

ASSOCIATION OF ART MUSEUM DIRECTORS
ART INSTITUTE OF CHICAGO

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

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

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

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

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

AAMD, which has approximately 170 members and was founded in 1916, has been a consistent champion of the highest standards for art museums, standards that enable art museums to bring important works of art to the public we serve. Since 1973, AAMD has

included in its *Professional Practices in Art Museums* the admonition that museums must not acquire works that have been stolen or removed in violation of a treaty or convention to which the U.S. is a party. The current version of that admonition, found in its 2001 edition, states that “The director must not knowingly acquire or allow to be recommended for acquisition any object that has been stolen, illegally imported into the jurisdiction in which the museum is located, or removed in contravention of treaties and international conventions to which the jurisdiction is signatory.” AAMD members take this admonition seriously.

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

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

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

The 120 AAMD member museums that may have Nazi-era looted art in their collections have collections totaling 18 million works of art. Of these, fewer than 20,000 are European paintings, thousands of which were acquired before World War II. Unlike Eastern and Western Europe, the U.S. was never a repository for any of the 200,000 works of art recovered after the war. Any Nazi-era looted art that may be in U.S. art museums is there as a result of second-, third-, or even fourth-generation, good faith transactions. I mention this only to remind us of the scale of the potential problem in this country: the likelihood of there being problems in U.S. art museums is relatively low;

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

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

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

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

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

There are six pending claims against U.S. art museums. These are currently under review by those museums. At the same time, and systematically, all AAMD member museums with potential Nazi-era provenance problems are researching the provenance records of their collections according to the standards and practices of both the American

Association of Museums (AAM) and AAMD and in accord with the Washington Conference Principles on Nazi-Confiscated Art of 1998. U.S. art museums are fully committed to this research. One work of art wrongfully in the collection of a U.S. art museum is one work of art too many. We stand committed to this principle.

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

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

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

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

Since April of 2000, the Provenance Research Project pages of our website have identified paintings and sculptures in our collection that were created before 1946, acquired by the museum after 1932, and have gaps in their chain of ownership for the Nazi era (1933 to 1945). In conformity with the 2001 amendment to the AAM Guidelines, the group of objects published on the Provenance Research Project pages now also includes paintings and sculptures that have a documented chain of ownership and hence no gaps in their provenance, but nevertheless were in continental Europe from 1933 to 1945 and also changed hands during that period. All of the objects on the Provenance Research Project pages of our website are accessible through the AAM's Nazi-era provenance internet portal. Nearly 2000 of the 2,832 works of art in our collection that are considered "covered objects" will be posted on our website, together

with their provenance information in which we are confident, this September in a much improved, searchable database. (Just as our research is ongoing, refinement of our website is also ongoing.) In addition, all of the current provenance information about the 2,108 drawings in our collection that are considered “covered objects” is available upon request and much of this information has been published in catalogs (e.g., *Italian Drawings before 1600 in The Art Institute of Chicago: A Catalogue of the Collection*). For additional information, please visit our website and the Provenance Research Project pages (www.artic.edu/aic/provenance/index.html).

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

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

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

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

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

An example of a major current research initiative on the permanent collection is an intensive cataloguing effort in connection with the expansion of the museum when our new wing opens in 2009. In particular, the curatorial staff is currently preparing two catalogs, one on Northern European and Spanish Paintings Before 1600 and another on the Modern Collection, Volume I. The staff is also undertaking initial research for a catalog of our 19th Century European paintings. These catalogs will include provenance research on nearly 1,000 objects in our collection, including paintings, sculptures and drawings. Provenance information on the covered objects included in these catalogs that is not already on the Provenance Research Project will be incorporated as promptly as possible.

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

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

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

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

Addendum A

WORLD WAR II RESTITUTION CASES

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

1.

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

2.

Institution: Art Institute of Chicago
Work of Art: “Bust of a Youth”, ca. 1630, by Francesco Mochi
Date: June 2000
Settlement: The Art Institute of Chicago paid the heirs of Mr. Gentili di Giuseppe for a partial interest of the marble bust and accepted the remaining partial interest as a donation from the heirs. Mr. di Giuseppe, who died of natural causes in 1940, was a Jewish resident of France whose art collection was sold at public auction under order of the French Court after his death. *See I.5, infra.*

3.

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

4.

Institution: Seattle Art Museum
Work of Art: Odalisque, 1928, Henri Matisse
Date: October 12, 2000
Settlement: The Seattle Art Museum (SAM) returned the painting to the heirs of Paul Rosenberg. The museum determined that in 1941 the painting was stolen from a vault where Rosenberg had stored 162 paintings. Knoedler

& Co. acquired the work in 1954 from Galerie Drouant-David, Paris, and sold it to Prentice and Virginia Bloedel. The Bloedels donated it to SAM in 1991. The museum later sued Knoedler & Co., contending that the gallery did not have clear title to the painting and fraudulently or negligently misrepresented the painting's provenance. The action was dismissed, but later reinstated --with Knoedler's costs assessed against SAM --when SAM acquired assignments of rights from the Bloedel family. Knoedler & Co. and SAM announced a settlement in October 2000 under the terms of which Knoedler agreed to transfer to SAM one or more works of art to be selected by the museum from Knoedler's holdings, or the equivalent value in cash.

5.

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

6.

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

7.

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

8.

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

museum will retain title to and possession of the picture. See IV.2 and IV.3, *infra*.

9.

Institution: Princeton University Art Museum

Work of Art: St. Bartholomew, Bernardino Pinturicchio

Date: June 2001

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

10.

Institution: Springfield Library and Museum Association

Work of Art: Spring Sowing, Jacopo da Ponte

Date: June 2001

Settlement: The Springfield, Massachusetts museum returned the painting, which had disappeared during World War II while on loan from the Uffizi Gallery in Florence to the Italian Embassy in Warsaw. In 2003, the museum sued Knoedler Gallery, from which it had acquired the picture in 1955, seeking money damages for various claims, including breach of contract and breach of implied warranty. Knoedler has moved for judgment on the pleadings, based on the applicable statute of limitations.

11.

Museum: Metropolitan Museum of Art

Work: The Garden of Monet's House in Argenteuil, Claude Monet

Date: August 22, 2001

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

12.

Institution: Yale University Art Gallery

Work of Art: Le Grand Pont, Gustave Courbet

Date: October 23, 2001

Settlement: Eric Weinmann, of Washington, D.C., and his sister and nephew asserted a claim in October 2000 stating that Mr. Weinmann's mother, a Czech Jew who lived in Berlin, purchased the painting in 1935 without knowing that its prior owner was Max Silberberg, a German Jew who was forced to sell his collection. The Weinmann family fled Berlin for Britain in 1938, leaving behind most of their possessions, including this painting. It was acquired in 1938 by Herbert Schaefer, a German who had joined the Nazi

Party in 1937. Dr. Schaefer loaned the painting to the Yale University Art Gallery in 1980. Dr. Schaefer has 47 other works of art on loan to Yale. Under the terms of the settlement, Dr. Schaefer donated his entire ownership interest in *Le Grand Pont* to Yale, which will loan the picture to Mr. Weinmann for a maximum of ten years. After the end of the loan period, the picture will return to Yale for good.

13.

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

14.

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

15.

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

16.

Institution: Detroit Institute of Arts
Work of Art: A Man o' War and Other Ships off the Dutch Coast, 1692, by Ludolf Backhuysen
Date: September 2002

Settlement: DIA brought the picture to Detroit to consider for acquisition. The painting was not registered with the Art Loss Register (ALR), but subsequent research determined that it had been left in an Amsterdam bank vault by a Jewish collector when he left the Netherlands in 1942. The bank's Jewish-owned assets were later turned over to a Nazi-controlled entity. In October 1942, the picture was sold to Kajetan Mühlmann, a prominent figure in Nazi looting of Poland and the Netherlands. The DIA, the English gallery from whom it was buying the picture, and ALR negotiated the sale of the picture from heirs of the pre-war owner. (In announcing the settlement, the DIA noted that it had previously settled a World War II looted art case: upon discovering that a painting in its possession, *The Seine at Asnières*, by Claude Monet, had been stolen during the war, the DIA located the rightful owners and returned the picture to them in 1950.)

17.

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

18.

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

19.

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

20.

Institution: San Diego Museum of Art

Work of Art: Allegory of Eternity, ca. 1625-1630, by Peter Paul Rubens

Date: May 2004

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

21.

Institution: Virginia Museum of Fine Arts

Work of Art: Portrait of a Courtier, 16th century, by Jan Mostaert

Date: September 22, 2005

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

22.

Institution: Kimbell Art Museum

Work of Art: Glaucus and Scylla, 1841, by J.M.W. Turner

Date: June 6, 2006

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

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

1.

Institution: Museum of Fine Arts, Boston

Work of Art: Landscape with Burning City, ca. 1500, Henri met de Bles

Status: The painting was once in the collection of Franz Koenigs, a Christian banker who died in May 1941 in Cologne, Germany. Franz Koenigs used the pictures as collateral in 1931 and 1935 loan agreements with the Jewish-owned Dutch bank Lisser & Rosenkranz. Koenigs was unable to repay the loans when the bank went into liquidation in April 1940. The bank appears to have owned Koenig's drawings and paintings by early May 1940, just before the Nazi occupation of the Netherlands. Mr. Koenigs's granddaughter, Christine Koenigs, claims that her grandfather was forced by the Nazi rise to power and the imminence of war to sell this and many other works he owned at far less than fair value. In December 2003, the Dutch Government issued an extensive report concluding that Koenigs voluntarily sold the collection in order to satisfy his loan obligation. The Museum of Fine Arts remains in possession of the picture, though it does not assert title. See IV.21, *infra*.

2.

Institutions: Metropolitan Museum of Art; Art Institute of Chicago; Cleveland Museum of Art; Museum of Fine Arts, Boston; National Gallery of Art, Washington, D.C.; Nelson-Atkins Museum, Kansas City; Pierpont Morgan Library; Barber Institute of Fine Arts of the University of Birmingham, England; Boijmans van Beuningen Museum, Rotterdam; the British Museum; Courthauld Institute of Art, London; and the National Gallery of Canada.

Works of Art: Drawings by Albrecht Dürer and his school

Status: In an unusually complex matter, a dozen European, American, and Canadian museums face claims to drawings by Albrecht Dürer and his school from The Lviv Stefanyk Scientific Library in Lviv, Ukraine and the Ossolinski Institute in Wroclaw, Poland.

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

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

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

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

3.

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

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

4.

Institution: Detroit Institute of Arts
Work of Art: The Diggers, 1889, by Vincent van Gogh

Status: Martha Nathan, a member of the Dreyfus banking family, inherited the work from her husband, who died in 1922. In 1930, Mrs. Nathan transferred the painting from her home in Frankfurt am Main to Basel, Switzerland and emigrated to Paris in 1937. While living in Paris, Mrs. Nathan invited the dealer Georges Wildenstein to view a number of works in her collection. Wildenstein and two other Paris art dealers, Justin Thannhauser and Alex Ball, purchased the work from her in 1938, along with a painting by Gauguin. The price for *The Diggers* was approximately \$9364. Several years later, in 1941, these dealers sold the work to a Michigan collector named Robert Tannahill for \$34,000. Mr. Tannahill donated the painting to the DIA in 1970. Starting in 2004 and in subsequent correspondence and discussions, a group of people purporting to be Mrs. Nathan's heirs asserted that Mrs. Nathan's sale of the picture was a coerced transaction. After several years of research and discussion, DIA declined the demand that it either surrender the painting to them or compensate the heirs for their loss. In January 2006, DIA brought an action in U.S. District Court for the Eastern District of Michigan to quiet title and for declaratory judgment that the heirs have no valid claim to the work. *See II.5, infra.*

5.

Institution: Toledo Museum of Art

Work of Art: Street Scene in Tahiti, 1891, by Paul Gauguin

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

6.

Institution: Allen Memorial Art Museum, Art Institute of Chicago, Carnegie Museum of Art, Indiana University, Museum of Modern Art, Neue Galerie, Pierpont Morgan Library

Work of Art: Drawings by Egon Schiele

Status: Begun in 2005 as an action by David Bakalar, a Massachusetts owner of a Schiele drawing, asking a federal court in Manhattan to declare that he has good title after his proposed sale through Sotheby's London was challenged by two men purporting to be Grunbaum heirs. Claimants, defendants in the original action, seek to certify a defendant class of

institutions, individuals and other entities. The action involves works by Egon Schiele alleged to have been in the collection of Fritz Grunbaum, an Austrian cabaret performer who was killed by the Nazis during the Second World War. Bakalar's picture has a provenance similar to Leopold Museum's *Dead City III*, which was the subject of considerable litigation in 1998-99, in that it was sold by Mathilde Lukacs, Grunbaum's sister-in-law, in Bern in 1956. Claimants assert that Mathilde Lukacs did not sell or consign the pictures to the Bern dealer. They propose that the pictures were placed in storage after Grunbaum's property was aryanized, and that Lukacs could never have taken possession of them. They reject as forgeries copies of contemporaneous correspondence between Lukacs and the Swiss dealer. Further, they allege that, even if Lukacs somehow managed to get possession of the Grunbaum pictures, she had no right to sell them, and doing so made her a thief. Bakalar has asked the court to dismiss the action on the equitable doctrine of laches: all of the relevant facts have been public knowledge for many years, yet the claimants did nothing to assert their rights, and their delay in doing so has worked to his detriment because people with knowledge of the facts have died, and evidence is no longer available. Bakalar's motion is pending, as is the claimants' motion for class certification.

III. United States—Non-Museum

1.

Individual: Daniel C. Searle

Work of Art: Landscape with Smokestacks, by Edgar Degas

Date: August 1998

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

2.

Individual: Marilynn Alsdorf

Work of Art: Femme en blanc, 1922, by Pablo Picasso

Date: August 2005

Settlement: The pre-war owner, Carlota Landsberg, sent this 1922 Picasso oil painting to the Paris art dealer Justin Thannhauser when she left Berlin in or around 1939. The painting was apparently stolen from Thannhauser after the Germans occupied Paris and was listed in the 1947 list of wartime art losses in France, the *Repertoire des Biens Spolies En France Durant La Guerre 1939-1945*. By 1941, Mrs. Landsberg and her daughter were located in New York. In 1969, with her recovery efforts unavailing, Mrs. Landsberg received restitution from the German government for the painting in the amount of 100,000 Deutsch marks. The provenance problem surfaced when Marilynn Alsdorf, a major art collector and patron of the Art Institute of Chicago who bought the picture from a New York dealer

in 1975, sent it to a Los Angeles gallery in 2001. (Mrs. Alsdorf's husband, the late Mr. James Alsdorf, was a board member of IFAR, whose stolen art database is now included in the Art Loss Register.) A prospective buyer in France checked with the Art Loss Register, which discovered first the involvement of Thannhauser and then Mrs. Landsberg's ownership. The Art Loss Register located Mrs. Landsberg's grandson, Thomas Bennigson, in California and notified him of his potential claim. Mr. Bennigson brought an action in state court in California to recover the picture after discussions between Mrs. Alsdorf and the Art Loss Register failed to resolve the matter. The painting was returned to Chicago just before Mr. Bennigson obtained a court order barring its removal from California, and Mrs. Alsdorf moved to dismiss the action for lack of personal jurisdiction. The jurisdictional question, as well as Mrs. Alsdorf's action for declaratory judgment and to quiet title in the U.S. District Court for the Northern District of Illinois, and the forfeiture proceeding brought by the United States Attorney for the Central District of California against *Femme en blanc* (on the theory that by returning the picture to her home in Illinois, Mrs. Alsdorf knowingly transported stolen property across state lines and in so doing had violated the National Stolen Property Act, subjecting the property to forfeiture) have now been resolved by Mrs. Alsdorf's agreement in August 2005 to pay Mr. Bennigson \$6.5 million to settle the matter. See III.3, *infra*.

3.

Individual: Stephen Hahn

Works of Art: Femme en blanc, 1922, by Pablo Picasso and Rue St.-Honoré, Après-Midi, Effet de Pluie, 1897, by Camille Pissarro

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

4.

Individual: Anonymous

Work of Art: The Liberation of Saint Peter from Prison, attributed to Rembrandt van Rijn

Date: November 30, 2004

Resolution: The drawing was looted from the home of Dr. and Mrs. Arthur Feldman when Nazi Germany annexed Czechoslovakia on March 15, 1939. Neither Dr. Feldman nor Mrs. Feldman survived the war; he died of abuse at the hands of the Nazis and she died at Auschwitz. The drawing was

returned to the Feldman's heirs by an American family who had purchased the work in good faith and later contacted the International Foundation for Art Research in New York in 2002 when they learned that it might have belonged to the Feldmans. After extensive research, and with the cooperation of the Commission for Looted Art in London, the American owners, who wish to remain anonymous, returned the drawing to the Feldman heirs. See *IV.10 and IV.15, infra*.

5.

Individual: Elizabeth Taylor
Work of Art: View of the Asylum and Chapel at Saint-Remy, 1889, Vincent van Gogh
Date: February 2, 2005
Resolution: A German woman named Magarette Mauthner bought the picture in 1914. She and her family left Germany for South Africa in 1939. The picture's whereabouts during the war years is not certain: there are indications that Mauthner sold it in 1925 and that the purchaser himself fled Germany to Switzerland in or around 1933. The actress Elizabeth Taylor bought the painting at auction in 1963 for \$257,000. The U.S. District Court for the Central District of California dismissed the Mauthner heirs' attempt to recover the work, ruling that their claim was time-barred. The court found that California's statute of limitations for recovery of art lost during the Holocaust era art did not apply because the claim was against an individual, not a gallery or museum, as the statute requires. The court also found that no "discovery rule" applied, so the three-year limitation period began when Ms. Taylor acquired the picture in 1963. Even if a discovery rule applied, the court said, plaintiffs failed to exercise any diligence in attempting to locate the painting, and Ms. Taylor's ownership was common knowledge and easily discovered. The court declined to recognize a new cause of action under either federal or state law for the recovery of art alleged to have been misappropriated during the Nazi period.

6.

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

IV. Foreign Museums/Governments—World War II Claims

1.

Institution: Republic of Austria

Work of Art: 250 objects, including paintings, drawings, furniture, carpets, weapons and coins
Date: February 1999
Settlement: The government of Austria returned 250 works of art to the Viennese branch of the Rothschild family, which had been held by Austrian museums. In March 1938, Nazis took possession of art, furniture and decorative objects belonging to Barons Alphonse and Louis Rothschild. In 1947, Alphonse Rothschild's widow - who was then living in New York - located and tried to export a portion of the collection, but was forced to donate some of the objects to Austrian museums in order to obtain the necessary export approvals. An Austrian panel charged with restituting wrongfully retained art from national museums to their rightful owners determined that the art was wrongly held by Austria, and returned a substantial collection of material to the family in 1998. On July 8, 1999 the Rothschild family sold most of the recovered objects through Christie's in London for \$88.2 million.

2.

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

3.

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

4.

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

by the Commission for Art Recovery. The heirs of Mr. and Mrs. Kirstein auctioned the painting and split the proceeds. See IV.5, *infra*.

5.

Institution: Museum of Plastic Arts, Leipzig/City of Leipzig, Germany
Work of Art: More than 80 works of art (mostly drawings and prints by Max Klinger)
Date: September 2000
Settlement: The collection was returned to the heirs of Gustav and Clare Kirstein. Mr. Kirstein died in 1934 and left his collection to his wife, who committed suicide in 1939 after the Nazis confiscated her passport a day before she was to emigrate to the United States. This collection was seized and auctioned off by the Nazis. It was recovered by the Commission for Art Recovery. Mr. and Mrs. Kirstein's heirs auctioned the painting and split the proceeds. See IV.4, *supra*.

6.

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

7.

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

8.

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

9.

Institution: Kiyomizu Sannenzka Museum, Kyoto
Work of Art: Deserted Square of an Exotic Town, 1921, by Paul Klee

Date: February 2001
Settlement: In exchange for a “symbolic payment,” the museum returned this watercolor to Jen Lissitzky, the son of Russian avant-garde artist El Lissitzky. Sophie Küppers-Lissitzky had loaned the picture, among others, to the Provinzial museum in Hanover in 1926, just before she left for Russia to marry El Lissitzky. The Nazis seized the Küpper-Lissitzky collection as degenerate art in 1937, and later sold it. See IV.12, *infra*.

10.

Institution: Moravian Gallery, Brno
Work of Art: 135 Old Master drawings
Date: April 2002
Settlement: A museum in the Czech Republic returned 135 drawings to the heirs of Arthur Feldman, a Czech lawyer who was arrested soon after the Nazi invasion of what was then Czechoslovakia. Mr. Feldman died in prison and his wife died at Auschwitz. His collection was placed in the Moravian Museum. Family claims for restitution were declined by the former Communist regime and later by the successor government, but legislation enacted in 2000 permitted claims for property stolen by the Nazis. See III.4, *supra*, and IV.15, *infra*.

11.

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

12.

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

13.

Institution: Kunsthalle, Emden, Germany
Work of Art: Bauernhof, 1924, by Emil Nolde
Date: December 2002
Settlement: The Holocaust Claims Processing Office of the New York State Banking Department assisted in the settlement of a claim by heirs of Heinrich and Elizabeth Bamberger, the pre-war owners of a painting by German

Expressionist Emil Nolde. Mrs. Bamberger, a widow, left the painting behind when she left Germany on 1940, en route to Ecuador via the USSR, Manchuria, and Korea. The picture ended up in the possession of Wilhelm Schumann, a Nazi art dealer, and changed hands several times after the war before being bequeathed to the Emden Kunsthalle in 1984. Under the confidential terms of the settlement, the picture will remain in the Kunsthalle, where it will be exhibited with provenance information reflecting the ownership of the Bamberger family.

14.

Institution: New Gallery, Linz, Austria

Work of Art: View of Krumau, 1916, by Egon Schiele

Date: December 2002

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

15.

Institution: British Museum, London

Works of Art: St. Dorothy with the Christ Child, by a follower of Martin Schongauer; Holy Family, by Niccolo dell'Abbate; Allegory on poetic inspiration with Mercury and Apollo, by Nicholas Blakey; and Virgin and Child adored by St. Elizabeth and the infant St. John, by Martin Johann Schmidt

Date: April 27, 2006

Settlement: The British Museum resolved a 2002 claim to four old Master drawings from the collection of Arthur Feldman, a Brno lawyer whose home and substantial collection of drawings were confiscated by the Nazis after the 1939 occupation of Czechoslovakia. Neither Feldman nor his wife survived the war; he died in prison and she died at Auschwitz. The museum bought three of the drawings at auction in 1946 and received the fourth by bequest in 1949. The British Museum acknowledged that evidence provided in support of the claim was "detailed and compelling," but a British court ruled in May 2005 that the claim's ethical merit did not override the Museums and Galleries Act, a 1992 statute that prohibits deaccessioning, except in narrowly defined categories. The British Museum agreed to make an *ex gratia* payment of £175,000 (\$312,000) to the claimant, Uri Peled of Israel, a descendant of Dr. Feldman. The drawings will remain at the museum. *See III.4 and IV.10, supra.*

16.

Institution: Thyssen-Bornemisza Museum, Madrid

Work of Art: Rue St.-Honoré, Après-Midi, Effet de Pluie, 1897, by Camille Pissarro

Status: An 84-year-old San Diego man alleged in U.S. District Court in Los Angeles that his grandmother, Lily Neubauer, was forced to surrender the picture to Nazis before leaving Germany for Great Britain in 1939. The claimant's great-grandfather, Julius Cassirer, apparently bought the picture from Durand-Ruel, Pissarro's dealer in Paris, soon after it was

painted in 1897. Ms. Neubauer tried to recover the work after the war, and in 1958 accepted 120,000 Deutsche marks from the West German government in compensation for her loss. The Spanish government, which bought Baron Hans Heinrich Thyssen's collection in 1993 and created the Thyssen-Bornemisza Museum, disputes the claim and asserts that it has good title. The museum moved in February 2006 to dismiss Mr. Cassirer's complaint on the basis of sovereign immunity and for lack of personal jurisdiction. See *III.3, supra*.

17.

Institution: Belvedere Gallery, Vienna

Works of Art: Several oil paintings by Gustav Klimt

Date: January 2006

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

18.

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

Settlement: The Ernst Strassman Foundation, a German entity, returned the painting to the heirs of Dr. Ismar Littmann, an attorney and art collector who lived in Silesia, in what is now Poland. La Procession was sold at auction at Max Pearl Auction House, Berlin, in 1935, though it is not clear how or when it came to the collection of Ernst Strassman, a German judge and art collector who was active in the resistance to the Nazis. The painting's recovery was arranged by the Holocaust Claims Processing Office of the New York State Banking Department, the fourth picture to be restituted to the Littman heirs. See *IV.6 supra*.

19.

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

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

20.

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

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

21.

Institution: Dutch National Museums
Works of Art: (a) 19th Century Dutch Landscapes by Koekkoek, Schelfout and Van Os;

- (b) Fisherman on Horseback, 19th century, by Jozef Israëls
Date: July 15, 2004
Resolution: The Advisory Committee of the Assessment of Restitution Applications recommended that the Dutch Secretary of State for Culture honor two claims for restitution from the Dutch national collections. These pictures have been held in the custody of the Dutch Government since the late 1940's. See, *II.1 supra*.
- (a) These landscape paintings, along with others that were not part of the Advisory Committee's recommendation, disappeared from the Amsterdam home of their pre-war owner, a Jewish art collector and resistance fighter in 1942 who had been imprisoned in the Westerbork concentration camp near the German border. While interned, the owner sent a postcard expressing his wish to bequeath several works of art to his illegitimate son. The Committee noted that the son has no rights as an heir because he was never formally recognized by the father, but found that there was a valid gift. The Advisory Committee further noted the Dutch Government's intention not to resolve restitution questions from a purely legal perspective, but also to take into account policy considerations.
- (b) The Advisory Committee also recommended the restitution of a drawing by the Dutch artist Jozef Israëls to the family of the pre-war owner, who had left the drawing in storage in Amsterdam when he emigrated to the United States. The drawing was confiscated by the Nazis during the war, and later returned to the Netherlands.

22.

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

23.

- Institution:** Dutch National Museums
Works of Art: 202 Old Master paintings, including works by Jan Steen, Filippo Lippi, Anthony van Dyck, Salomon van Ruysdael, and others
Date: February 6, 2006
Status: The Advisory Committee of the Assessment of Restitution Applications recommended the restitution of 202 Dutch, Flemish and Italian works from at least 17 national museums in the Netherlands including the Rijksmuseum, the Mauritshuis, the Frans Hals Museum, and the Bonnefantenmuseum. The paintings were owned by a Dutch art dealer named Jacques Goudstikker who died aboard ship while escaping

Holland soon after the German invasion of Holland in 1940. Reichsmarschall Herman Goering visited the gallery within days of Goudstikker's flight, and ultimately acquired the entire collection for a fraction of its value in a coerced transaction arranged by his dealer, a German named Alois Miedl. Allied forces recovered the works at the end of World War II and transferred them to the Dutch Government for restitution to the rightful owners. Instead, the works remained in the Dutch national collections. The Dutch Government had previously rejected the Goudstikker claim, but the Under Minister for Education, Culture and Science, Medy van der Laen, accepted the Advisory Commission's December 2005 recommendation and agreed to reconstitute the works. (The Commission also recommended that an additional 40 paintings not be returned to the Goudstikker heirs because there was insufficient evidence that the works belonged to the gallery at the relevant time.) The Goudstikker heirs, led by the widow of Goudstikker's son, who lives in Connecticut, intends to continue the search for additional works from the Gallery.

24.

Institution: Lienz Museum, Lienz, Austria

Work of Art: Totentanz, by Albin Egger-Lienz

Date: March 2006

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