviet occupation forces in East Germany.

Next month, the ministry plans to publicize the data, including pictures, online. "The intention of the Web site is to find the real owners of the artifacts and the books," he said.

The German initiative is but one aspect of massive but inconsistent series of efforts by a number of nations, with varying degrees of enthusiasm, several Jewish organizations, and an assortment of art trackers and lawyers--to restore Nazi-looted art to its rightful owners.

In December 1998, some 40 nations meeting at a US State Department conference on Holocaust-era assets produced an 11-point agreement known as the Washington Principles. The nonbinding guidelines included a call to open museum archives to facilitate provenance research, public announcements of unrestituted works, and steps for reaching a "just and fair solution" for looted works whose owners cannot be identified.

"The Foundation of Prussian Cultural Properties, which includes the great museums of Berlin - for instance, the Pergamon Museum - within a year of the new government returned artwork worth more than DM 20 million to the original owners," Naumann said in an interview last week in Stockholm, where officials from 46 nations convened for a conference on Holocaust education and research.
The artwork that set the tone was a Van Gogh sketch, L'Olivette, which was removed last June from the National Gallery of Berlin and given to the surviving heir of a Breslau art collector whose work was sold at a Nazi-era "Jew auction" before he was sent to Auschwitz. In December it sold at auction, at Sotheby's, for almost 5.3 million pounds - double its estimated value.

The German initiative also has a wide definition for what constitutes loot.

Many Nazi victims previously had lost the rights to claim their property because, technically, they had sold it, albeit at bargain-basement prices. Those types of sales, while under compulsion, had the veneer of legal transactions, leaving the owner without the chance to recover the work.

That has since changed.

"The Germans have now agreed to pursue a policy in which German Jewish losses after January 1933, in general, have to be considered 'forced losses.' Claimants don't have to prove that they didn't voluntarily sell their art but were forced to sell," said Willi Korte of Washington, a highly experienced investigator of looted art. "This opens the field for claims considerably."

Naumann gave no indication of what standards of proof would be required of claimants. The ministry will be on guard against fraudulent claims, but cannot be so rigid that it precludes a legitimate claim by an owner or heir who lacks documented proof.

When asked how he intends to strike that balance, Naumann said: "Solomonically."

"That's an issue that pertains not only to claims of originally Jewish ownership," he said. "It pertains to every claim. All the museums in the world are full of artwork that once belonged to someone else, and not all of them came into the museums in a legally clean, late-20th-century manner with a 20-page contract signed by a lawyer."

Museums originated as houses of war trophies, "and the attitude of gathering trophies is fully alive and kicking in other nations," Naumann said. He was referring to Russia, where the Duma passed a law that declared its looted "trophy art" to be constitutional.

Many of the works in Russia are art that was originally owned by Jews, confiscated by the Nazis, and then taken by the Russians.

Naumann assailed the Russians for reneging on a statement made at the 1998 Washington conference in which it said it would restore Jewish art to the rightful owners. "But for that purpose they would have to actually publish a complete list and they are not doing that yet," he said.

Germany has not yet set a deadline for claims, nor is there a plan to dispose of heirless looted art. "Once we come to the bridge, we will cross it," said Naumann.
Naumann's actions appear to be independent of another German initiative that deals with property claims, a DM 10 billion government-industry proposal to compensate Nazi-era slaves and forced laborers and settle claims against Germany for confiscated assets.

At talks this week in Washington, advocates for Nazi victims specifically asked that cultural property, including claims for art, be excluded from the proposal, in part because many artworks have yet to be located or be identified as plunder.

Coordinating a national approach to Nazi loot was complicated in Germany because postwar institutions are not under the centralized control that characterized the Third Reich.

"One of the great achievements of our [postwar] constitution is that the cultural ministry of each state is totally independent," Naumann said. "Therefore, getting together on this issue has taken a year. But now we've succeeded in persuading the Laender [the states] to form a unified force."

While the German states have a coordinated approach, that is not true across Europe. France and Austria also are active in identifying possibly looted art. France's system is centrally controlled, allowing the state to dictate to all museums. Austria passed legislation to accelerate restitution, which led to the return of an art collection belonging to the Rothschild family.

The absence of a universal system, however, retards the search for looted art, which easily crosses borders in both legal and illegal transactions.

"I think it is a subject that could and should be brought up in the European council of cultural ministers," said Naumann, "but I do not deem it to be the role of Germany to be the hector and lecturer on this."

end
To: All Members
Committee of Banking and Financial Services

From: James A. Leach
Chairman

Subject: Restitution of Holocaust Assets

Wednesday, February 9 at 10:00 a.m. and Thursday, February 10 at 10:00 a.m.
2128 Rayburn

The Committee will hold two days of hearings on issues related to the restitution of Holocaust victims' assets. German forced and slave labor, dormant accounts in Swiss banks, unpaid insurance claims and stolen or extorted art objects are the principal subjects of the these hearings. Unless circumstances warrant otherwise, these will be the Committee's last hearings on Holocaust-related matters.

On Wednesday, February 9, the Committee will hear testimony from Deputy Treasury Secretary Stuart Eizenstat and German Chancellor's Representative Otto Lambsdorff about the proposed resolution of claims by forced and slave laborers against the German government and industry. The Committee will also hear a report from Paul Volcker, Chairman of the International Commission of Eminent Persons, which conducted a detailed search of Swiss banks for dormant accounts belonging to Holocaust victims and their heirs. Leaders of major Jewish organizations have been asked to comment on both settlements.

On Thursday, February 10, the Committee will take up the question of unpaid insurance policies held by Holocaust victims, with a report from Lawrence Eagleburger, Chairman of the International Commission on Holocaust-Era Insurance Claims. He will be followed by museum directors from the U.S. and Europe and other expert witnesses, who will brief Committee members on efforts to identify looted art objects and return them to their rightful owners.

The following witnesses will testify at the hearing:
Wednesday, February 9, 2000

Panel 1
- Stuart Eizenstat, Deputy Secretary, Department of the Treasury
- Otto Count Lambsdorff, Special Representative of the Federal Chancellor for the Foundation Initiative of German Enterprises

Panel 2
- Paul Volcker, Chairman, Independent Commission of Eminent Persons

Panel 3
- Rabbi Israel Singer, Secretary General, World Jewish Congress
- Gideon Taylor, Executive Vice President, Conference on Jewish Material Claims Against Germany
- Avraham Hirchson, Chairman, Knesset Committee for the Return of Jewish Property
- Roman Kent, Chairman, American Gathering of Jewish Holocaust Survivors
- Miles Lerman, Chairman, U.S. Holocaust Memorial Council
- Rabbi Andrew Baker, Director of European Affairs, The American Jewish Committee

Thursday, February 10, 2000

Panel 1
- Lawrence Eagleburger, Chairman, International Commission on Holocaust-Era Insurance Claims

Panel 2
- Earl Powell, Director, The National Gallery of Art, Washington
- Glenn Lowry, Director, Museum of Modern Art, New York
- Lyndel King, Director, Weisman Art Museum, Minneapolis
- Sharon Page, Head of Secretariat, Tate Gallery, London
- Jonathan Petropoulos, Researcher, Presidential Advisory Commission on Holocaust Assets in the U.S.
- Ron Tauber, President, Art Loss Register

Panel 3
- Martha Nierenberg, art collector
- Ronald Lauder, Chairman, Commission for Art Recovery
I appreciate this opportunity to appear before the Committee on Banking and Financial Services to inform you about the results of the investigation of accounts in Swiss banks of victims of Nazi persecution that was conducted by the Independent Committee of Eminent Persons ("ICEP"). I have been privileged to have been invited on two prior occasions to report on the progress of this investigation, once in December 1996 when the investigation was getting started, and again at the end of June of the following year when preliminary work had just been completed. Our investigation utilizing full scale on-site forensic audits of all relevant Swiss banks, was finished in the middle of last year. ICEP's Report and recommendations were made public on December 6, 1999, at a press conference held in Zurich, Switzerland.

The House Banking Committee has taken a major interest in the ICEP investigation as part of your broader focus on the financial and moral
consequences of the Nazi reign of terror in Europe. These efforts have, in turn, been part of an examination of World War II conduct encompassing the United States, as well as other countries. As you so clearly stated, Mr. Chairman, at the opening hearing in December 1996, the restitution of assets of victims of Nazi persecution is an issue of fundamental equity and justice.

In reporting on the results of the ICEP investigation today, I would like to take you through a series of charts that provide a detailed review of the ICEP Report. Before beginning this review, I will put things in context by briefly summarizing the findings of the report and evaluating the significance of these findings. Then I will conclude my initial remarks by describing the ICEP recommendations and the steps that are necessary to implement them.

The ICEP investigation was a remarkable project. It was initiated by an agreement between private parties, the Swiss Bankers Association and the World Jewish Restitution Organization (together with the World Jewish Congress and allied organizations) with the aim of getting to the bottom of the controversy that has surrounded this subject for so many years. The three members and two alternates from each of the two appointing groups then selected me to serve as their Chairman. Auditors from five of the
The largest international accounting firms were mandated to carry out a comprehensive investigative strategy developed by ICEP. The strategy basically involved the establishment of a documentary record of the accounts in Swiss banks that were open or opened during the period from 1933 to 1945. This comprehensive record could then be examined to determine which of those accounts were "probably or possibly" opened by victims of Nazi persecution and the ultimate disposition of these accounts.

The auditors estimated that a total of 6.8 million accounts existed in Swiss banks during this period. Of this estimated total, some 4.1 million names of account holders and, in many cases, other relevant information, were identified. The end result of an elaborate filtering process was the determination that 54,000 accounts were identified as "probably or possibly" related to victims, a number many times as large as that emerging from previous Swiss investigations.

I emphasize the words "probably or possibly" because, except in a relatively few cases, after more than half a century, we were not able to identify with certainty an irrefutable relationship between victims and account holders. As explained in the charts forming a part of my presentation today, in the absence of sufficient personal data in the now available records to make positive identifications of account holders, we
used various forms of evidence to establish reasonable connections between account holders and victims of Nazi persecution. These connections warrant the evaluation of these accounts in a claims resolution process. About three-fifths of them had been closed under circumstances that deserve greater scrutiny in this process.

As another important task of the investigation, we examined and assessed the treatment of accounts of victims by Swiss banks. Intensive investigation by our auditors did not find general evidence of systematic destruction of records of victim accounts, organized discrimination against their accounts, or concerted efforts to divert the funds of victims to improper purposes.

Nevertheless, we did find confirmed evidence in individual banks of questionable and deceitful actions in the handling of the accounts of victims, including withholding of information from Holocaust victims or their heirs about their accounts, inappropriate closing of accounts, the failure to keep adequate records, many cases of insensitivity to efforts of victims or heirs of victims to claim dormant or closed accounts, and a general lack of diligence -- even active resistance -- in response to earlier private and official inquiries about dormant accounts.

When our work began, in this room there were some doubts stated
about our ability to get the job done. There was concern expressed about the lack of subpoena power, the structure and funding of ICEP, the scope of access to relevant documents, and about responsibility for reporting any impairment of access. I can now tell this Committee that the ICEP investigation was thorough, probing, and relentless in its search for relevant information.

I can also tell you that on the whole we had sufficient cooperation to allow us to do as complete a job as is now possible after sixty years. In most cases we found willing cooperation, including the large internationally active commercial banks. One measure of this cooperation can be found in concrete form in the full funding of the investigation by Swiss banks in an amount of about $200 million. I particularly would like to express my appreciation for the cooperation extended by the Swiss Federal Banking Commission ("SFBC"), and its Chairman, Mr. Kurt Hauri, especially by designating our investigation as a "special audit" under Swiss banking law, underlining the clear official support for our effort. In concluding our Report, all members of ICEP expressed their confidence that this subject has now been fully investigated and analyzed. In that sense, ICEP's work is completed.

There is, however, still much that has to be done to satisfy legitimate
claims to dormant accounts in Swiss banks. The Claims Resolution Tribunal ("CRT"), which is supervised by a Board of Trustees composed of some of the members of ICEP including myself as Chairman, was established in 1997. Composed of seventeen distinguished arbitrators, the CRT is finishing its work on the 5,570 dormant accounts identified by Swiss banks in 1997 and prior years, and published at the urging of ICEP in 1997.

The work of resolving claims to the 54,000 accounts identified in the ICEP investigation, in fact of all claims of victims of Nazi persecution to accounts in Swiss banks, must now go forward promptly. ICEP has always proceeded on the assumption that the accounts identified in its investigation would be adjudicated in the CRT as an independent and impartial forum, and has proposed that the established CRT provide that forum.

ICEP has made important recommendations on how this should be done.

- The SFBC should promptly authorize consolidation of the existing but scattered auditor workpapers and databases (established during the ICEP investigation) relating to 4.1 million accounts open in the 1933-1945 period, and assembly of them into a central archive that can be used in a claims
resolution process;

- The SFBC should authorize publication of the names of holders of approximately 25,000 accounts having the highest probability of a relationship to victims of Nazi persecution.

- Any person with a claim to a dormant account of a victim, whether or not the name is published, should be provided facilities for resolving such claims through the CRT. Existing claims compiled by the New York State Holocaust Claims Processing Office and others should be matched against the centralized database of accounts, and resolved by the CRT; and

- To provide a fair return to victims (and their heirs), whose accounts became de facto illiquid, individual account values should be adjusted on the basis of long-term Swiss rates of interest, involving multiplying 1945 account values by 10 times.

The decisions on the centralized archive and on the publication of account names need to be taken promptly so that the claims resolution process can begin. Those who have waited so long for accounts to be identified should not have to endure a long wait for the commencement of claims adjudication. These decisions on archive centralization and
account publication are in the hands of the Swiss Government. We understand that a consultation process has begun and that a decision is scheduled for next month.

The precise role of the CRT in the resolution process has been a matter for discussion with the U.S. District Court overseeing the settlement of the class action suit against the Swiss banks brought in the United States. I believe there is a clear sense that the ICEP recommendations should be implemented. On that basis, plans are being made by the CRT for the mechanics of publication of account names, the preparation of claim forms, and the development of systems for the processing of these claims.

What remains is a decision on the funding of the CRT. While not specified in the original memorandum establishing the ICEP investigation, the thrust and spirit of the effort strongly suggests substantial Swiss bank participation in this funding. Clearly, the bottom line cannot finally be drawn under this entire problem until the claims resolution process is successfully completed, a matter, it seems to me, at least as important to Switzerland and the Swiss banking community as to any other interested party.

Finally, before beginning the chart presentation, I would like to note the close relationship between the work that needs to be done to adjudicate claims to individual accounts of victims of Nazi persecution in Swiss banks
and the class action settlement of Holocaust victims claims now being administered by Judge Edward R. Korman, U.S. District Court for the Eastern District of New York. The class action settlement sets the upper limit of $1.25 billion on the liability of Swiss banks to Holocaust victims. Under the settlement, claimants to deposit accounts have a priority among the various classes of eligible beneficiaries of the settlement, and awards made by the CRT to claimants for deposits in Swiss banks will be deducted from the payments made by the defendant Swiss banks towards fulfilling their $1.25 billion obligation.

In the judgment of ICEP, claims of victims or their heirs entitled to awards can be satisfied within the settlement amount agreed in the Court proceeding. However, the work of the CRT needs to be closely coordinated with the other elements of the administration of the settlement. To this end, we are working closely with Judge Korman, with the Special Master, Mr. Judah Gribetz, appointed by Judge Korman to develop a plan of distribution of the settlement, and with the Parties to the settlement.
Good afternoon, Mr. Chairman and distinguished members of the Banking Committee. On behalf of the Trustees of The Museum of Modern Art, I want to thank you for this opportunity to discuss the significant progress made by American art museums in resolving the fate of works of art stolen by the Nazis between 1933 and 1945.

Let me begin, as I did when I had the honor of testifying before this Committee two years ago, with an unequivocal statement: The Museum of Modern Art does not, and will not, knowingly exhibit stolen works of art. Like our sister institutions, we maintain our collections with scrupulous regard for our professional and ethical obligations.

Within that context, it is crucial to understand the enormous complexity and practical realities of resolving issues of provenance. Questions of provenance are nearly as old as the history of art, and rare is the museum that has never had to address the possibility that someone may claim a cherished work on public view as their personal property. Museums have been able to address conflicting ownership claims responsibly and ethically, and these long-standing professional practices will continue. In the unique context of Nazi depredations, museums must be able to assure themselves and the public they serve that they have good title to the art in their collections.

I would like to spend a few minutes describing what the American art museum community has done to address this important question since several of us last appeared before this Committee. As we promised you two years ago, the Association of Art Museum Directors (AAMD) created a task force chaired by Philippe de Montebello, Director of the Metropolitan Museum of Art in New
Within a short period, this task force, on which I was honored to serve, developed guidelines that were accepted by all of the major art museums in the United States. These guidelines have also served as the basis for the recommendations of the 1998 Washington Conference on Holocaust-Era Assets and for additional guidelines promulgated by the American Association of Museums, a group representing 3000 museums of all kinds.

The guidelines call upon American museums to conduct a comprehensive review of their collections to ascertain if any works were unlawfully confiscated during the Nazi era and never returned. To the extent that problems come to light, the guidelines provide a framework for museums to address them candidly and responsively.

As new information has become available through the efforts of researchers and archivists around Europe and the United States, we have incorporated that data in a systematic review of our collections and we will continue to review our holdings as more information emerges.

At MoMA, we have committed several members of our curatorial staff to provenance research, and we have added full time staff dedicated solely to provenance research. We have also greatly increased the level of scrutiny we give to new acquisitions, whether by gift, purchase, or bequest. Other American art museums have taken similar measures.

Working with newly available archival and historical resources, museums have added depth and breadth to the understanding of their collections. We have also worked with our European colleagues, who are also making efforts to address potential problems with works of art in their collections. Several European governments, too, have taken the initiative to transfer from national collections to their rightful owners looted works that were never returned after World War II. Although much remains to be done, we are seeing an increasing awareness and sensitivity on both sides of the Atlantic, and activity on this issue on a scale that no one could have predicted even two years ago. Our staff has met with people involved with research and restitution
programs in Germany, Austria, Switzerland, France, Poland, Russia, Britain, the Netherlands, and even Australia. We have exchanged information with researchers, art historians, reporters, lawyers, art dealers, auction houses, and political leaders. These efforts will continue because they are an integral part of our educational mission, and because they are part of our relationship with the communities we serve.

It is gratifying and encouraging to be able to report to you that despite the enormous devotion of resources to this issue, American museums have to date discovered very few problems with their collections. More important, when problems have appeared, we have squarely addressed them. At the Modern, for example, despite an enormous amount of scrutiny both from ourselves and from the press and others, we are not aware of a single Nazi-tainted work of art in our collection, of the more than 100,000 we hold.

That is not to say there are no serious questions, but the key is that, following the AAMD guidelines and in cooperation with our European colleagues, we have the mechanism and the will to resolve whatever questions arise. By way of illustration, I would like to describe for the Committee the process the Modern followed in the single instance to date where we faced the possibility of a problem with a work in our collection. About a year ago, I received a letter from the representative of a major European collection. His letter raised the possibility that a painting that the Museum had owned for many years, a gift from a prominent American family, had been taken from his family before or during the Second World War. We immediately responded, and agreed to conduct a full investigation. He made his information available to us, a photograph of the painting hanging in his relative's home, and certain transportation records created by the Nazis. With his cooperation, the Museum undertook a huge amount of research in an effort to establish, among other issues, when the photograph was taken, whether the painting in the photograph is the same as the one in our collection, and whether the picture was sold before the war to another collector in Sweden. We made all of this information available to the family. I am pleased to report that in this year long, ongoing inquiry, we have had unstinting assistance from a
number of European sources, including Musée National d'Art at the Pompidou Center in Paris and an important Swedish archive. We, and the potential claimant, are working together in good faith, and on a confidential basis, both of us knowing that we will reach a mutually satisfactory result. If the picture turns out to have been taken from his family and never returned, we will act responsibly, appropriately, and promptly.

I do not want, however, to leave you with the impression that every problem that arises has an easy solution. Often the issues involved are complex and knotted in difficult questions of inheritance and post-war restitution. Take, for example, the two paintings by Egon Schiele that were part of an exhibition of Schiele's work on display at The Museum of Modern Art from the Leopold Foundation in Vienna.

On New Year's Eve, 1997, The Museum of Modern Art received letters from two families claiming to be the rightful heirs of two different paintings in the exhibition. We had exhibited both of the paintings, along with about 150 others by the same artist, without incident at the Museum for three months. We had no reason to believe that there was any cloud on the paintings' past. Both of the pictures had been exhibited around the world for decades, and both had been reproduced frequently in books.

The exhibition closed on schedule, but the two paintings remained in New York because the Manhattan District Attorney subpoenaed the pictures. For the last two years, we have fought a protracted and ultimately successful battle in the New York State courts. Our point was not that one side or the other was the proper owner -- a museum is neither equipped nor empowered to serve as judge and jury in a dispute over other people's property -- but rather that current New York State law protects works of art on loan for public exhibition from any kind of seizure.

Although we had assumed from the start the good faith of the people claiming the pictures, it now appears likely that neither family had a bona fide claim. In the case of one of these two claims,
the painting was claimed by a former reporter for The New York Times. As it turned out, her claim was based upon her being the widow of a son of the pre-war owner's cousin, who in turn was not an heir to the painting.

The other claim is even more convoluted. The man who asserted his family's rights in the painting wrote to us about his vivid recollections of seeing the picture in his aunt's house in Vienna before the war. But, according to the pre-war owner's grandson, the claimant never saw the painting, never set foot in the house in Vienna, and is not, as a matter of fact, an heir -- a fact the claimant recently conceded in a British newspaper interview. Despite all this, the U.S. Justice Department has commenced a forfeiture proceeding to reclaim this alleged heir's painting, making it almost impossible to engage in the kind of meticulous and dispassionate research required to ascertain the exact history of this painting immediately before and after the Second World War, and who today is the rightful owner.

I mention this example not to discuss the merits of the claim, or to delve into deeply sensitive moral and legal questions of who may rightly assert claims and when they should do so, but to demonstrate that the process of determining what, if any, art in American museum collections was looted by the Nazis and never returned to the proper owner, and then trying to determine who the proper owner might be, is an extremely complex undertaking, and is made even more so when the works in question are loans to, rather than objects owned by, the relevant institution.

Just as we have learned that American and European museums, working with the AAMD guidelines, can play a vital role in reuniting looted art with its rightful owners, we have also learned most emphatically that use of criminal process is not an appropriate way to address this issue. With the immensely valuable participation of groups like the Commission for Art Recovery of the World Jewish Congress, we have seen that the most effective means to resolve problems involving the return of Nazi-looted art requires good faith, discretion, and cooperation between
museums and claimants, not the blunt instruments of subpoena power and forfeiture proceedings.

For museums and for the public, involvement of criminal process is counterproductive. Take again, for a moment, the case of the Schiele paintings we borrowed two and a half years ago. So far, other than costing hundreds of thousands of dollars and untold hours of time, the paintings have been locked away in storage, inaccessible to the claimants and inaccessible to the public. And because of this, many foreign lenders both public and private, have raised serious concerns about lending to American museums -- all sobering and unintended consequences of the various legal actions surrounding the case.

American museums, with their sister institutions in Europe, will continue to act responsibly and responsibly. We will not rest on the knowledge that the fears expressed two years ago have been proved false, that our galleries and storage areas are not, upon closer inspection, filled with looted art. We have seen, and I expect that we will continue to see, that people of good will, acting with energy and commitment, will be able to resolve whatever future challenges this issue presents.

The AAMD guidelines, through the rigor with which they have been accepted and put into practice by American museums, repeatedly demonstrate their worth. There is not a single art museum in this country that is not aware of the importance of this issue and the urgent need to diligently review the provenance of the works of art in their collections. These efforts pay off: the North Carolina Museum of Art just days ago reached the conclusion that a painting in their collection had been taken from an Austrian family before the war and never returned. Precisely as the AAMD guidelines direct, the North Carolina Museum carefully considered the factual record, discussed the matter reasonably and respectfully with the family's representatives, and then concluded that the painting belonged to the family in Austria.
I am confident that, should any further issues arise for American museums, they will be addressed and resolved with equal measures of good faith and due consideration. The guidelines, and the spirit of fair and appropriate conduct that motivated us to write them, are deeply engrained into the operations of American museums. As this Committee concludes its inquiry into this issue, it may draw considerable satisfaction from the fact that America's museums are forthrightly addressing the question in regard to our own collections and in the art we borrow, and that we will continue to provide for the American people outstanding exhibitions of fine art.
Questions for Secretary Eagleburger on insurance matters

1. How do you calculate the value of life insurance policies issued to Holocaust victims? How does this process differ for policies issued to victims killed and those who survived?

2. What is your schedule for processing claims? When will the checks go out? When do you expect to wind up your Commission’s work?

3. How many claims do you think are still unpaid? Has anyone determined the number of Holocaust victims whose claims were not paid?

4. Have you done any economic research to approximate the total value of unpaid Holocaust-era insurance policies based on the companies’ premium income, asset base, market share within the Jewish communities?

5. Re-insurers are not included in your commission’s charter. Has anyone examined their role? Do they not have a financial stake in the unpaid policies of Holocaust victims?

6. How do you envisage the humanitarian fund that you will be creating? What will be its approximate size? How will the funds be distributed? Would you consider buying health care policies for surviving victims?

7. What concessions are the insurance companies with which you are working willing to make to accommodate those who are unable because of the inhumanity of the Holocaust to comply with their standard claim filing procedures?

8. You mentioned Aegon in your testimony. What are the other insurance companies that, in your view, should join your Commission but have not done so?

9. It is noteworthy that the insurance companies that have joined your Commission have large operations in the U.S. Are there any companies that should be in your Commission --that is, companies against which holocaust victims may have claims – that do not have U.S. operations? Is the basic bargain of your Commission that your offer protection from intrusion by state insurance commissioner’s if they companies pay up their Holocaust era policies and contribute to a fund?

10. Two years ago, an Allianz representative testified before the Committee that his company had paid off the policies sold to Jews in Germany. The Nazi government, he said, had seized these policies and demanded payment from Allianz. Later, the German government restituted the Jewish policy owners, he said. Accordingly, Allianz was liable for very few claims. Is that your view?
11. How should one take into account the interest owed on money that should have been paid long ago?

12. Are there cases where one can document the extent to which insurance concerns benefited from not having to pay policy claims precluded by the extreme inhumanity of Nazi practices? To what extent, if any, did financial and industrial companies that borrowed or otherwise did business with insurance companies with Nazi-related windfalls benefit from the situation?

13. In addition to insured individuals and beneficiaries, what other relatives and heirs should be granted recovery?

14. To what extent should the damages and hardship caused to a family by years of not having the security afforded by relied upon insurance pay-outs be taken into consideration?

15. How does one calculate wartime exchange rates?

16. Is there a fair means of validating the insurance claims of those whose insurance documents were lost, stolen, or destroyed as a result of Nazi plundering and subsequent dislocations in Central and Eastern Europe?

17. How much, if anything, did former Soviet bloc governments pay and to whom did they pay it when they nationalized insurance companies that owed money to policy holders killed or dislocated during the Holocaust?

18. Is your commission considering only claims against life insurance policies or those against other forms of insurance as well? If so, what other kinds of policies are involved?
SUGGESTED QUESTIONS FOR PANELS ON NAZI LOOTED ART

PANEL II

General:

- What steps have you taken, or are now taking, to be sure that your collections, include no art works of tainted provenance? Have you done serious research to double check the provenance of your art works?

- Suppose for a moment that you discover in your collection an object of dubious provenance. In your view, it is your responsibility then to identify and find the rightful owner? Or is it up to the claimants to challenge provenance of art objects in your possession and seek redress?

- Can you give us an illustration of how your criteria in checking the provenance of a potential acquisition have changed? What are you doing now that you might not have done three years ago?

- What is the responsibility of a museum when you are considering an acquisition and discover that the dealer with whom you are dealing is offering you a tainted painting or sculpture? Do you report the dealer to the authorities? Or do you just walk away from the purchase? Similarly, would you report a potential donor to the authorities if you found the picture he were offering to the museum was tainted?

- How far do you go in tracking provenance? At what point are you satisfied that you can safely purchase or accept a work of art?

- Under U.S. law, a stolen object remains stolen, no matter how many time and under what circumstances it changes hands. In European countries like Switzerland, however, a person who buys stolen art is entitled to keep it if he or she made the purchase in good faith. The European approach makes restitution more difficult. Would you support an international convention to change these rules of ownership?

- Museum directors say they support such groups as the WJC’s Art Recovery project, chaired by Ronald Lauder, who will testify on the next panel, that are trying to identify art extorted or pillaged from Holocaust victims. These
groups need as much information as possible. How much access to your object files are you prepared to give such groups?

- When a dispute arises over ownership, where does one go to get independently verifiable facts regarding provenance?

- Is a universal code of provenance a good idea? Or is it just a lovely idea that's unenforceable?

Directors Earl Powell, Glenn Lowry, Lyndell King

- Do you list publicly all of your works of art? And what do you list about the provenance of your works of art?

- At our previous hearing on art two years ago, the Association of Art Museum Directors "strongly" recommended creation of a dispute resolution mechanism, such as mediation or arbitration, to resolve problems connected with looted art from the Holocaust era. Do you still hold this position? If you, please tell us what kind of dispute mechanism the AAMD may be envisioning? Would it require legislation?

- When Glenn Lowry was here two years, a dispute was raging over two Austrian Egon Schiele paintings loaned to the Museum of Modern Art. Since then the courts have vindicated MOMA's position. But I would like to know whether the dispute has had a chilling effect on exhibitions? And what steps does the museum normally take to ensure that a collection on loan does not include looted works of art? What do your museum director coll

- Are USIA procedures allowing overseas art exhibits to enter the United States sufficient to protect against such problems? Should they be strengthened?

- Would diluting the immunity-from-seizure for foreign art collections might inhibit the showing of significant foreign art collections in the US? If so, are you saying that a seizure-against-immunity declaration would apply even if it means stolen art works might, as a result, be displayed in a museum?

Director Powell, National Gallery of Art (DC):
• Mr. Powell, two years ago, you noted that the National Gallery has never been faced with a contested piece of art. How is it that the Gallery has been able to avoid such problems? Are you just lucky? Are your provenance standards higher than other museums?

Ron Tauber, Art Loss Register:

• What should be the role of CINOA, the international organization of national associations of art dealers? Is CINOA sensitive to the problem of Nazi-looted art? Has it taken steps to address it?

• Mr. Tauber, you are a lawyer, a very good lawyer. Can the problems raised by Nazi-looted art be effectively addressed by the art community and the law enforcement community, operating under current law and professional standards, or is there a need for new legislation?

• Do you have any sense for how much art looted during the Holocaust resides in US collections today?

• The art dealers point out that it is not uncommon for art owners to desire to remain anonymous when selling their pieces. Should they be allowed such anonymity in the future? Should new owners nevertheless be held accountable for failing to conduct the proper due diligence to establish provenance in cases where someone may have exercised the traditionally accepted option of anonymity?

PANEL III

Ron Lauder, Commission on Art Recovery, World Jewish Congress:

• What has happened to the Commission for Art Recovery? An article in the Forward last week suggested your were on the brink of closing down. What is the scope of your current operations?

• Two years ago, it was your intention to establish international procedures for claims resolution. That would, you said, represent “a quantum leap” forward. Do you believe such a dispute resolution mechanism should be
created? Is this reflected in your "action plan" with Germany? How has that worked?

- Yesterday, Stuart Eizenstat told the Committee the new Austrian government had made certain overtures to negotiate restitution issues. What is your view of that? Will you take the Austrians up on their offer?

- In December of 1998, the New York Times reported that you "railed" at the Netherlands for stating that a review of state collections would take three years and you believed it should take six months. As you are also involved at a high level with the Museum of Modern Art, which is reviewing its collection, do you still believe that the Dutch were dragging their feet?

- How do you reconcile the claims of a victim of looted art with the rights of a current owner of a piece of art which may have been acquired without the knowledge it was looted? Is that simply a loss the current owner must be prepared to sustain?

- You stress that the State Department should do more in art recovery. Can you give us some specifics?

- Congress recently passed legislation which included hortatory "sense of the Congress" language that all governments should undertake good faith efforts to facilitate the return of Nazi-looted art to the rightful owners. What kinds of "good faith" efforts do you think it would be appropriate for the U.S. government to take?

- What is your view of USIA's current role in providing immunity-from-seizure to foreign art collections on exhibit in the US? Is sufficient care taken to ensure that looted art is not included in such collections? Should immunity be offered even if such art is included? Should US citizens be entitled to challenge the ownership of such art if it is exhibited in the US, as has reportedly been the case with the Austrian Egon Schiele paintings on display at the NY Museum of Modern Art?
Yesterday, we reviewed in some detail the issues of the settlement of Swiss bank accounts and of progress in reaching agreement on payments to survivors and heirs of survivors of forced and slave labor during World War II in Germany.

Today, in our second day of hearings this month on Holocaust asset issues, we will hear testimony on the status of a proposed settlement of insurance policies and then turn to the vexing matter of the rightful ownership of artworks and other objects stolen or looted by the Nazis, by the Soviets and perhaps others before, during and immediately after World War II.

Before introducing Secretary Eagleburger who will testify on the important insurance issue, let me briefly address the art question that this Committee previously reviewed two years ago. Since then, the Art Museum Director’s Task Force has established principles and guidelines for the nation’s major art museums, and much work has been undertaken by museums around the country to trace the provenance of numerous paintings and other pieces of artwork.

The example set by the North Carolina Museum of Art last week is, in the mind of this Member of Congress, the proper one. Upon learning that one of its most prized paintings, “Madonna and Child in a Landscape” by the German artist Lucas Cranach the Elder, may have been stolen by the Nazis, the Museum promptly reviewed the ownership trail of the painting from an Austrian family to a Nazi leader to the New York art market to a Beverly Hills collector who eventually donated it to the Raleigh, N.C. museum.

Upon confirming that indeed it was a looted painting, the museum decided to return it to the grandnieces of the man from whom it was taken. It may be the first time ever that a major disputed artwork has been returned without legal action. It is a principled act of a principled museum.
We will hear this afternoon from a New York woman who has a far different story. Martha Nierenberg will document the “endless delays and numerous broken promises” she has encountered in seeking paintings taken from her family home in Hungary.

We will also hear from the distinguished leaders of several of the world’s leading art museums and from organizations instrumental in this effort to ensure that art is returned to the families from whom art was stolen during the Nazi era.

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FOR IMMEDIATE RELEASE

WASHINGTON, DC. (January 18, 2000): At their November meetings, the boards of the American Association of Museums (AAM) and the U.S. National Committee of the International Council of Museums (AAM/ICOM) approved the AAM Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era.

The Guidelines are intended to be used by museums of all types in developing and implementing policies and practices that address the issue of the unlawful appropriation of objects during the Nazi era, including the acquisition and loan activities of museums, research into current collections, and the possibility of claims being made against objects in a museum’s custody. Because of the complexity of the topic, the drafters created a set of guidelines that are flexible enough to address the vast array of situations that fall under this subject. Follow-up resource information to be developed by AAM will provide technical support in this area.

The guidelines apply 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 taken by the Nazis or their collaborators. “The guidelines have an intentionally special focus,” explains Edward H. Able, Jr., President and CEO of AAM, “because the atrocities of the Holocaust are of such a nature that attempts to address these wrongs require specific and concentrated attention.”

(over)
The guidelines are the result of the efforts of a joint AAM and AAM/ICOM Working Group on Cultural Property which was created by the AAM and AAM/ICOM boards in January 1999. In its use of a peer committee and extensive input from the field, this initiative is consistent with AAM's method of developing guidance and implementing standards and best practices for the museum field.

The guidelines were disseminated to all AAM institutional members in late December and will assist museums in drafting the policies critical to helping the museum field address this situation responsibly, promptly, and with sensitivity.

The American Association of Museums, headquartered in Washington D.C., is the national service association representing the American museum community. AAM provides identification and dissemination of standards and best practices, direct services, leadership on museum issues, and representation in the area of government & public affairs. Since its founding in 1906, AAM has grown to more than 16,400 members, including more than 11,400 museum professionals and trustees, 3,000 museums, and 1,900 corporate members.

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Testimony before the Committee on Banking and Financial Services
U.S. House of Representatives
February 10, 2000

Charlotte E. van Rappard-Boon
Chief Inspector for Cultural Heritage
Ministry of Education, Culture and Science
of the Netherlands
Director of the project *Origins Unknown*
Research in the provenance of Art looted and sold during
World War II

Dear Mr. Chairman,

It is a great honor for me to talk today to your distinguished committee on the efforts the Netherlands is making towards research and restitution of art looted and lost during World War II, both on a national level and by individual museums.

In Holland as in other countries the last few years have seen a new awakening to the history of the World War II and its aftermath. Where previously the atrocities committed by the nazi's occupied the center of interest, nowadays the handling of looting, recuperation and restitution after the war have also become the focus of attention, of historical research and a matter of guidelines for national governments in handling these sensitive issues.

My short expose on what happened in Holland after the War in matters of restitution and reinstatement of property rights will concern itself only with art as that is the only subject about which I feel that I can speak with any authority.

Looting of art by the Nazi's in Holland was much less done to public collections - as for example it happened in countries in Eastern Europe - than to the private owners of a few cherished paintings or some old furniture and blue-and-white Delftware. Of course the looting of the synagogues, the Jewish libraries or the Jewish Historical Museum all perpetrated by the E.R.R. was comparable to that which took place in other countries. But to me the image best
illustrating the looting in the Netherlands are the endless list of the Dienststelle Muhlmann the central organization for the looting of the German occupation. The thoroughness of the German administrator shines out from the detailed list made by policemen – often Dutch policemen - visiting Jewish households before they were looted: *Ein tisch, ein stuk balatum, wasche* and finally which would interest us *ein bild*. Some weeks later after the family had been deported, some other civil servant would visit the same house and note: *alles ist noch da* and *alles ist mitgenommen* whereupon all household goods were taken away.

Facts about this looting of the Netherlands were known to the Allies and the Inter-Allied Declaration of 1943 formed one of the measures to offer a solution both to looted property and that sold willingly to the Germans. As has been described extensively the Nazi leaders were avid collectors of art and the art trade in the Netherlands thrived as never before. To counter the selling of assets to the Germans the Government in exile in London had promulgated laws, which expressly forbade selling Dutch assets to the enemy. With regard to works of art, just as happened in France, already during the German occupation Dutch art historians started compiling lists of works of art, which they knew to have left the country. As soon as the war ended, efforts to track down works of art in Germany and to return them to their original owners were gathered together in a single service, called the *Netherlands Art Property Foundation (SNK)*. This service cooperated closely with the allied forces in Germany, especially the *Monuments, Fine Arts & Archives Service (MFA&A)*. On the basis of detailed lists made up from forms on which missing works of art were reported by private persons whose art had been looted or confiscated or persons and art dealers who had sold works of art to the Germans, lists made by the Foundation itself based on the administration of the Germans, such as cited above of transport lists of works of looted art and records of sales by auction houses and art dealers, the Allies tried to find as many works of art in Germany as possible. Their efforts were often severely hampered - as ours are still today - by the fact that only well-known works of art have descriptions detailed enough to recognize them easily or were even photographed. Most works of art had to be recognized on the basis of short descriptions while attribution to an artist was based more on the owner’s memory or expectation than on a cool art historical evaluation.
As will be clear from what I said before about the looting itself, identification of a work of art listed for example: as *Farmers making merry at a tavern* by the workshop of van *Octave* without any measurements or further description, is an extremely fortuitous business.

Hundreds of paintings must exist answering to this kind of caption. Thus mistakes in identification of objects were made and not always corrected afterwards. Also works of art that were difficult to identify, mostly furniture and decorative art, were shipped back to the country that seemed the most likely country of origin. In this way most Delft blue-and-white tiles were sent to Holland though they might as well have come from a French collection.

All the same, seeing how the people in the office of the Netherlands Art Property Foundation worked during those years, at a time when Holland was recovering from its Great War losses and money and means to run an adequate administration were scarce, one is filled with admiration. Without a computer, but using an endless amount of paper files and lists ordered according to artist names, original owners, art dealers or auction houses they reconstructed the provenance of many works of art. They had a complex administration which was based on several ordering systems according to original owner, artist, transport from Germany and it has taken us more than half a year before we have grasped it in all its details.

Of the 10,000 of items which came back from Germany, more than half were works voluntarily sold during the German occupation of the Netherlands by the art trade thus violating Dutch war Laws. These became the property of the Dutch State. We do yet not know exactly how many recovered items were given back to their original owner. But from an inventory of 1804 paintings which we have researched closely, we know that 69 were given back to the owners, 13 were sent back to Germany because they did not come originally from Holland, 2 were sent to Belgium and 1 to Vienna. After the Foundation finished researching their provenance 469 paintings were sold at public auctions. In all, after completion in the 1950's of provenance investigations, about 2,000 paintings and a still unknown number of pieces of decorative art were sold by the Dutch state. These were works that the State felt at that moment that they had sufficiently researched and about which they were sure of their ownership. Details about the work of the Netherlands Art Property Foundation and the regulations, which they followed when deciding to give back, an item to its original owner can be found in a leaflet on restitution, which I have brought with me, in the introduction to the first report of the project *Origins unknown*. They can also be found at the website of the Netherlands embassy in Washington (www.netherlands-embassy.org).
Today, there are still ca. 4000 paintings, prints, pieces of furniture and decorative objects that were recovered after the war in the State collection. They are all inventoried and most of the paintings have been published in the 1980.

Recently, questions concerning these remaining works of art have been asked. Might not modern methods of research, use of databases and vast modern documentation systems such as that of Netherlands Institute for Art History enable us to find more information about original owners than was previously possible? A pilot study was done for a hundred works of art, both paintings and decorative art. The results of the pilot study were published in Dutch and English in April 1998 under the title *Origins Unknown*, with introductory texts including information about the work of the Netherlands Art Property Foundation. Because sufficient new details concerning the provenance of these objects were found, the Dutch government decided to enlarge the study to comprise all items, which in the State collection were recuperated after the war from Germany. Four researchers paid by the State under the direction of the Inspectorate of Cultural Heritage are reconstructing the provenance of all recuperated works in the State collections using all the means, which we have today. Art dealers have opened old archives to us and we ourselves have found archives from auction houses etc. that seemed to have been lost. The research is supervised by the independent Ekkart Committee, named after its chairman dr. Ekkart who is director of the Netherlands Institute of Art history. The other committee members are the director of the Jewish Museum in Amsterdam, the former Minister for Culture and a representative of the Central Jewish Platform. In cases where new facts about owners arise, works can be returned to these or their heirs. Of course, after all these years much of the documentation which might have helped is lost or destroyed, but by gathering *circumstantial evidence* from catalogues of pre-war exhibitions of private collection, art dealers administrations, insurance lists, etc. links can be found which were lost before. We discovered going along that the most efficient method of reconstructing a provenance is not by going backwards from the present whereabouts and the present owner. In doing this one always encounters the black hole formed by the nearly complete lack of documentation during the years of the Second World War. We try to recover the location of the object in question also somewhere during the 1920's and 1930's and work forward from that point. By doing this we try to narrow the gap of the World War II years and thus make a deduction of what happened then.

Up till now we have researched some 800 items. Though the provenance of many has become much clearer, we will have to countenance eventually that for more than half of the objects all will contain blank spots.
Because a work of art can mean an extremely personal tie with the past and can have great emotional value for a family, the Dutch government plans to continue to proceed on a case-by-case basis regarding the restitution of works of art. No general measures are considered because we believe our method to be a viable one. In each case where new facts come to light, a decision about restitution of these works will be made by the Secretary of State for Culture. Thus, the works of art about which nothing is found, will stay available in the future if new facts come to light regarding their origins.

According to Dutch law theft and looting committed during the Second World War now fall under the statute of limitation. The Secretary of State can waive the right to the statute of limitation and will do so in those cases where:
- works of art are claimed which were not previously claimed and of which sufficient proof of their original ownership can be found
- new facts come to light which were not known by the parties concerned after World War II, and which alter substantively the evidence on which an earlier decision was based. If a written settlement of rights was reached between parties after the war, the State will abide by this.

Finally, even as an historian and amateur historian with no legal expertise what so ever, I should like to address some of the more general issues. Disregarding statutes of limitations – one of the mainstays of our juridical system should only be considered if substantive proof of previous ownership has been found.

Collective solutions for the NK collection of recovered objects i.e. auctions, transference to Jewish organizations or museums should not be considered as long as there is a chance that links to original owners can still be found.

Works of art at this moment in the possession of bona fides private owners are protected by Dutch civil law. However, in these cases possible claimants and present owners can apply to the Netherlands Institute for Art History and our office the Inspectorate of Cultural Heritage of the Ministry of Culture, for more information concerning provenance and possible postwar claims. Possible solutions for these cases could include arbitration or a decision by common consent along the lines suggested by the American Museums Association.

In the same way as the State Government is researching its collections, the Dutch museums under the aegis of the Dutch Museum Association are researching the acquisitions made during the war and in the after-war years to investigate whether they acquired knowingly or unknowingly objects which were looted or confiscated from Jewish owners. The museums are
conducting their own research aided by the Inspectorate for Cultural Heritage which checks the museum data and methods of research and adds facts which it has found during its own research of the State collection.

If works of art are found in these museums which have been stolen from Jewish owners, it is expected that the governing bodies of the museum - which may be local or provincial governments or private foundations - will act in the same way as the Dutch State and return these objects to their owners. It serves absolutely no purpose to make unsubstantiated guesses about the number of works of art with a "dubious past" which have been acquired by museums. Circumstances and especially behavior of museum directors have varied widely. Only thorough research into specific circumstances of an acquisition can a dubious origin is proved. The museum research has already resulted in several paintings and other objects being given back to the original owners and their families.

Objects, which are of extremely dubious origin and in several objects of which the original owners have been traced which will be given back shortly. On the other hand a nearly unknown history has come to light in the stories of how museum hid works of art for Jewish owners during the war. In this regard the municipal museum of Amsterdam deserves special mention where they found room to house as many collections as they did, is still to me

The first report of the museums investigation has just been published the research as such will be finished in this year. The State investigation will be finished in three years time and its results will be published during those years in regular reports. We hope in this way to solve most outstanding questions though truth commands us to say that some of these will probably never be answered.