

Report of Professor Jonathan Petropoulos Claremont McKenna College

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I have been asked to write the history, or the collective biographies, of the seven paintings that form the basis of the dispute between Maria Altmann and the Republic of Austria.

The seven paintings by Gustav Klimt (1862-1918) are:

- 1) *Portrait of Adele Bloch-Bauer I* (1907)
- 2) *Portrait of Adele Bloch-Bauer II* (1912)
- 3) *Apfelbaum I* (1912)
- 4) *Birkenwald/Buchenwald* (1903)
- 5) *Seeufer mit Häuser in Kammer am Attersee* (1916)
- 6) *Schloss Kammer am Attersee III* (1910)
- 7) *Portrait of Amalie Zuckerandl* (1917-18)

Preliminary Observations

Ferdinand Bloch (1864-1945) was a major industrialist who developed his father's company into one of the largest in Central Europe; indeed, it accounted for more than one-fifth the sugar industry in the Habsburg Empire.¹ Half-Czech and half-Austrian (he was born in Jungbunzlau, Bohemia), he also possessed a castle on the outskirts of Prague (*Schloss Jungfer*). Ferdinand Bloch was prominent and respected in Habsburg society: he was typically addressed as "*Herr President*" (he was President of Österreichische Zuckerindustrie AG (Brucker Zuckerfabrik) and headed a number of important organizations, including the Austrian-Czech Trade Association.² After the creation of the

¹ Hubertus Czernin, *Die Fälschung: Der Fall Bloch-Bauer und das Werk Gustav Klimts* (Vienna; Czernin Verlag, 1999), 22. Claims Resolution Tribunal, "Certified Award: Case No. CV 96-4849 (Swiss Bank Award)," 10-11. Tobias Natter, "Portrait of Adele Bloch-Bauer I," in Tobias Natter and Gerbert Frodl, eds., *Klimt's Women* (New Haven: Yale University Press, 2000), 116 (003185).

² Czernin, *Die Fälschung*, 23.

successor states to the Habsburg Empire in 1918, Ferdinand and his wife Adele opted to become Czech citizens.³

Adele (née Bauer) (1881-1925), the daughter of a bank and railway director Moritz Bauer, was a prominent member of Viennese society.⁴ Although she did not attend university (women were not admitted to the University of Vienna until 1897, and were often discouraged from doing so during the pre-World War I period), she exhibited a keen interest in culture and politics and possessed a formidable intellect: indeed, “she developed a disciplined program of self-education, systematically studying art and reading the German, French, and English classics, beginning each morning after breakfast. In time her interests broadened to include medicine and politics....”⁵ Adele became a committed Social Democrat and proponent of modern art, which some have construed as an expression of rebellion against her father, a figure of the capitalist establishment (often attacked by Viennese critic Karl Kraus).⁶ Many of her impressive qualities found expression in the portraits painted by Gustav Klimt. She married Ferdinand Bloch in 1899 (they joined their names in 1917). Although they tried to have children, they were never successful (one baby died two days after birth).⁷ The couple lived in elegance: first in the fourth district at Schwindgasse 10, and then in an elegant *Palais* at Elisabethstrasse 18 in the first district of Vienna, just off the Ringstrasse, which they purchased in 1919. The top floor of the latter served as Ferdinand’s office for his work in the sugar industry.⁸ The representational rooms featured, in Maria Altmann’s words, “*unvorstellbar*” luxury: antique furniture, vitrines exhibiting a porcelain collection, and, of course, the remarkable assemblage of museum quality paintings.⁹

It bears mentioning that Ferdinand’s brother, Gustav, married Adele’s older sister, Therese (Thedy) (1874-1961). Gustav, a lawyer, became the executor of Adele’s will. Three of Gustav’s and Therese’s children—Robert, Luise, and Maria—became heirs of Ferdinand Bloch-Bauer.¹⁰ In 1917, when Ferdinand and Adele decided to merge their names to Bloch-Bauer, Gustav and Therese did so as well in an effort for both names to continue on into the next generation. Gustav was held in such a position of trust by his

³ Tobias Natter, “Portrait of Adele Bloch-Bauer I,” in Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women*, 116 (003185). See also Czernin, *Die Fälschung*, 88.

⁴ Moritz Bauer was Generaldirektor of the seventh largest bank in Austria-Hungary, the Wiener Bankverein and President of the Orientbahn. Czernin, *Die Fälschung*, 50-55.

⁵ Salomon Grimberg, “Adele,” in *Art & Antiques* (summer 1986), 73 (000979). On women and universities, see Elisabeth Malleier, *Jüdische Frauen in Wien (1816-1938): Wohlfahrt, Mädchenbildung, Frauenarbeit* (Ph.D. thesis, University of Vienna, 2000).

⁶ Stephan Koja and Andreas Kugler, “Wem gehört dieses Gemälde?” in *Frankfurter Allgemeine Zeitung* 107 (9 May 2003), 107 (002965-66). Karl Kraus frequently attacked Moritz Bauer in his famed publication, *Die Fackel*. Note that Adele was friends with Social Democratic leader Karl Renner and Professor Julius Tandler, an important leader in the movement of health reform.

⁷ See Hubertus Czernin, “Palais, Porzellan und anderer Luxus,” in *Der Standard* (9 March 1999), 17 (001190).

⁸ Deposition of Maria Altmann (29 May 2002), 102 (002700).

⁹ Maria Altmann quoted in Hubertus Czernin, “Palais, Porzellan und anderer Luxus,” in *Der Standard* (9 March 1999), 17 (001189).

¹⁰ The children were Karl (b. 1901), Robert (1904-1987), Leopold (1905-1986), Luise (1907-1998), and Maria (b. 1916). Note that Gustav and Therese Bloch-Bauer, as well as their children, were Austrian citizens.

brother Ferdinand that he was even at times consulted on the creation of the Bloch-Bauer art collection.¹¹

Ferdinand and Adele Bloch-Bauer were great patrons of the arts and possessed an important collection of paintings, graphic works, and porcelain, among other valuables. Indeed, theirs was the greatest collection of old Viennese porcelain (mostly eighteenth and early nineteenth century) of the time.¹² A recent study of Jewish Viennese collectors in the interwar period documented an art collection that included works by Hans Holbein the Younger (or his atelier), Meindert Hobbema, and Oskar Kokoschka (a 1936 portrait of Ferdinand), among other notable works.¹³ Their art collection was particularly strong with regards to Austrian artists, including Rudolf Alt, Jakob Schindler, and Ferdinand Georg Waldmüller. They not only owned a great house, but also hosted a salon famed for bringing together many of the city's leading intellectuals and artists. The Bloch-Bauer's were highly assimilated (they celebrated Christmas and Easter) and by-in-large accepted members of local society.¹⁴ The couple offered a glittering example of the involvement of many Viennese Jews in the city's vibrant cultural life around the turn-of-the-century.¹⁵ Their friends included Alma Mahler-Werfel-Gropius, composer Richard Strauss, writer Stefan Zweig, and journalist/author Berta Zuckermandl.¹⁶

Both Adele and Ferdinand Bloch-Bauer were patrons and friends of artists. Ferdinand, for example, addressed Oskar Kokoschka as "Dear Friend and Professor!" and Gustav Klimt would socialize with both Ferdinand and Adele (to the extent that the taciturn artist socialized at all) and would stay with them during the summer in the country at their castle in Brezán outside Prague.¹⁷

Adele was the more flamboyant of the pair with regards to patronage. Ferdinand was also exceedingly busy with his business concerns and did not have as much time to devote to artists, museum directors, and others in the art world. Adele would therefore

¹¹ Deposition of Maria Altmann (30 May 2002), 158 (002628).

¹² Christian Brandstätter, *Gustav Klimt und die Frauen* (Vienna: Christian Brandstätter, 1995), 60. More specifically, see the 1925 study, Richard Ernst, *Wiener Porzellan des Klassizismus. Die Sammlung Bloch-Bauer* (Vienna: Amalthea-Verlag, 1925). See also Wolfgang Born, "Imperial Vienna Porcelain: The Ferdinand Bloch-Bauer Collection," *Connoisseur* (March 1936), 129-32 (000095-98).

¹³ See the 1932 inventory of Ferdinand Bloch-Bauer's property (000031-91). See also Sophie Lillie, *Was einmal War: Handbuch der enteigneten Kunstsammlungen Wiens* (Vienna: Czernin Verlag, 2003), 202-08.

¹⁴ Deposition of Maria Altmann (29 May 2002), 17-19 (002677-79). Hubertus Czernin adds that the Bloch-Bauer's "gehörten zur zweiten Gesellschaft, aber doch nicht ganz" because of their Prague roots and their Social Democratic sympathies. See Hubertus Czernin, "Palais, Porzellan und anderer Luxus," in *Der Standard* (9 March 1999), 17 (001189).

¹⁵ Among other works see Steven Beller, *Vienna and the Jews, 1867-1938: A Cultural History* (Cambridge: Cambridge University Press, 1989); and Carl Schorske, *Fin-de-Siècle Vienna: Politics and Culture* (New York: Alfred Knopf, 1979).

¹⁶ Stephan Koja and Andreas Kugler, "Wem gehört dieses Gemälde?" in *Frankfurter Allgemeine Zeitung* 107 (9 May 2003), 107 (002966).

¹⁷ See Ferdinand Bloch-Bauer to Oskar Kokoschka, 2 April 1941, in Gloria Sultano and Patrick Werkner, *Oskar Kokoschka: Kunst und Politik, 1937-1950* (Vienna: Böhlau, 2003), 124 (002935-39). Wolfgang Georg Fischer, *Gustav Klimt und Emilie Flöge* (Vienna: Verlag Christian Brandstätter, 1989), 189. Tobias Natter, "Portrait of Adele Bloch-Bauer I," in Tobias Natter and Gerbert Frodl, eds., *Klimt's Women*, 116 (003185).

often take the lead in this regard. She undoubtedly formed a friendship with the Director of the Österreichische Galerie (from 1915 to 1938), Dr. Franz Martin Haberditzl, who in turn cultivated her as a great benefactor.¹⁸ At times, Adele took the lead in acquiring works: this appears to have been the case when she purchased sixteen drawings by Klimt from the Galerie Miethke in 1906 (some of them pencil sketches for the first painting he did of her).¹⁹ She also had a personal attachment to many of the works by Klimt in the Bloch-Bauer collection and would occasionally refer to them as “my paintings.”²⁰ Indeed, some observers have suggested that Adele had an amorous relationship with Klimt.²¹ While there is some evidence for this (e.g., certain of his renderings of her have erotic qualities), the matter continues to defy scholars. The leading authority on Adele Bloch-Bauer (Hubertus Czernin) dismisses such speculation.²² Suffice it to say that Adele and Klimt enjoyed a close relationship: Adele was the only individual whom Klimt painted twice.²³

The creation of the Bloch-Bauer collection was a joint enterprise, and Ferdinand Bloch-Bauer also felt a personal attachment to the Klimt paintings. Art historian Christian Brandstätter states that after the Lederer family, the Bloch-Bauers were the artist’s most important supporters.²⁴ Art historian Christian Nebehey has written, “we must think of the great industrialist Ferdinand Bloch-Bauer, who twice gave Klimt the commission to execute portraits of his wife Adele.”²⁵ Tobias Natter, in quoting Maria Altmann, has noted that the marriage of Ferdinand and Adele was “based on mutual respect rather than love.”²⁶

Adele Bloch-Bauer concluded a will on 19 January 1923 in which she made Ferdinand her sole or “universal heir” and left him “her entire property”; furthermore, she asked her husband to leave six of the paintings in question to the Österreichische Galerie after his

¹⁸ Dr. Franz Martin Haberditzl (1882-1944) directed the Österreichische Galerie from 1915-38. He oversaw the expansion of the museum, including the opening of the Moderne Galerie in 1929. He was a remarkable individual: confined to a wheelchair after 1920, he was admired by many artists, including Egon Schiele, who painted the museum director’s portrait in 1917. Many Nazis regarded him as a friend of “degenerate art” and he was married to a half-Jewish woman and was therefore replaced after the *Anschluss*. He remained confined to his home until his death in January 1944. Stephan Koja and Andreas Kugler, “Wem gehört dieses Gemälde?” in *Frankfurter Allgemeine Zeitung* 107 (9 May 2003), 107 (002964-70).

¹⁹ Brandstätter, *Gustav Klimt und die Frauen*, 60. See also Galerie St. Etienne to Randol Schoenberg, 25 April 2000 (002364).

²⁰ Adele Bloch-Bauer to Dr. Franz Martin Haberditzl, letter from 1919 (no specific date given) quoted in Stephan Koja and Andreas Kugler, “Wem gehört dieses Gemälde?” in *Frankfurter Allgemeine Zeitung* 107 (9 May 2003), 107 (002967).

²¹ Salomon Grimberg, “Adele,” in *Art & Antiques* (summer 1986), 70-90 (000978-84).

²² Czernin, *Die Fälschung*, 57. Tobias Natter, “Portrait of Adele Bloch-Bauer I,” in Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women*, 116 (003185).

²³ Tobias Natter, “Portrait of Adele Bloch-Bauer II,” in Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women* (New Haven: Yale University Press, 2000), 124 (003189).

²⁴ Brandstätter, *Gustav Klimt und die Frauen*, 60.

²⁵ Christian Nebehey, *Gustav Klimt: Von der Zeichnung zum Bild* (Vienna: C. Brandstätter, 1992), 220.

²⁶ Tobias Natter, “Portrait of Adele Bloch-Bauer I,” in Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women*, 116 (003185).

death.²⁷ The six works in question were numbers 1-6 above. When Adele stated in her will, “my two portraits and the four landscapes by Gustav Klimt, I ask my husband to give them to the Österreichische Galerie after his death”—the most plausible interpretation is that she meant the two portraits of her, not that she owned the paintings.²⁸ It is significant that she did not use the possessive with regard to the landscapes (she did not say, “my four landscapes”). Later in the testament (under Part IV), Adele referenced the paintings again—this time, in case Ferdinand died before her and Dr. Gustav Bloch-Bauer and his descendants inherited the pictures: here, she did not use the possessive form at all, but referred to “the 2 portraits and 4 landscapes.” There was no reason (and no evidence) for the ownership of the portraits to be different than those of the landscape pictures. As noted earlier, the paintings had also been housed in the jointly-owned Elisabethstrasse *Palais*. The pictures were not held as Adele’s separate property.

With regard to the ownership of property, one might also keep in mind the gender biases that existed in European society at the time. Women did not even have the right to vote in Austria until 1918 (and restrictions on owning and inheriting property had continued well into the late-nineteenth century). Legal expert Andreas Lintl quotes the Austrian Civil Law Code (ABGB) from the time which stated, “if there is doubt [about the ownership of property] then it will be presumed that the acquisition of property was carried out by the man.”²⁹ Granted, Adele Bloch-Bauer was a progressive and “emancipated” woman; but this, I believe, would have made her more likely to know about the presumptions about property ownership. She would have known that she would have needed explicit documentation to demonstrate her personal ownership of the paintings, and this does not exist. She exhibited sophistication about legal matters in her will (or at least that she had consulted lawyers). The absence of any documents establishing her sole ownership of the paintings is indeed significant. While one can support the position that the paintings belonged to Ferdinand, one cannot support the opposite: that Adele alone owned them.

Adele clearly hoped that the works would find a place in the Österreichische Galerie (also known as the Moderne Galerie and the Österreichische Staatsgalerie): she had loaned them to the Gallery collectively from 1919 to 1922 and this is what she told Director Haberditzl and others with whom she was friends (such as the art historian Dr. Eisler).³⁰ Haberditzl was eager to have the Klimt paintings and Adele was his primary point of contact in this regard: it was to be expected that he would refer to them as her paintings. Also, while Adele signed a document “of a binding nature” (“*in verbindlicher Form*”) with Haberditzl in December 1922 to either give or sell a painting by Pettenkofen

²⁷ Adele Bloch-Bauer, “Meine letzter Wille,” 19 January 1923 (000017-19, 000021-22). See also Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 5 (001039); they cite the Austrian State Archive, BMU 15 B1, carton 150, Zl. 21.228/1948. See also *Beilage* 1 (001665-66). See also Professors Rudolf Welsch and Christian Rabl, “Rechtsgutachten,” 10 (0024110).

²⁸ “Factual Background,” Adele Bloch-Bauer, “Meine letzter Wille,” 19 January 1923 (000017-19, 000021-22).

²⁹ Dr. Andreas Lintl to Randol Schoenberg, 23 June 1999 (001906); he cites the ABGB § 1237.

³⁰ Stephan Koja and Andreas Kugler, “Wem gehört dieses Gemälde?” in *Frankfurter Allgemeine Zeitung* 107 (9 May 2003), 107 (002967).

(*Verwundetentransport*), there was no such document for the Klimts.³¹ Haberditzl cultivated Adele as a donor and when he was attempting to secure a gift, he played on her personal feelings. For example, she wrote to him in 1919 how she wished “*dem Andenken meines treuen Freundes Klimt schuldig zu sein ein Werk von seiner Hand der Allgemeinheit zugänglich zu machen.*”³²

The great preponderance of evidence suggests that Adele Bloch-Bauer intended to give her husband the power to decide on the final disposition of the paintings. In leaving money to two Viennese societies that she patronized she used different and more direct wording: “leaving behind” (“*hinterlassen*”) funds and obliging Ferdinand to pay any taxes. In section IV of the will, she addressed the possibility that her brother-in-law (Gustav) or his descendants might inherit the paintings (if Ferdinand died before Adele); here she “obligated” (“*verpflichten*”) the beneficiaries to make a donation.³³ The word “ask” (*bitte*) therefore stands apart in this regard. This was the interpretation of the executor of the will, Gustav Bloch-Bauer, at the time when Adele’s estate was administered. It is the finding of legal experts Professors Rudolf Welser and Christian Rabl; Dr. Andreas Lintl; and U.S. federal judge Edward Korman (writing for the Claims Resolution Tribunal).³⁴

Adele Bloch-Bauer died as a result of meningitis on 25 January 1925.³⁵ She was 43 years old. In the declaration concerning her death (“*Todfallsaufnahme*”), point 17 entailed the listing of her property: the six Klimt paintings were not mentioned here.³⁶ In other words, the Klimt paintings were not treated as Adele’s property at the time of her death. The paintings retained great emotional significance to Ferdinand. He kept her room unchanged as a memorial, and this included the six works mentioned in her will.³⁷ According to a 1932 insurance inventory of Ferdinand’s possessions, *Portrait of Amalie Zuckerkandl* (item 7) was hung in a separate bedroom.³⁸ Ferdinand’s commitment to his

³¹ Adele Bloch-Bauer to Dr. Martin Haberditzl, 13 December 1922 (REP 00009).

³² Stephan Koja and Andreas Kugler, “Wem gehört dieses Gemälde?” in *Frankfurter Allgemeine Zeitung* 107 (9 May 2003), 107 (002967). In the Elisabethstrasse *Palais*, a special memorial room was set aside for the six Klimts.

³³ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 5 (001039): they cite the Austrian State Archive, BMU 15 B1, carton 150, Zl. 21.228/1948. See also *Beilage 1* (001665-66).

³⁴ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 45-50; Dr. Andreas Lintl quoted in Randol Schoenberg to Ernst Bacher, 5 March 1999 (001019). See also Dr. Andreas Lintl to Randol Schoenberg, 9 March 1999 (001824-28); and Dr. Andreas Lintl to Randol Schoenberg, 23 June 1999 (001906-10); and, Claims Resolution Tribunal, “Certified Award: Case No. CV 96-4849 (Swiss Bank Award),” 6.

³⁵ Bezirksgericht Innere Stadt (Vienna), “Todfallsaufnahme,” 14 January 1925 (000013-16).

³⁶ Bezirksgericht Innere Stadt (Vienna), “Todfallsaufnahme,” 14 January 1925 (000015).

³⁷ Tobias Natter, “Portrait of Adele Bloch-Bauer I,” in Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women*, 116 (003185). See also Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 19 (0024119). They cite a report on the paintings by former director of the Österreichische Galerie, Dr. Bruno Grimschitz, 1 March 1948.

³⁸ A copy of the 1932 inventory is reproduced at 000031-91. The “*Gedenkzimmer*” with the six pictures by Klimt is 000087. The “*Schlafzimmer*” with the *Portrait of Amalie Zuckerkandl* is 0000088. See also “Factual Background” (002573).

wife also found expression in his arranging for his earthly remains to be placed next to her in the Viennese Central Cemetery.³⁹

After Adele's death, during the proceedings in probate court in 1925-1926 (well before the *Anschluss*), Ferdinand made a declaration in which he pledged to fulfill the request of his wife.⁴⁰ This, it can be inferred, represented an expression of his devotion to his deceased wife (rather than a binding obligation about the disposition of the paintings). It was also an expression of his support—at that time—for the Österreichische Galerie: an institution which he continued to patronize with gifts.⁴¹ The opinion offered by Professor Rudolf Welser and Professor Christian Rabl, as well as by Dr. Andreas Lintl—that this statement in probate court was not a legally binding obligation—is very persuasive.⁴² Among other reasons, it was unnecessary for Ferdinand to make this legal obligation and there was no compelling reason to do so. As noted above, there is no evidence that Adele ever owned the paintings: Ferdinand commissioned them, paid for them, and (with the exception of the one painting donated in 1936) kept them in his possession until forced to flee the country in 1938.

A 7 January 1926 document filed with the county court (Bezirksgericht) in Vienna by Dr. Gustav Bloch-Bauer, the executor to Adele's will, stated, "it is noted that the mentioned Klimt pictures are not the property of the testatrix (*Erblasserin*), but the testamentary widower."⁴³ Even Dr. Glatz from the Austrian Finanzprokuratur wrote in March 1948, about the 1926 document, "*In dem eidesstätigen Vermögens-bekanntnis wird ohne nähere Begründung behauptet, dass die gegenständlichen Klimtbilder nicht Eigentum der Erblasserin sondern des erblasserischen Witwers sein.*"⁴⁴ In other words, in this document drafted by the executor of Adele's will, Dr. Gustav Bloch-Bauer, it was stated explicitly that these paintings belonged to Ferdinand Bloch-Bauer, not Adele. The paintings were not the subject of death duties—as they presumably would have been if they had been Adele's property. This means that the court recognized the paintings as belonging to Ferdinand. The "*eidesstätigen Vermögens-bekanntnis*" was reportedly sent to the Österreichische Galerie (this provision is made explicitly in the text of the

³⁹ "Bescheinigung," 16 November 1945 (000320). Tobias Natter, "Portrait of Adele Bloch-Bauer I," in Tobias Natter and Gerbert Frodl, eds., *Klimt's Women*, 116 (003185).

⁴⁰ Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 27 (002427): they cite a letter from Dr. Gustav Rinesch to Robert Bentley, 11 April 1948. A copy of the document is provided at 001942.

⁴¹ Ferdinand Bloch-Bauer, for example, gave to the Österreichische Galerie a painting by Herbert Boeckl in 1928 and a sculpture by Georg Ehrlich in 1934. Stephan Koja and Andreas Kugler, "Wem gehört dieses Gemälde?" in *Frankfurter Allgemeine Zeitung* 107 (9 May 2003), 107 (002969). See also Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 23 (001057): they cite Archive of the Österreichische Galerie, Zl. 192/1928.

⁴² Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 136-41 (002536-41). Opinion of Dr. Andreas Lintl quoted in Randol Schoenberg to Ernst Bacher, 5 March 1999 (001019). See also Dr. Andreas Lintl to Randol Schoenberg, 9 March 1999 (001824-28); and Dr. Andreas Lintl to Randol Schoenberg, 23 June 1999 (001906-10).

⁴³ For the "Eidesstädtiges Vermögensbekanntnis" see Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 6 (001040) and *Beilage 2* (001667-69). They cite the Archives of the Österreichische Galerie, Zl. 33/1948. For the text of 7 January 1926 document, see 002569-72 and 000024.

⁴⁴ Dr. Glatz of the Finanzprokuratur to Dr. Karl Garzarolli, 6 March 1948 (000525).

document).⁴⁵ There is no evidence that the Österreichische Galerie ever objected to this point: that Ferdinand Bloch-Bauer was the sole owner and was not legally bound to fulfill his wife's wishes.

More circumstantial evidence of Ferdinand's ownership of the Klimt paintings can be found in other places. For example, in 1918, art historian Hugo Heller published a catalogue titled *Das Werk von Gustav Klimt: the two portraits of Adele and Buchenwald* were all identified as "Besitzer Herr Ferdinand Bloch, Wien."⁴⁶ In 1920, an art historian (and friend of Adele and Ferdinand) named Max Eisler published a book titled *Gustav Klimt: the landscape Häuser in Unterach am Untersee* was attributed to the "Sammlung Ferdinand Bloch-Bauer, Wien."⁴⁷

There is no evidence that Ferdinand himself ever believed that he was bound by his wife's request to give the paintings to the Österreichische Galerie. He continued to believe that he retained freedom of action with regards to the disposition of the pictures. Ferdinand Bloch-Bauer never put in writing his intention to donate the paintings to the Österreichische Galerie--a fact acknowledged by the museum's postwar director, Dr. Karl Garzarolli-Thurnlackh.⁴⁸ Adele asked her husband to dispose of what was in fact his property, but he still retained freedom of action. It bears repeating that in her death certificate from 1925, when authorities listed her personal property, they did not include the Klimt pictures.⁴⁹

Along these lines, Ferdinand donated one of the works mentioned in her will (and kept in her memorial room at the Elisabethstrasse *Palais*) to the Österreichische Galerie in 1936. *Schloss Kammer am Attersee* was replaced in the memorial room by a portrait of Ferdinand done by Oskar Kokoschka. Director Dr. Haberditzl wrote in his 25 November 1936 letter to Ferdinand, "for the generous transfer of the oil painting by Gustav Klimt 'Schloss Kammer am Attersee' as 'dedication of Adele and Ferdinand Bloch-Bauer' I would offer in the name of the Österreichische Galerie my most sincere and deepest thanks in return."⁵⁰ The 1936 gift of *Schloss Kammer am Attersee* demonstrated that Ferdinand had retained the power to dispose of the Klimt paintings as he wished: separating this one picture from the others—and not fulfilling Adele's testament literally (she said the works should go to the Österreichische Galerie after Ferdinand's death)--constituted an expression of his personal authority over the Klimt paintings.⁵¹

⁴⁵ See point 4 in the "Anlage zu der Abschrift des Vermögensbekenntnis" in Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," *Beilage 2* (001669).

⁴⁶ Hugo Heller, *Das Werk von Gustav Klimt* (Vienna: Hugo Heller Kunstverlag, 1918), 3-5 (002956-58).

⁴⁷ Max Eisler, *Gustav Klimt* (Vienna: Österreichische Staatsdruckerei, 1920), 31, 54 (002961-62).

⁴⁸ See Dr. Karl Garzarolli to Dr. Bruno Grimschitz, 9 March 1948 (001915-16 and 000522-23).

⁴⁹ Bezirksgericht Innere Stadt (Vienna), "Todfallsaufnahme," 14 January 1925 (000013-16).

⁵⁰ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 7 (001041): they cite the Archive of the Österreichische Galerie, Zl. 483/1936: Dr. Martin Haberditzl to Ferdinand Bloch-Bauer, 25 November 1936. "Factual Background," letter of Dr. Martin Haberditzl to Ferdinand Bloch-Bauer, 25 November 1936 (002574).

⁵¹ Here, I consciously reject the findings of Dr. Manfred Kremser regarding the 1936 gift. Dr. Manfred Kremser to Dr. Rudolf Wran, 10 June 1999 (001995-002007).

The paintings also had tremendous significance for many Austrians—especially in the post-World War I period when the Habsburg Empire had been dismantled and Austrians were struggling to create a new national identity. Reduced from an empire with 55 million subjects to a country of 7 million, many Austrians turned to culture as a means to establish their collective identity: theirs was the land of Mozart, the Strausses, and Klimt, among others. The Bloch-Bauer Klimt paintings were central to this undertaking: for example, four of the works in question were lent by Ferdinand Bloch-Bauer to the important 1934 exhibition, “*Austria in London*.”⁵² This show, which was assembled by a committee headed (honorifically, but symbolically) by Austrian Chancellor Engelbert Dollfuss, sought to project Austria’s newfound national identity to the international community. *Portrait of Adele Bloch-Bauer I* was also featured in the Austrian pavilion at the Paris World’s Exposition of 1937.⁵³ The cultural significance of the paintings for Austria (and more specifically, for Vienna), helps explain why individuals would subsequently work so hard to keep them in the nation’s capital. Their value was more than monetary.

Ferdinand Bloch-Bauer was forced to flee Vienna in March 1938 after the invasion of German forces. Besides being Jewish, he was a fervent anti-Nazi; prior to the *Anschluss*, he had tried to mobilize workers to resist the Nazis and contributed significant funds to the effort.⁵⁴ He first took refuge in Czechoslovakia; he left Vienna on 15 March and lived in his castle outside Prague. But when the Germans occupied the Sudetenland in the wake of the September 1938 Munich Conference, Ferdinand decided to move again (this appeared a sound decision, as the Germans occupied the remainder of Czechoslovakia in March 1939). Ferdinand first went to France, where he stayed in a spa hotel in Vichy.⁵⁵ He then applied for and was granted sanctuary in Switzerland. As of 1 September 1939, he resided in Zürich, where he lived in the Hôtel Bellerive au Lac (Utoquai 47) until his death on 13 November 1945. Because Swiss banks had trusteeship over many shares in the sugar company he had headed, Ferdinand hoped that his presence in Zürich would afford him the opportunity to save some of his assets.⁵⁶

Already on 27 April 1938, some six weeks after the *Anschluss*, German authorities filed charges against him for concealing assets and tax evasion for the years 1927-1937 (“*Hinterziehung, Verheimlichung, Gefährdung der Körperschafts-, Einkommen-, Vermögens-, Krisen-, Sicherheits-Steuer*”).⁵⁷ As was often the case, the charges against him were fabricated: he was accused by the Nazi authorities with various forms of

⁵² For the catalogue, *Austria in London: Austrian National Exhibition of Industry, Art, Travel, Sport* (16 April – 12 May 1934), see 005864-67.

⁵³ For the inclusion of *Portrait of Adele-Bloch Bauer I* in *Exposition d’Art Autrichien, 1937*, see Fritz Novotny and Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1975, 2nd ed.), 340 (1301).

⁵⁴ Alma Mahler-Werfel, *Mein Leben* (Frankfurt: S. Fischer, 1960), 271.

⁵⁵ Polizeikorps des Kantons Zürich to the Leiter des Nachrichtendienstes, 13 November 1940 (REP 00483). The hotel in Vichy was called “Parc & Majestic.”

⁵⁶ Czernin, *Die Fälschung*, 157.

⁵⁷ Lillie, *Was einmal War*, 203. See also Czernin, *Die Fälschung*, 147.

“evasion.”⁵⁸ Ferdinand was held responsible not only for personal taxes, but also those stemming from the sugar company.⁵⁹ On 14 May 1938, a verdict on his tax liability and an accompanying “security order” (*Sicherheitsauftrag*) was issued by Viennese authorities: the former entailed a penalty of RM 700,000 (the average worker earned RM 1,800 at the time), the latter provided for his incarceration.⁶⁰ He was indeed fortunate to have already left the country. His property, which the Viennese Finance Office in District IV (Referent Dr. Schlitzki) ordered to be liquidated to pay the tax bills, did not fare so well.⁶¹ It bears repeating that Ferdinand was a very wealthy individual: his assets when he fled Vienna in March 1938 were valued at over RM 7 million.⁶²

The 14 May 1938 edicts by the Nazi government effectively removed Ferdinand Bloch-Bauer’s control over his property; this was the critical moment of expropriation. His sugar factory was “Aryanized” (seized and the assets liquidated). His palace on the Elisabeth was sold off in November 1940 for RM 250,000 to the German National Railroad (*Reichsbahn*), and the proceeds put toward the fabricated tax penalties.⁶³ The 400-piece porcelain collection was sold off (with the best pieces going to Vienna’s museums). The castle in Prague was taken over by German officials: first by Reich Protector of Bohemia and Moravia (and former Foreign Minister) Baron Konstantin von Neurath, and then by Reinhard Heydrich—the Deputy Reich Protector of Bohemia and Moravia, but more notably, the Chief of the Reich Security Main Office and co-architect with Heinrich Himmler of the Nazi genocide. Heydrich was driving from the Bloch-Bauer castle to his office in the center of the city in May 1942 when he was attacked by partisans and suffered fatal injuries. Heydrich’s widow, Lina, continued to live in

⁵⁸ For the charges, “Hinterziehung, Verheimlichung, Gefährdung der Körperschafts-, Einkommen-, Vermögens-, Krisen-, Sicherheits-Steuer,” see Czernin, *Die Fälschung*, 147; and Pleyer, “Portrait of Amalie Zuckerkandl,” 7 (002729).

⁵⁹ See Berthold Unfried, “Arisierung und Restitution in der Zuckerindustrie” (Vienna: Österreichische Historikerkommission, 2002), 651 (003021). See also Berthold Unfried to Randy Schoenberg (20 March 2003), where he notes, “it was a mixture of different taxes—Körperschaftssteuer for the company and personal Einkommensteuer for Ferdinand...” (003030).

⁶⁰ Note, a penalty of RM 1 million is referenced by Ferdinand Bloch-Bauer in his penultimate will of 8 October 1942. The text of the will is reproduced in “Factual Background” (002584). For a fine of RM 700,000 see Eva Frodl-Kraft, *Gefährdetes Erbe. Österreichs Denkmalschutz und Denkmalpflege 1918-1945 im Prisma der Zeitgeschichte* (Vienna: Böhlau, 1997), 173. For more on the punitive taxes, see Dr. Gustav Rinesch, “Der Einfluss des Steuerstrafverfahrens gegen die Oesterreichische Zuckerindustrie A. G. auf die Arisierung,” 5 March 1956 (004213-27). For the average income of a worker in the German Reich, see Frank Bajohr, *Parvenüs und Profiteure. Korruption im Nationalsozialismus* (Frankfurt: S. Fischer, 2002), 235.

⁶¹ See the memorandum of Josef Zyan of the Central Office for Monument Protection (Zentralstelle für Denkmalschutz), 9 February 1939 (000104-05). Concerning the unlawfulness of the tax, see Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” Julia König, MAK report, 8 (001738): they cite Archive of the Bundesdenkmalamt, Ja/1941, Memorandum of Dr. Bodart, 1949. See also Claims Resolution Tribunal, “Certified Award: Case No. CV 96-4849 (Swiss Bank Award),” 2, 14-18.

⁶² Robert Bentley, “Eidesstattige Erklärung,” 22 February 1956 (004209-12).

⁶³ See the “Kaufvertrag,” between Dr. Erich Führer and the Deutsche Reichsbahn, 27 November 1940 (001114-17 and 001141-44). See also Berthold Unfried, “Arisierung und Restitution in der Zuckerindustrie” (Vienna: Österreichische Historikerkommission, 2002), 651 (003021). See also Matouschek to Gemeindeverwaltung des Reichsgaues Wien, 7 October 1942 (001086); and Dr. Erich Führer, “Eidesstattige Erklärung,” 3 September 1942 (001088).

Ferdinand's *Schloss* until she fled the Soviets in April 1945.⁶⁴ Ferdinand Bloch-Bauer and his heirs never received compensation for the Prague castle or any of its contents (the Red Army completed the plundering begun by the Nazis).⁶⁵

Ferdinand had tried to export some of his property—and more specifically, works in his art collection. He wrote to Oskar Kokoschka in April 1941, “*Mir hat man in Wien und Böhmen alles genommen. Nicht ein Andenken ist mir geblieben! Vielleicht become ich die 2 Porträts meiner armen Frau (Klimt) und mein Porträt. Das soll ich diese Woche erfahren!*”⁶⁶ In other words, Ferdinand Bloch-Bauer sought to remove two of the most important paintings by Klimt from the Österreichische Galerie (and the German Reich more generally). Of course, he failed with regards to the Klimts. But his intentions were clear. When the war ended in 1945, Ferdinand had virtually no assets left at his disposal; indeed his debts in Switzerland exceeded his assets. Already in 1941, in the above-quoted letter to Kokoschka, he noted, “*Sonst bin ich total verarmt und habe vielleicht auf einige Jahre bescheiden zu Leben, wenn man dieses Vegetieren Leben nennen kann.*”⁶⁷

Other members of the Bloch-Bauer family, like many Viennese Jews, also suffered depredations by Nazis after 1938. Dr. Gustav Bloch-Bauer, Maria Altmann's father, for example, had a Stradivarius cello given to him for his lifetime by the Rothschilds taken by the Gestapo. Gustav died not long after the *Anschluss* on 2 July 1938.⁶⁸ Maria Altmann lost a diamond necklace given to her by Ferdinand Bloch-Bauer as a wedding present (it had belonged to Adele), as well as her engagement ring.⁶⁹ She and her husband Friedrich (Fritz) Altmann (1908-1994) were also forced to relinquish the car they had received from the latter's brother, Bernhard: Gestapo agents arrived in mid-March, shortly after the *Anschluss*, and took it from the garage.⁷⁰

The entire Altmann family was targeted by Austrian Nazis. More specifically, a notorious Gestapo agent and SS officer named Felix Landau (1910-1983) focused his attention on the family after the *Anschluss*: by April 1938 he had imprisoned more than two-dozen members in the factory of Bernhard Altmann (the leading producer of knit goods in Austria and Maria's brother-in-law).⁷¹ Maria and her husband Fritz were held

⁶⁴ Czernin, *Die Fälschung*, 156-57.

⁶⁵ See Robert Bentley to Luise Gattin, 26 March 1947 (000363-64); and, Deposition of Maria Altmann (29 May 2002), 83 (002695).

⁶⁶ See Ferdinand Bloch-Bauer to Oskar Kokoschka, 2 April 1941, in Gloria Sultano and Patrick Werkner, *Oskar Kokoschka: Kunst und Politik, 1937-1950* (Vienna: Böhlau, 2003), 124 (002935-39).

⁶⁷ See Ferdinand Bloch-Bauer to Oskar Kokoschka, 2 April 1941, in Gloria Sultano and Patrick Werkner, *Oskar Kokoschka: Kunst und Politik, 1937-1950* (Vienna: Böhlau, 2003), 124 (002935-39).

⁶⁸ Deposition of Maria Altmann (29 May 2002), 38 (002684).

⁶⁹ Deposition of Maria Altmann (29 May 2002), 38 (002684). See also Hubertus Czernin, “Der Besuch der alten Dame,” in *Der Standard* (6/7 March 1999), 21 (001184).

⁷⁰ See the documents in the “Erhebungsbericht” of 1939 concerning the theft of Fritz and Maria Altmann's property in documents 1330-61. These documents stem from the Gestapo, the Finanzamt, the Polizeipräsident, the Devisenstelle, and other offices. Among the documents are Maria's own property declarations before her flight. Note that Dr. Gustav Rinesch represents them. There are similar property declarations and confiscations concerning Maria's aunt and uncle, Therese and Gustav Bloch-Bauer (1363-1402). See also Therese Bloch-Bauer's claims to the Canadian government in 005161-77.

⁷¹ Peter Rubstein, “Blutordensträger Felix Landau,” 1-4 (006128-31).

there until Landau ordered that Fritz be taken in for questioning at Vienna's Landesgericht prison. He was subsequently sent to Dachau (along with a number of other prominent prisoners), where he remained until July 1938.⁷² Fritz Altmann was held hostage until Bernhard signed over his textile factory.⁷³ Felix Landau confiscated a number of homes belonging to the Altmanns—including that of Fritz and Maria, as well as Bernhard's villa at 1 Kopfgasse.⁷⁴ Along with SS-Brigadeführer Kajetan Mühlmann, Landau seized about a hundred artworks from Bernhard, including paintings by Klimt, Degas, Canaletto, and Waldmüller. Some of these works were never recovered by the Altmann family.⁷⁵ Fritz and Maria Altmann managed to escape from the German Reich in October 1938.⁷⁶ They fled first via Cologne and Aachen to the Netherlands and then to the United Kingdom, but were not able to take any property with them.⁷⁷ Felix Landau participated in the murder of civilians as part of an SS-Einsatzkommando in Poland and the Soviet Union and was sentenced to life in prison in 1962 (although he was released in 1978).⁷⁸

The Bloch-Bauer art collection was a target of the Nazi authorities from the outset. Already in 1938, most objects were placed on the "Reich List of Nationally Valuable Artworks," a provision that prevented their export.⁷⁹ In early 1939, the Finance Office in Vienna also undertook a review of the collection with an eye toward its liquidation. This subsequently occurred. Representatives of various Austrian museums assembled at the *Palais Bloch-Bauer* on 28 January 1939 to inspect the art: this included, among others, Dr. Leopold Rupprecht of the Kunsthistorisches Museum, a Nazi who later helped Hitler construct the so-called "Führermuseum"; Richard Ernst, Director of the Kunstgewerbe Museum, and Josef Zykan of the Zentralstelle für Denkmalschutz (a precursor agency to the Austrian Bundesdenkmalamt, which figures prominently in the postwar history of the paintings. Significantly, Zykan was the official in the Bundesdenkmalamt in the postwar period responsible for issues relating the Bloch-Bauer collection).⁸⁰ They were joined by an unnamed "man from the Gestapo." An inventory of the collection was drafted on the occasion; it included five of the seven paintings by Klimt that are the subject of this current lawsuit (all but *Seeufer mit Häuser in Kammer* and *Schloss Kammer am*

⁷² Deposition of Maria Altmann (29 May 2002), 35 (002683).

⁷³ Bernhard Altmann, "Mauretania: The Story of the Escape of Fritz and Maria from Germany on 21st and 22nd October, 1938," 20 June 1939 (1428-39).

⁷⁴ Deposition of Maria Altmann (29 May 2002), 36-37 (002683).

⁷⁵ Peter Rubstein, "Blutordensträger Felix Landau," 3-4 (006130-31).

⁷⁶ Deposition of Maria Altmann (29 May 2002), 46 (002686). See the document dated 17 July 1939 that is referenced here. See also Randol Schoenberg to Bundesministerin Elisabeth Gehrler, 13 September 1998 (1496). See also Fritz Altmann's account in "My Adventure and Escape from Nazi Germany (1418-27).

⁷⁷ Deposition of Maria Altmann (29 May 2002), 47 (002686). See also Hubertus Czernin, "Der Besuch der alten Dame," in *Der Standard* (6/7 March 1999), 21 (001185).

⁷⁸ Peter Rubstein, "Blutordensträger Felix Landau," 5-21 (006132-48).

⁷⁹ Frodl-Kraft, *Gefährdetes Erbe*, 164.

⁸⁰ Lillie, *Was einmal War*, 204. The report on the inspection, signed by Dr. Herbert Seiberl (Leiter der Zentralstelle für Denkmalschutz), is reproduced at 002326-28. For Zykan as the responsible authority in the Bundesdenkmalamt in the postwar period, see Direktion der Österreichischen Galerie to Dr. Gustav Rinesch, 3 September 1946 (000349).

Attersee).⁸¹ The experts not only listed the works, but also marked those for which no export permit would be granted: this extended to all the paintings in the *Palais* except four portraits: the two by Klimt of Adele; the one by Klimt of Amalie Zuckerkandl; and the Kokoschka rendering of Ferdinand Bloch-Bauer. According to Ruth Pleyer, Nazi authorities often permitted the export of family portraits—especially when the subject was Jewish and deemed undesirable according to official policy.⁸² Up until 1941, Ferdinand maintained hope that he could export the two portraits of Adele and the one of him by his old friend Professor Kokoschka.⁸³ Obviously he failed with regards to the first two, but the authorities granted permission for him to export the Kokoschka portrait in March 1943 (it probably did not hurt his cause here that the picture was considered “degenerate” according to Nazi aesthetic policy).⁸⁴

On 22 February 1939, museum and government officials paid a subsequent visit to the Elisabethstrasse *Palais*; this time, Herr Maloch from the Gestapo was explicitly named as being present.⁸⁵ Forty-three items were listed on this inventory, with the entire porcelain collection lumped as a whole as item 43. Nearly all of the paintings in question were therefore still in the Bloch-Bauer’s residence in early 1939. It is also significant that one of the officials present, *Oberrat* Dr. Karl Wagner (Director of the *Städtische Sammlungen* of Vienna) described the 22 February inspection as “negotiation between agencies” (*Amtshandlung*).⁸⁶ Representatives of various government offices and museums were angling for their share of the plunder.

Subsequently, agents for the “Führermuseum” that Hitler planned to erect in Linz (Sonderauftrag Linz) acquired a number of Ferdinand Bloch-Bauer’s artworks. This included two paintings by Ferdinand Waldmüller (among at least six artworks), as well as a large Flemish (Aubusson) tapestry from about 1600.⁸⁷ It also appears that Hitler acquired certain works for his own personal collection--as distinct from the Führermuseum at Linz--although the lines demarcating the two collections often became

⁸¹ Lillie, *Was einmal War*, 204. See also “Factual Background” (002575-78). Note that the inventory includes *Amalie*. Sophie Lillie erroneously says that Ferdinand gave this work to Amalie Zuckerkandl’s daughter, Minnie Müller-Hofmann, before his flight, but there is no evidence for this assertion.

⁸² Ruth Pleyer, “Portrait of Amalie Zuckerkandl,” 40 (002782).

⁸³ See Ferdinand Bloch-Bauer to Oskar Kokoschka, 2 April 1941, in Gloria Sultano and Patrick Werkner, *Oskar Kokoschka: Kunst und Politik, 1937-1950* (Vienna: Böhlau, 2003), 124. He writes, “Perhaps I will get the 2 portraits of my poor wife (Klimt) and my portrait. I should find out about that this week!” (002935-39).

⁸⁴ See Herbert Seiberl memorandum, 24 March 1943 in Monika Meyer, “Gustav Klimt: Amalie Zuckerkandl,” 25 February 2000, *Beilage 6* (002331).

⁸⁵ Report of Josef Zykan of the Institute für Denkmalpflege, 26 February 1939 (000106). The document is reproduced in Monika Meyer, “Gustav Klimt: Amalie Zuckerkandl,” 25 February 2000, *Beilage 5* (002329-30).

⁸⁶ Dr. Karl Wagner to the Zentralstelle für Denkmalschutz, 23 February 1939 (000111).

⁸⁷ Among the Bloch-Bauer paintings acquired for the Führermuseum were: 1) Ferdinand Waldmüller, *Bildnis des Fürsten Esterhazy*; Ferdinand Waldmüller, *Landschaft mit Ochsegespann*; Rudolf von Alt, *Landschaft am See Waldidyll*; F. Amerling, *Portrait Ratzenberg-Wartenburg*; E. J. Schindler, *Aulandschaft an der Thaya*; Franz Alt, *Hofburg*; Eybl, *Bildnis eines jungen Mannes*; and August Rodin, *Allegorie der Freiheit*. See Dr. Gustav Rinesch to Military Government of Bavaria, Art Collecting Point, 6 September 1946 (000350-51); and also “Factual Background” (002579).

blurred.⁸⁸ Four water-colors by Rudolf von Alt were taken in June 1938 by Reichsamtseiter Ernst Schulte-Strathaus who worked in the Nazi Party headquarters in Munich and passed on to the German leader (and Waldmüller's *Portrait of the Duke of Esterhazy* was also subsequently listed as part of Hitler's personal collection).⁸⁹ Hermann Göring, the second most powerful man in the Third Reich, acquired a number of Bloch-Bauer works, including four paintings by Ferdinand Waldmüller (although there is doubt whether these works remained in his collection).⁹⁰ Dr. Hans Posse, the director not only of the Führermuseum but also of the Dresden Painting Gallery, acquired the Bloch-Bauer Holbein (or atelier of Holbein) for the Dresden Museum.⁹¹ The Neue Pinakothek in Munich acquired one of the Bloch-Bauer Waldmüllers (*Mutterglück*).⁹² The Oberfinanzpräsident of Vienna ordered that much of the porcelain collection be sold off (making allowances for certain pieces to be kept in Vienna and allowing the Kunstgewerbemuseum, for example, to select 34 objects and the Städtische Sammlungen—or more precisely, the Historisches Museum, taking 28).⁹³ The Oberfinanzpräsident Dr. Egger wrote Dr. Posse in November 1940 about the liquidation of this property in order to pay “for back taxes of the Jew Ferdinand Israel Bauer.”⁹⁴ In December 1940, Posse wrote that Hitler was interested in some of the porcelain pieces, but said they could be transferred to the Städtische Sammlungen.⁹⁵ Subsequently, in January 1941, Posse lifted the “*Führer-Vorbehalt*” (reserve of the Führer) and this permitted the Oberfinanzdirektion to engage the Viennese auction house, “Kärntnerstrasse” (the “Aryanized” establishment formerly known as A. Kende), to sell what turned out to be over 400 pieces.⁹⁶ The sale, which featured a professional catalogue with illustrations and detailed descriptions (“*Sammlung B.-B. Wien Porzellan des Klassizismus*”), took place from 23-25 June 1941.⁹⁷

⁸⁸ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 9 (001043).

⁸⁹ See Dr. Gustav Rinesch to Military Government of Bavaria, Art Collecting Point, 6 September 1946 (000350-51); and Edmund Schwenk to the Bundesdenkmalamt, 9 December 1953 (00901). See also the document evidently written by Robert Bentley (REP 01137).

⁹⁰ The four Waldmüllers, which were purchased by banker August von Fink and given to Göring as a Christmas present, were *Alte Frau mit 2 Kindern*; *Kleines Mädchen mit Hund*; *Kinder mit Trauben*; and *Alte Frau vor Hütte*. See Dr. Führer to Bankhaus E. von Nicolai & Co., 7 December 1940 (000159). See also Dr. Gustav Rinesch to Military Government of Bavaria, Art Collecting Point, 6 September 1946 (000350-51); and “Factual Background” (002579). The foremost expert on Göring's art collection, Nancy Yeide of the National Gallery of Art in Washington, DC, doubts that these works remained in Göring's collection. Dr. Rinesch expresses some doubt about whether they actually made it into Göring's collection in his letter to the Bundesdenkmalamt, 26 February 1948 (000504). The Allied restitution authorities, however, thought that Göring had acquired these Waldmüllers (REP 01127).

⁹¹ For Posse acquiring works, see Dr. Posse to Dr. Führer, 13 December 1940 (000167-68); and Dr. Herbert Seiberl to Dr. Führer, 18 May 1940 (000121-22).

⁹² James Garrison to Commanding General, Office of Military Government for Austria, 25 April 1947 (REP 01080-84). See also Dr. Führer to the Alpenländische Treuhand- und Revisionsgesellschaft, 23 May 1940 (000123).

⁹³ Dr. Rinesch to the Bundesdenkmalamt, 19 January 1948 (000466). See also Dr. Richard Ernst to the Bundesdenkmalamt, 28 January 1948 (000476) and the inventory (000477-79).

⁹⁴ Egger (Oberfinanzpräsident Wien) to Generaldirektor Dr. Posse, 23 November 1940 (000144).

⁹⁵ Dr. Posse to Dr. Führer, 13 December 1940 (000167-68).

⁹⁶ Dr. Herbert Seiberl to Reichs- Finanzamt Wieden, 8 May 1941 (000186).

⁹⁷ For the catalogue, which is over one hundred pages in length, see *Sammlung B.-B. Wien Porzellan des Klassizismus* (Vienna: Kunst- und Auktionshaus “Kärntnerstrasse, 1941) (000188-294). See also Lillie, *Was einmal War*, 204.

Because the Bloch-Bauer art collection was dispersed so widely, recovery in the postwar period proved difficult. One list of the family's art collection that appears to have been compiled in the 1990s (that is, before a few objects were returned after the 1998 restitution law) showed that the heirs recovered 23 paintings from Ferdinand's collection: 45 painting others, including the Klimt paintings in question, did not return to the heirs.⁹⁸ To this list, one could add a number of Klimt drawings, the Flemish tapestry from 1600, and numerous porcelain pieces.

It bears mentioning that although Nazi aesthetic policy proscribed certain kinds of modern art, this applied mostly to Expressionist works and objects created by Jewish artists. While Gustav Klimt's paintings were not prized by Adolf Hitler and most other Nazi leaders, they also were not banned nor the subject of a defamation campaign. A number of Klimt's works continued to be exhibited in Vienna's museums: in one 1943 exhibition at the Österreichische Galerie, *Portrait of Adele Bloch-Bauer I*, *Portrait of Adele Bloch-Bauer II*, *Schloss Kammer am Attersee*, and *Apfelbaum I* were all featured.⁹⁹ In one 1942 book about Klimt by Emil Pirchan, the discussion of *Portrait of Adele Bloch-Bauer I* did not mention Adele, and the plate illustrating the painting featured the title, "*Dame in Gold*": Adele's name was left out, presumably, in an attempt to avoid drawing attention to the Jewish subject.¹⁰⁰ Hubertus Czernin talks about how the portrait had become an "*entjudete* 'Gemälde.'"¹⁰¹ In both Emil Pirchan's 1942 book and the 1943 exhibition catalogue (with the main text by Dr. Fritz Novotny), the portrait of Adele was listed as the property of the Österreichische Galerie.¹⁰²

After Ferdinand Bloch-Bauer's flight from Vienna in March 1938, he was compelled to accept an agent to represent his interests in the German Reich. Dr. Erich Führer (1900-1987), an attorney who was Nazi Party member, assumed this function.¹⁰³ Dr. Führer was "an early Nazi" ("*ur-Nazi*").¹⁰⁴ Indeed, he joined the Party in 1932—before they came to power in Germany—and remained a Nazi during the "*Verbotzeit*" (the time when the Nazi Party was outlawed in Austria).¹⁰⁵ Dr. Führer joined the SS in 1934 (Number 309,063) and from 1935 to 1938, headed an illegal organization (Der Juristenbund) that defended hundreds of Austrian Nazis when they had legal difficulties in the years prior to

⁹⁸ "Bloch-Bauer Inventory," 001179-82).

⁹⁹ Exhibition catalogue, *Gustav Klimt* (organized by the Reichsstatthalter of Vienna) (Vienna: 1943), cited in "Factual Background" (002587). For a reproduction of key pages of the catalogue, see 1321-

¹⁰⁰ Emil Pirchan, *Gustav Klimt: Ein Künstler aus Wien* (Vienna: Verlag Wallishausser, 1942), 65, illustration 105 (1311, 1316). Adele's name was also omitted from the Exhibition catalogue, *Gustav Klimt* (organized by the Reichsstatthalter of Vienna) (Vienna: 1943) (1326).

¹⁰¹ Czernin, *Die Fälschung*, 213.

¹⁰² Emil Pirchan, *Gustav Klimt: Ein Künstler aus Wien* (Vienna: Verlag Wallishausser, 1942), 65 (1311). Exhibition catalogue, *Gustav Klimt* (organized by the Reichsstatthalter of Vienna) (Vienna: 1943) (1326).

¹⁰³ "Neues von ganz rechts—September 2001. Zu Erich Führer" (003060). Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 97 (002497). See also Landesgericht für Strafsachen Vienna, Strafsache gegen Erich Führer 11Vr5418/46.

¹⁰⁴ Statement of Dr. Franz Calice, quoted in "Factual Background" (002575).

¹⁰⁵ "Neues von ganz rechts—September 2001. Zu Erich Führer" (003060).

the *Anschluss*.¹⁰⁶ Indeed, he established himself in the Party by defending Nazis accused of assassinating Chancellor Engelbert Dollfuss in July 1934. Führer himself was imprisoned at the Wöllersdorf internment facility from August to November 1934 for illegal activities in support of the Nazis.¹⁰⁷ He was even personally acquainted with Adolf Hitler—having reported to him in a dispute that was adjudicated by the Nazi leader at the Obersalzberg in 1935 and having been a “guest of honor of the Führer” at the Nuremberg Party Rally in 1937.¹⁰⁸ Near the time that Dr. Führer took over Ferdinand Bloch-Bauer’s affairs in the Reich in 1938, he was described by one Nazi functionary as “one of the most prominent and accomplished (*verdienstesten*) National Socialists in the *Ostmark*.”¹⁰⁹

Führer is sometimes referred to as a “temporary asset manager,” but this would certainly be a euphemistic phrase.¹¹⁰ His task was to sell off Ferdinand Bloch-Bauer’s property and use the proceeds to pay the racially motivated and punitive taxes. It well may have been that Ferdinand Bloch-Bauer accepted his representation or even selected Dr. Führer to do this work.¹¹¹ The attorney could be charming and solicitous to Jews who were being victimized by the Nazi regime. Führer liquidated the assets of many other Austrian Jews besides Ferdinand Bloch-Bauer: this included Alice Strauss (the daughter-in-law of Richard Strauss) and members of the Lederer family (who also possessed a great art collection, including numerous works by Klimt).¹¹² Führer’s business in this regard grew so fast that his firm became one of the largest in Vienna and he was investigated in 1944 by the local Nazi Party Court in Vienna (Gaugericht Wien) for profiteering.¹¹³ Already in 1938 there was a note in his SS file that his profiteering (*Schiebungsgewinn*) had earned him RM 1,115,000.¹¹⁴ He was acquitted by Nazi Party officials of wrong-doing or any excessive sympathies for Jews. Despite these temporary difficulties, one need only look at his stationery to get a sense of his political orientation: it featured an eagle and swastika above the inscription, “member of the Nazi Party.”¹¹⁵ Throughout the Third Reich, he continued to be a member of the SS (he was a Hauptsturmführer or Captain

¹⁰⁶ “Neues von ganz rechts—September 2001. Zu Erich Führer” (003060). File of Dr. Erich Führer (# 343 236), Dr. Erich Führer, “Personal-Fragebogen der Nationalsozialistischen Deutschen Arbeiter-Partei” (17 June 1938) (003064).

¹⁰⁷ In July 1934, he defended Otto Planetta, presumably in connection with the murder of Chancellor Engelbert Dollfuss by Austrian Nazis. He also testifies to holding many illegal meetings at his office. File of Dr. Erich Führer (# 343 236), Dr. Erich Führer, “Personal-Fragebogen der Nationalsozialistischen Deutschen Arbeiter-Partei” (17 June 1938) (003064).

¹⁰⁸ “Neues von ganz rechts—September 2001. Zu Erich Führer” (003060). See also File of Dr. Erich Führer (# 343 236), report of Dr. Führer(1938) (003081-83).

¹⁰⁹ File of Dr. Erich Führer (# 343 236), report on Dr. Führer, signature illegible, 24 August 1938 (003120).

¹¹⁰ “Temporary Asset Manager” is used by Dr. Garzarolli, the postwar Director of the Österreichische Galerie. See the translation of Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 21, at www.adele.at

¹¹¹ See the documents of the Swiss Secret Police from 1939-1940: Stadtpolizei Zürich to Polizei Inspektorat, 19 March 1940 (REP 00474-78), notes that Dr. Führer visited Ferdinand Bloch-Bauer in Zürich in late-October 1939.

¹¹² Czernin, *Die Fälschung*, 153.

¹¹³ File of Dr. Erich Führer (# 343 236), Gaugericht Wien “Verfügung,” 27 March 1944 (003067-69).

¹¹⁴ Czernin, *Die Fälschung*, 155. Czernin cites the figure “RM 1,11500.000”—but this is clearly a typographical error.

¹¹⁵ File of Dr. Erich Führer (# 343 236), Dr. Erich Führer to Gaugericht, 12 January 1945 (003073).

when he began his work on the Bloch-Bauer estate).¹¹⁶ In a postwar interview, Dr. Führer refers to Ferdinand Bloch-Bauer at one point as an “ugly Jew” (“*hässlicher Jude*”).¹¹⁷

While Ferdinand Bloch-Bauer may have had a role in the selection of Dr. Führer as the asset manager, the appointment also required confirmation by the Finance Office (the Main Tax Office). After all, this was the office that had ordered the liquidation of Ferdinand Bloch-Bauer’s property and Dr. Führer was the “*Kommissarische Verwalter*.”¹¹⁸ The Nazi Finance authorities exerted considerable control over the expropriation process: in the case of Ferdinand Bloch-Bauer, they first imposed the taxes, then impounded his property, and then, in the spring of 1940 lifted the “*Pfändung*” and permitted the administrators (Dr. Führer and those who took over the sugar industry) to proceed with sales or management.¹¹⁹ It was customary for officials to reward those who were loyal to the Nazi cause by allowing them to liquidate the assets of Jews and other declared enemies. One can also look at the careers of Dr. Rudolf Freiherr von Hoscheck-Mühlhaimb (1887-19?) and Guido Walcher (1893-19?), who served as manager and book-keeper, respectively, of the Bloch-Bauer sugar company after 1938: both were “old National Socialists” (the former a member of the SS as well) who were vetted by Party officials before given their posts.¹²⁰ After the war, Dr. Otto Demus, the head of the Austrian Bundesdenkmalamt, noted that Dr. Führer was charged by a state liquidation office (Abgabenamt) to sell the Bloch-Bauer property and that he did this largely in 1941-1942.¹²¹ Austrian authorities declared the liquidation process complete in March 1943.¹²²

Dr. Führer tried to present himself as helpful to the government authorities (and the various official institutions, such as the Österreichische Galerie). He expressed what appeared to be genuine satisfaction that Hitler or Göring might receive some of the art and was helpful with their agents. He would also act as if he wanted to help Ferdinand Bloch-Bauer—or in the words of the Swiss police who investigated him in 1939-1940, to strike a “compromise.”¹²³ He evidently maintained to Ferdinand Bloch-Bauer that he had been passed over for the position he expected after the *Anschluss* and was therefore

¹¹⁶ “Neues von ganz rechts—September 2001. Zu Erich Führer” (003060).

¹¹⁷ Czernin, *Die Fälschung*, 398. He cites an undated postwar *Gesprächsprotokoll* with Dr. Erich Führer.

¹¹⁸ See Herbert Seiberl memorandum, 24 March 1943 in Monika Meyer, “Gustav Klimt: Amalie Zuckerkandl,” 25 February 2000, *Beilage 6* (002331).

¹¹⁹ Czernin, *Die Fälschung*, 185.

¹²⁰ Dr Rudolf Freiherr von Hoscheck-Mühlhaimb was appointed as a “Kommissar” for the Bohemian sugar company by the Ministerium für Land- und Forstwirtschaft. See Herr Gross to Dr Rudolf Freiherr von Hoscheck-Mühlhaimb, 19 March 1938 (006162) and F. Petrak to Guido Walcher, 19 August 1938 (006200), Walcher’s “*Lebenslauf*” of 20 April 1938 (006206), as well as the related documents (006157-006224).

¹²¹ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 9 (001043): Archive of the Bundesdenkmalamt, Restitution files Bloc-Bauer, carton 32, Fascz. 3: Dr. Otto Demus to James Garrison, 19 March 1948.

¹²² See Herbert Seiberl memorandum, 24 March 1943 (drafted by Dr. Zykan on 24 February), in Monika Meyer, “Gustav Klimt: Amalie Zuckerkandl,” 25 February 2000, *Beilage 6* (002331).

¹²³ Stadtpolizei Zürich to Polizei Inspektorat, 19 March 1940 (REP 00477).

disenchanted with the regime.¹²⁴ But this representation was true only insofar as he was greedy and ambitious. Indeed, Dr. Führer appeared most concerned with his own self-enrichment. Accordingly, after gaining permission from Dr. Hans Posse, he acquired a number of the Bloch-Bauer paintings personally: this included Fendi, *Mother With Children*; Kriehuber's *Officer* (1833); A. von Pettenkofen's *After the Battle*; Ranftl's *Child With Dog*; and Danhauser's *Mother With Child*.¹²⁵ He also took control of Ferdinand Bloch-Bauer's library—going so far as to direct many of the volumes to his own library, where he placed his personal *ex-libris* markers in the books.¹²⁶ In one letter that Dr. Führer sent to Hans Posse in December 1940, where he requested clearance to acquire certain artworks for his own home, he noted that he had been praised by officials of the Viennese Finance Office for his “extremely loyal” work in liquidating the Bloch-Bauer estate.¹²⁷

It is therefore utterly untenable to view Dr. Führer as representing Ferdinand Bloch-Bauer's interests. Führer continued to try to placate Ferdinand: his letters were a combination of bad news and sympathy (one from 23 May 1940 includes phrases such as “*die Angelegenheit sich nicht so durchführen lässt, wie Sie wünschen*” and “*was mir umso peinlich ist*”), as well as assurances that he was working to obtain the highest prices he could.¹²⁸ Ferdinand Bloch-Bauer initially may have believed Dr. Führer's claims that he would represent his interests (as reported by the Swiss police in 1939-1940), but he must have gradually changed his mind as he expressed considerable anger about the fate of his property.¹²⁹ This is evident in his 8 October 1942 will, where he wrote of having his property stolen: he wrote of the tax penalties (*Steuerstrafe*) as “unjust” (*ungerecht*), and how his “entire property in Vienna [had been] confiscated and sold off.”¹³⁰ Ferdinand never received any of the proceeds from the sale of his property (most of which went to the Gestapo and finance authorities); furthermore, he certainly knew very well that Dr. Führer bore great responsibility for the theft.¹³¹ The two evidently met one last time in September 1944 when Dr. Führer traveled to Zürich: while the details of this

¹²⁴ Polizeikorps des Kantons Zürich to the Leiter des Nachrichtendienstes, 13 November 1940 (REP 00482).

¹²⁵ Dr. Erich Führer to Dr. Hans Posse, 7 December 1940 (000112-13); and Dr. Posse to Dr. Führer, 13 December 1940 (000167-68).

¹²⁶ Dr. Gustav Rinesch to Finanzdirektion für Wien, 11 March 1949 (1208-11). Rinesch is requesting the return of these books, most of which had been secured by the Städtische Bücherei and not returned to the Bloch-Bauer heirs.

¹²⁷ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 9 (001043); they cite Archive of the Bundesdenkmalamt, Restitution files Bloch-Bauer, carton 32, Dr. Erich Führer to Dr. Hans Posse, 7 December 1940 (000148-58). See also “Factual Background” (002579-81).

¹²⁸ Dr. Führer to Ferdinand Bloch-Bauer, 23 May 1940 (000124-26).

¹²⁹ Polizeikorps des Kantons Zürich to the Leiter des Nachrichtendienstes, 13 November 1940 (REP 00483).

¹³⁰ Ferdinand Bloch-Bauer's will of 8 October 1942 is reproduced in “Factual Background” (002584-85).

¹³¹ For Bloch-Bauer not receiving any of the funds from the liquidation, see the Bundesdenkmalamt memorandum, February 1948 (000510). Robert Bentley also implicated Dr. Führer in the theft when he wrote with regard to one picture, “... *der Kaufpreis an den Rechtsanwalt Dr. Erich Führer in Wien überwiesen u. das Geld dann von der Gestapo beschlagnahmt.*” See Robert Bentley to the Bundesdenkmalamt, 30 December 1953 (000905). For the Gestapo's involvement in the liquidation of Bloch-Bauer assets, see Dörhage to Gemeindeverwaltung des Reichsgaues Wien, 7 May 1943 (001081) and the subsequent documents (001082-001113).

meeting are not known, one would expect that Dr. Führer attempted to blame the German authorities for the seizure of Ferdinand's property and present himself as sympathetic but ultimately over-matched agent.¹³² After the collapse of the Nazi regime, Dr. Führer was arrested. The British Military Government officials found at least fifteen paintings from the Bloch-Bauer collection in his possession (even though the liquidation of Ferdinand's art collection was declared completed in 1943).¹³³

One question that might have relevance to the disposition of the works is Dr. Führer's knowledge of Adele's will. According to the testimony of Dr. Bruno Grimschitz, the Director of the Österreichische Galerie after the *Anschluss*, Dr. Führer had no knowledge of Adele's will.¹³⁴ This, in Grimschitz's view, was part of Dr. Führer's justification for selling the works (as compared to handing them over to the Österreichische Galerie). Yet Dr. Führer did mention the will in a 3 October 1941 letter to Grimschitz.¹³⁵ Nonetheless, Führer must not have interpreted Adele's request as binding: otherwise, he would not have traded and sold works mentioned in Adele's will to the Österreichische Galerie and sold others to the city of Vienna and to a private party (Gustav Ucicky).¹³⁶ It appears that both Grimschitz and Führer believed that they could each get what they wanted by not interpreting the will as binding. It was only in the spring of 1943 that Grimschitz asserted the Österreichische Galerie's claim for the works and invoked Adele's will—a move provoked by the knowledge that Dr. Führer had sold one of the works to Gustav Ucicky.¹³⁷ It is also significant that contemporaneous state authorities—and more specifically, finance authorities—did not view Adele's testament as binding. Dr. Grimschitz told Dr. Gustav Rinesch in a 25 February 1948 conversation, "*Dieser Betrag [in this case for the second portrait of Adele] wurde deshalb bezahlt, weil sonst die Finanzbehörde, welche alle Bilder Bloch-Bauer's (sic) gepfändet hatte, nicht die Zustimmung gegeben hätte.*"¹³⁸ In other words, neither Dr. Führer (an attorney) nor state officials during the Third Reich viewed Adele's testament as binding (in which case, they would not have been subject to sale).

¹³² For the mid-September 1944 of Dr. Führer and Ferdinand Bloch-Bauer, see Polizeikorps des Kantons Zürich to the Leiter des Nachrichtendienstes, 20 November 1944 (REP 00489).

¹³³ Dr. Gustav Rinesch to Ministerialrat Kautschitsch of the Austrian Federal Office of Monument, 31 March 1947. This letter lists 14 works, and one should add the Klimt painting, *Seeufer mit Häuser in Kammer am Attersee*. Also see "Factual Background" (002594-95).

¹³⁴ Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 19 (002419). They cite a report on the paintings by former director of the Österreichische Galerie, Dr. Bruno Grimschitz, 1 March 1948. A copy of the document is provided at 000519-21.

¹³⁵ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 2 (001036). They cite the Archives of the Österreichische Galerie, Zl. 399/1941: Dr. Erich Führer to Dr. Bruno Grimschitz, 3 October 1941. A copy of the document is provided at 000298-99 and REP 00023-24.

¹³⁶ Dr. Erich Führer to Direktion des Städtischen Museums, 29 November 1957 (000974-75). See also Dr. Führer to Dr. Grimschitz, 3 October 1941 (000298-99 and REP 00023-24); and Dr. Garzarolli to Dr. Grimschitz, 9 March 1948. For the 9 March 1948 letter from Garzarolli to Grimschitz, see 001915-16 and 000522.

¹³⁷ Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 19 (002419). They cite a report on the paintings by former director of the Österreichische Galerie, Dr. Bruno Grimschitz, 1 March 1948 (REP 00044-46).

¹³⁸ Dr. Gustav Rinesch, "Akttenotiz," 25 February 1948 (000503).

A second key figure in this history is Prof. Dr. Bruno Grimschitz (1892-1964), who directed the Österreichische Galerie between 1939 and 1947. Grimschitz was a talented art historian, but also a Nazi who had formally entered the Party on 1 May 1938.¹³⁹ Hitler had appointed Grimschitz the acting Director of the Österreichische Galerie in August 1939 (the formal appointment followed in December). Further responsibilities and honors followed as Grimschitz headed up the Painting Gallery of the Art Historical Museum in 1940 and became the head of the newly founded Prince Eugen Museum in 1941.¹⁴⁰ Grimschitz acquired a number of seized works for the institutions which he oversaw. Indeed, in his capacity as a gallery director, he did business with a number of notorious agencies and Nazi art dealers: among the former, he bought from the VUGESTA; among the latter, he patronized dealers such as Karl Haberstock of Berlin and Friedrich Welz of Salzburg. Of course, he also bought works from the state-owned Dorotheum auction house, which sold many objects that had been forcibly confiscated from European Jews.¹⁴¹ In short, Grimschitz was an extraordinarily important collection builder in Vienna, and also highly complicit in the National Socialist regime's art plundering programs. Grimschitz provided many of the valuations of the Bloch-Bauer artworks as they were sold off by Dr. Erich Führer.¹⁴² He was pensioned off as a former National Socialist in 1947 by the Federal Ministry for Education.¹⁴³

Grimschitz's behavior with regard to the Bloch-Bauer Klimts is very problematic. During the Third Reich, as Ferdinand Bloch-Bauer's art was being liquidated, Grimschitz provided appraisals of certain works in the collection—determining, for example, that Fendi's *Mutter mit Kind* was worth RM 400 and that Kriehüber's *Offizier* should have a value of RM 200-300 assigned to it.¹⁴⁴ He also schemed—unsuccessfully—to acquire Waldmüller's *Mutterglück* for the Österreichische Galerie (as noted earlier, it ended up going to the Neue Pinakothek in Munich).¹⁴⁵ In short, Grimschitz worked closely with Dr. Führer, Dr. Posse, and others to plunder Ferdinand's art collection. In the postwar period he concealed evidence about the will from the heirs and their attorney, Dr. Rinesch. He also made representations about the paintings that, at a minimum, are not supported by the extant documentation. For example, he claimed that Adele had donated the paintings to the Österreichische Galerie and that the museum had permitted Ferdinand to keep them during his lifetime.¹⁴⁶ This shibboleth was repeated by Dr. Garzarolli in

¹³⁹ Czernin, *Die Fälschung*, 309.

¹⁴⁰ Czernin, *Die Fälschung*, 308-09.

¹⁴¹ Note that the surviving records of the Dorotheum were systematically destroyed in the 1970s. See Czernin, *Die Fälschung*, 311. See also Anja Heuss, "Die Reichskulturkammer und die Steuerung des Kunsthandels im Dritten Reich," *Sediment: Mitteilung zur Geschichte des Kunsthandels 3* (Bonn: Zentralarchiv des Deutschen und Internationalen Kunsthandels, 1998), 49-61.

¹⁴² Grimschitz's valuation of Bloch-Bauer art objects are noted in Dr. Erich Führer to Dr. Hans Posse, 7 December 1940 (000112-13).

¹⁴³ Czernin, *Die Fälschung*, 309.

¹⁴⁴ Dr. Erich Führer to Dr. Hans Posse, 7 December 1940 (000147-59).

¹⁴⁵ Czernin, *Die Fälschung*, 163.

¹⁴⁶ Prof. Dr. Grimschitz to Prof. Dr. Garzarolli, 1 March 1948 (REP 00044—46) and Randol Schoenberg to Dr. Rudolf Wran, 27 June 1999 (001912).

March 1948 and then again by Ernst Bacher's Commission on Provenance Research.¹⁴⁷ I have seen no contemporaneous document (i.e., from the 1920s) that supports this claim. Rather, Dr. Grimschitz fabricated this story in an attempt to strengthen the position of the Österreichische Galerie and others have uncritically accepted his assertion.

Grimschitz was not so very different from other figures in the Viennese museum establishment with regard to his attitude toward the Bloch-Bauer collection. To take another example, the director of the Vienna Arts and Crafts Museum (MAK), Dr. Richard Ernst, also adopted a self-interested approach with regard to the family's property. Ernst, who as noted earlier, had written a catalogue in 1925 about the Bloch-Bauer porcelain, arranged to buy much of that porcelain in 1941. Even though the pieces in which he was interested were valued at RM 72,700 in 1941, he arranged to purchase them for half that price (RM 31,320).¹⁴⁸ Later, after the war, Dr. Ernst managed not only to retain his position, but also adopted positions regarding the export of porcelain objects that were contrary to the wishes of the heirs.¹⁴⁹

In Ferdinand Bloch-Bauer's will of 22 October 1945, there is no explicit mention of the Klimt paintings (but he did not mention any other paintings either). He divided his estate between three of the children of his brother, Gustav Bloch-Bauer (1862-1938): Baroness Luise Gutmann-Gattin (1908-1998) (who received half), his nephew Robert Bentley (1904-1987), and his niece Maria Altmann (b. 1916) (who each received a quarter).¹⁵⁰ This reflected a revision of his penultimate will of 8 October 1942, where Luise Gutmann was the "universal heir" (or in case she was not in a position to inherit, then her two children).¹⁵¹ The 1942 will was written at a time when Luise, who was living in Zagreb, Croatia, was his only direct relation who was in Europe: the others were in North America. Because Luise had acquired Yugoslav citizenship by marriage (and the other heirs were still citizens of the Reich), it had earlier been hoped that Luise would not be

¹⁴⁷ Prof. Dr. Garzarolli to Landesgericht für Strafsachen, 26 March 1948 (REP 00059). See also the letter to Robert Bentley (presumably from Dr. Garzarolli), 6 December 1947, cited by the Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 13 (001647).

¹⁴⁸ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," Julia König, MAK report, 6 (001736). For Dr. Richard Ernst purchasing porcelain objects from the Bloch-Bauer collection at below-market prices, see also Dr. Führer to Dr. Ruthner (Oberfinanzdirektion Wien), 2 April 1941 (001748); as well as the inventory list valued at RM 72,700 (001749); and the purchase by Ernst for RM 26,100 as documented in Dr. Ernst to Dr. Führer, 3 May 1941 (001750); and Dr Ernst Herr Nagler of the Kunstauktionshaus "Kärntnerstrasse," 4 April 1941 (000180).

¹⁴⁹ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," Julia König, MAK report, 6-7 (001736-37). For the postwar trades of certain objects in exchange for export permits, see Dr. Richard Ernst, "Betr. Tauschaktion Porzellansammlung F. Bloch-Bauer Vertreten durch Dr. Rinesch, Protokoll," 7 June 1949 (001755).

¹⁵⁰ Ferdinand Bloch-Bauer testament, 22 October 1945 (1499-1500). Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 15 (002415). Robert Bloch-Bauer changed his name to Bentley once he arrived in Canada, evidently because people had difficulty pronouncing his birth name. Deposition of Maria Altmann (29 May 2002), 40 (002684).

¹⁵¹ Ferdinand Bloch-Bauer's 8 October 1942 is reproduced at 000304-06. Note that he left Maria Altmann \$10,000 in this will.

subjected to the Nazis' persecutory tax policies.¹⁵² There is no reason to question the validity of the 22 October 1945 will. The document will receive closer attention later in this report. It is worth adding here that Ferdinand remained dedicated to his deceased wife and her memory, and that he no doubt believed that Adele, a convinced Social Democrat would have had very strong feelings about the Nazis and the Austrians' complicity in the crimes of the regime.

For Maria Altmann, the paintings in question were part of her life and her family's life. As is often the case—and this sometimes distinguished cultural property from other assets looted by the Nazis—artworks had special significance because of their connection to people's lives and identities. Maria Altmann, who grew up in an affluent Jewish-Viennese home, would often visit her aunt and uncle—especially on Sunday, when it was customary for family members to have brunch at the Elisabethstrasse *Palais*. Although Maria was only nine years old when her aunt Adele died, she continued to visit the *Palais* and see her uncle.¹⁵³ She remembers six of the seven paintings in question: all but the *Portrait of Amalie Zuckerkandl*, which was reportedly kept in her uncle's bedroom, where she did not go.¹⁵⁴ When Maria Altmann married Bernhard Altmann in December 1937, Ferdinand Bloch-Bauer gave her a diamond necklace and earrings that had once belonged to Adele.¹⁵⁵ Her jewelry was subsequently confiscated by Nazi agents: the diamond necklace was sent to Hermann Göring, who in turn presented it as a gift to his wife, Emmy (Sonnemann) Göring. In March 1938, Maria's husband, Fritz Altmann was arrested and sent to Dachau. He spent several months in the notorious concentration camp before his older brother, Bernhard Altmann, paid a ransom that led to his release. Although Fritz was subsequently placed under house arrest, he and Maria managed to flee the country: seizing an opportunity that came on the way to a doctor's appointment, the couple slipped away and escaped across the Dutch border. They were met there by Bernhard Altmann and flown to Liverpool. While Bernhard accepted a British invitation to stay and launch a new business (manufacturing sweaters), Maria and Fritz Altmann moved on to the United States: they arrived in Los Angeles in 1942 and Maria became a U.S. citizen in 1945.¹⁵⁶

Maria Altmann's sister, Luise Gutmann, had a more difficult time: she became stranded in Yugoslavia at war's end when her husband, Victor Gutmann, was arrested by Tito's government and subsequently executed in February 1946 for "capitalist activities."¹⁵⁷ Luise and her children later emigrated to Israel in 1948 and then later settled in Vancouver, Canada.¹⁵⁸ She later married again (Joseph Gattin). Robert Bloch-Bauer had already emigrated to Vancouver in the 1930s, along with his brothers Karl and Leopold

¹⁵² Claims Resolution Tribunal, "Certified Award: Case No. CV 96-4849 (Swiss Bank Award)," 9: a 17 July 1947 memorandum by Dr. Rinesch as cited as evidence for this strategy to avoid Nazi inheritance taxes by members of the Bloch-Bauer family.

¹⁵³ Deposition of Maria Altmann (30 May 2002), 145 (002625). Deposition of Maria Altmann (29 May 2002), 18 (002679).

¹⁵⁴ Deposition of Maria Altmann (29 May 2002), 22 (002680).

¹⁵⁵ Deposition of Maria Altmann (29 May 2002), 32 (002682).

¹⁵⁶ Deposition of Maria Altmann (30 May 2002), 140-41 (002624).

¹⁵⁷ Deposition of Maria Altmann (30 May 2002), 78-80 (002694).

¹⁵⁸ Deposition of Maria Altmann (30 May 2002), 87 (002696).

and his mother Therese. In Canada, Robert and Leopold changed their names from Bloch-Bauer to Bentley, while Karl, who had no children, remained Bloch-Bauer.

In his last will of October 1945, Ferdinand Bloch-Bauer made no provisions for the Klimt paintings to go to the Österreichische Galerie or any other Austrian institutions.¹⁵⁹ Prior to his death, Ferdinand Bloch-Bauer instructed his attorney, Dr. Rinesch, to initiate steps that would lead to the return of the artworks that he believed to be his. Dr. Gustav Rinesch, for example, wrote to Dr. Bruno Grimschitz, the Director of the Österreichische Galerie on 28 September 1945 and inquired about the whereabouts of the artworks.¹⁶⁰

Dr. Rinesch, who was engaged by Robert Bentley (and perhaps the other heirs), continued these efforts subsequent to Ferdinand Bloch-Bauer's death.¹⁶¹ However, by April 1948, Dr. Rinesch became resigned to giving up the Klimt paintings in exchange for export permits for other artworks.¹⁶² For Jewish victims of the Holocaust and their heirs, the climate in postwar Austria was not conducive to the recovery of property—let alone valuable artworks that were often regarded as part of the country's cultural patrimony. Dr. Karl Renner (1870-1950), former Chancellor and later President of Austria (and previously a close friend of Adele Bloch-Bauer) wrote during this era:

“Restitution of property stolen from Jews, this [should be] not to the individual victims, but to a collective restitution fund. The establishment of such and the following foreseeable arrangements is necessary in order to prevent a massive, sudden flood of returning exiles.... The restitution to the victims cannot follow naturally.... Basically, the entire nation should be made not liable for damages to Jews.”¹⁶³

Anti-Semitism remained pervasive in Austria in the early postwar years. This was, after all, a nation which had seen such violent indigenous attacks on Jews following the *Anschluss* that the Germans had to restore order (even though Austrians made up only 8 percent of the Reich's population, they comprised 40 percent of the concentration camp guard staff).¹⁶⁴ Racism did not disappear over-night. Indeed, it continued to be manifested in various ways, including in deliberations for restitution, where authorities often adopted tough and intractable positions. The problematic nature of the Bloch-Bauer restitution proceedings is suggested by the recent \$21.8 million award to the heirs of the Bloch-Bauer and Pick families (the major owners of the Österreichische

¹⁵⁹ Ferdinand Bloch-Bauer testament, 22 October 1945 is reproduced at 1499-1500.

¹⁶⁰ Dr. Gustav Rinesch to Prof. Dr. Bruno Grimschitz, 28 September 1945 (000312-13). See also Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 15 (002415).

¹⁶¹ For the “Vollmacht” of 31 October 1945 where Robert Bentley engages Dr. Gustav Rinesch, see A 0057. For an Abschrift of an agreement (“*Vollmacht*”) between Maria Altmann and Frederick Altmann and Dr. Gustav Rinesch, 31 December 1945, see A 0058. See also Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 16 (002416).

¹⁶² For Dr. Rinesch to Dr. Garzarolli, 12 April 1948, see Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” *Beilage* 5 (001672). See also Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 26-28 (002426-28). A copy of the document is provided at 001945-46.

¹⁶³ See Karl Renner, “Probleme II: Volkswirtschaft,” April 1945 (002035). Czernin, *Die Fälschung*, 262.

¹⁶⁴ Bruce Pauley, *From Prejudice to Persecution: A History of Austrian Anti-Semitism* (Chapel Hill: University of North Carolina Press, 1992).

Zuckerindustrie) as compensation for the aryanization and the inadequate original restitution: this recent award was part of the Swiss bank settlement because a Swiss bank, the Schweizerische Bankgesellschaft, had not honored the trust account set up by the owners of the business and had participated in its liquidation during the Third Reich.¹⁶⁵ The Bloch-Bauer heirs were also forced to relinquish the *Palais* on the Elisabethstrasse; it continues to house the office of the Austrian railway. The heirs were also forced to sell certain artworks that had been returned to pay taxes the government said were due from the sugar factory.¹⁶⁶

Austria, like many other nations, had established a restitution bureaucracy at war's end. The policy of the Allies was to return cultural property to the government of the country of origin, and not to individuals.¹⁶⁷ The Austrian authorities therefore had control over the artworks and could determine their fate: Austria used the restitution procedure and laws against exporting cultural items to obtain and hold Nazi-looted artworks hostage. The Austrian Bundesdenkmalamt was the most important agency in this regard: "it routinely demanded donations to federal museums before it would permit any artworks to be returned and exported to their former owners, most of whom remained outside of Austria."¹⁶⁸

I. Portrait of Adele Bloch-Bauer I (1907)

Oil on canvas; 138 x 138 cm; Novotny/Dobai 150.¹⁶⁹ Österreichische Galerie inventory number 3830.¹⁷⁰

This picture is, according to a recent exhibition catalogue, "arguably the most famous Klimt portrait and a chief work of his so-called 'golden style.'"¹⁷¹ Although the painting was long in preparation--one of Adele's letters from August 1903 noted that "*Mein Mann hat sich entschlossen, mich von Klimt porträtieren zu lassen, der aber erst im Winter ans*

¹⁶⁵ Claims Resolution Tribunal, "Certified Award: Case No. CV 96-4849 (Swiss Bank Award)." For a summary of the award of Judge Edward Korman to the heirs of the Bloch-Bauer and Pick families, see William Glaberson, "Swiss Bank Steals Sugar Refinery," 14 April 2005, at <http://www.chadashot.org.nz/art2.php>. See also Tom Tugend, "Shoah Saga Ends in \$21.8 Million Award," in *Jewish Journal*, 15 April 2005, at <http://www.jewishjournal.com/home/preview.php?id=14010>.

¹⁶⁶ Claims Resolution Tribunal, "Certified Award: Case No. CV 96-4849 (Swiss Bank Award)," 29-30.

¹⁶⁷ Presidential Advisory Commission on Holocaust Assets in the United States, *Plunder and Restitution: The U.S. and Holocaust Victims' Assets: Findings and Recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States and Staff Report* (Washington, DC: U.S. Government Printing Office, 2000), SR 142-45, 160-62.

¹⁶⁸ "Stolen by Austria," 8 (002553). See also Claims Resolution Tribunal, "Certified Award: Case No. CV 96-4849 (Swiss Bank Award)," 26-27.

¹⁶⁹ Fritz Novotny, Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1967), 339 (plate 58).

¹⁷⁰ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Galerie Welz, 1995), 54 (003168)

¹⁷¹ Tobias Natter, "Portrait of Adele Bloch-Bauer I," in Tobias Natter and Gerbert Frodl, eds., *Klimt's Women*, 115 (003184). Brandstätter, *Gustav Klimt und die Frauen*, 60.

*Werk schreiten kann.*¹⁷² Art historians have noted, “like no other portrait, Klimt prepared it with numerous drawings and studies”(over one hundred).¹⁷³ The initial idea was to give the painting to the parents of Adele Bloch-Bauer on the occasion of their wedding anniversary, but the lengthy creation process prevented this from happening.¹⁷⁴ The painting hung in the Bloch-Bauer’s home at the time of Adele’s death in 1925, and also at the time of Ferdinand’s flight in March 1938.

Portrait of Adele Bloch-Bauer I was painted almost contemporaneously with the artist’s most famous work, *The Kiss* (1907/08). It was first exhibited in Mannheim in 1907 as part of a show featuring objects from the Wiener Werkstätte and was displayed in Vienna at the “*Kunstschau*” the following year.¹⁷⁵ The painting continues to attract great public attention: witness, the 1996 catalogue for the Österreichische Galerie which featured it on the cover; and the 2000-2001 exhibition at the Österreichische Galerie, “Klimt and the Women,” which devoted considerable attention to the painting, and also offered a remarkable array of public programs associated with it.¹⁷⁶ Klimt, and more specifically, his portraits of women, have also been featured prominently in Austria’s efforts to publicize its own cultural history.¹⁷⁷

One should emphasize that the Bloch-Bauers acquired this painting, like the others under consideration, after the commencement of their marriage in 1899. In Adele’s will of 1923, she referred to “my two portraits,” but this evidently meant, the portraits “that depict her.” As noted above, the August 1903 letter about the commission to Klimt suggests that Ferdinand paid for *Portrait of Adele Bloch-Bauer I*.¹⁷⁸ There is no extant documentation showing that he transferred ownership of this painting to Adele or gave it to her as a gift (not that this would have prevented Ferdinand from inheriting them if this had been the case). Even though Adele enjoyed a closer relationship with Klimt and viewed the paintings as a personally meaningful property, Ferdinand presumably brought with him the money that paid for the works.

¹⁷² Tobias Natter and Gerbert Frodl, eds., *Klimt und die Frauen* (Cologne: Dumont, 2000), 115. They quote a letter from Adele Bloch to Julius Bauer, 22 August 1903. See also the English translation of the book and document at 003184.

¹⁷³ Tobias Natter, “Portrait of Adele Bloch-Bauer I,” in Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women*, 115 (003184). See also Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 54 (003168).

¹⁷⁴ Tobias Natter, “Portrait of Adele Bloch-Bauer I,” in Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women*, 115 (003184). Professors Rudolf Welsch and Christian Rabl, “Rechtsgutachten,” 12 (002412).

¹⁷⁵ Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women*, 115 (003184).

¹⁷⁶ Österreichische Galerie Belvedere Vienna (Vienna: Österreichische Galerie Belvedere, 1996) (003165-66). See also the 28 page program for “Klimt und die Frauen,” (20 September 2000 – 7 January 2001) (002986-003001).

¹⁷⁷ See, for example, the lecture by Dr. Tobias Natter (the curator of “*Klimt und die Frauen*”), titled “The World is Feminine: The Viennese Fin-de-Siècle and Gustav Klimt” (8 March and 15 March 2001), sponsored by the Austrian Consulate General in Los Angeles, among others (003002-03). See also “Vienna Modernism, 1890-1910” in *Austrian Information* 53/718 (July/August 2000), which features *Portrait of Adele Bloch-Bauer I* on the cover (003005-11).

¹⁷⁸ Tobias Natter, “Portrait of Adele Bloch-Bauer I,” in Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women*, 115 (003184). They quote a letter from Adele Bloch to Julius Bauer, 22 August 1903.

I agree with the findings of Professor Rudolf Welser that “it cannot be inferred from the will that Adele Bloch-Bauer considered herself the owner of the paintings”; and also that, “Ferdinand Bloch-Bauer did not even give his wife free disposal of the paintings, let alone the ownership thereof.”¹⁷⁹ It is also clear from various sources, including Ferdinand’s statement through his attorney Gustav Bloch-Bauer at the probate hearings, that at the time of his wife’s death, he considered himself as the sole owner of this painting and the other works in question.¹⁸⁰ As noted in the 7 January 1926 document, “*Im eidesstättigen Vermögensbekenntnisse sind die Klimtbilder nicht angeführt. Der Erbl. Witwer Herr Ferdinand Bloch-Bauer Grossindustrieller in Wien I. Elisabethstrasse 19 vertreten durch Gustav Bloch-Bauer Rechtsanwalt in Wien I. Stubenbastei Nr. 2 als Erbenmachthaber erklärt die Klimtbilder als sein Eigentum, erklärt jedoch anderseits in einer Eingabe, dass er die Bitten der Erblasserin getreulich erfüllen werde, wenn sie auch nicht den zwingenden Charakter einer testamentarischen Verfügung besitzen.*”¹⁸¹ This document states very clearly that the Klimt paintings were the property of Ferdinand Bloch-Bauer and that he retained the right to dispose of them as he wished. The words “*nicht den zwingenden Charakter*” mean that he was not legally bound or required to do anything.

In October 1941, Dr. Erich Führer transferred *Adele Bloch-Bauer I* (as well as *Apfelbaum I*) to the Österreichische Galerie. Although he referenced the last will of Adele Bloch-Bauer in his 3 October 1941 approach to Director Prof. Dr. Grimschitz, he had his own particular interpretation of the will.¹⁸² He did not treat her “request” (*bitte*) as a bequest (or gift); instead, he demanded compensation for the two works that he transferred to the Österreichische Galerie¹⁸³ In exchange for the two works, Dr. Führer received the painting *Kammer am Attersee*, a landscape by Gustav Klimt, that had been donated in 1936 by Ferdinand Bloch-Bauer.¹⁸⁴ Dr. Führer therefore did not view Adele’s will as binding (note his treatment of the other paintings mentioned in the document that were in his possession, which he sold to other parties or kept for himself). It is also highly unlikely that Führer would have relinquished *Portrait of Adele Bloch-Bauer I* to the Österreichische Galerie without compensation. One should not think that Dr. Führer exhibited solicitude to the will of Adele Bloch-Bauer: he concluded the 3 October 1941 letter to the Österreichische Galerie with the words, “*Heil Hitler!*”¹⁸⁵ Furthermore, Adele’s will stated that she would like the paintings to go to the Österreichische Galerie after the death of Ferdinand; this was obviously not the case in 1941. Dr. Führer’s reference to the will therefore did not entail any recognition of its binding nature.

¹⁷⁹ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 63 and 68 (002463 and 002468).

¹⁸⁰ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 68 (002468).

¹⁸¹ Dr. Gustav Bloch-Bauer an das Bezirksgericht Innere Stadt Wien, 7 January 1926 (001669).

¹⁸² See also Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 4 (001038): they cite the Archives of the Österreichische Galerie, Zl. 399/1941, Dr. Erich Führer to Dr. Bruno Grimschitz, 3 October 1941 (000298-99 and REP 00023-24).

¹⁸³ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 14 (002414). They cite a letter of Dr. Führer to Prof. Dr. Grimschitz, 3 October 1941 (000298-99 and REP 00023-24).

¹⁸⁴ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 14 (002414). They cite a letter of Prof. Dr. Grimschitz to Dr. Führer, 8 October 1941. A copy of the document is provided at 001927.

¹⁸⁵ Dr. Erich Führer to Dr. Bruno Grimschitz, 3 October 1941 (00298-99).

Prof. Dr. Grimschitz's successor as the head of the Österreichische Galerie was Dr. Karl Garzarolli-Thurnlackh (1895-1964), who held the post until 1959. Garzarolli, who himself had been a museum director during the Nazi period (of the Joanneum Museum in Graz), appeared mystified and troubled as to why Grimschitz had provided compensation to Dr. Führer. He wrote in 1948, "It should have been a straight-forward matter for Prof. Dr. Grimschitz, who was director at that time, to insist on the handing over of all the Klimt paintings, by presenting the will that was available at any time from the District Court in Vienna I."¹⁸⁶ In other words, Prof. Dr. Grimschitz knew of the will in 1941, and he himself did not treat it as a binding bequest from Adele Bloch-Bauer. Garzarolli wrote Grimschitz after the war, "... the letter from Dr. Führer date 3 October 1941, which mentions the will, creates a situation that is inconsistent with the meaning of the will and your knowledge thereof."¹⁸⁷ The fact remains that the Österreichische Galerie first came to have physical control of this painting not by way of provisions in the will, but by way of an exchange with the Nazi agent who was liquidating Ferdinand Bloch-Bauer's property.

In the March 1999 report of the Commission on Provenance Research within the Austrian Bundesdenkmalamt on the Bloch-Bauer paintings in the Österreichische Galerie, there is considerable dissonance, not to mention logical inconsistency, when they create a category called "*Widmung*" (dedication or bequest), and then report right under this heading that this painting entered the collection by way of a trade.¹⁸⁸ Bequests are not trades—or, at the least, Adele Bloch-Bauer's testament said nothing about a trade. The error in labeling this object a "bequest" is readily apparent when one considers the available provenance information.

There is a pattern of individuals in positions of responsibility providing incorrect information about the provenance of *Portrait of Adele Bloch-Bauer I*. For example, Prof. Dr. Fritz Novotny (1903-1983), a curator at the Österreichische Galerie from 1939 onwards and then its director from 1960 to 1968 stated in the Klimt catalogue raisonné that he co-authored that the painting entered the Gallery's Collection in 1936.¹⁸⁹ This may have been an effort to disguise the fact that the picture was acquired during the Third Reich: a pre-1938 accession date, that is, before Austrian museums became complicit in the spoliation in Jewish victims' assets, would resolve certain issues that might arise. Gerbert Frodl, another director of the Österreichische Galerie who had unhindered access to the Gallery's archives, repeated the falsehood in his 1995 book that the picture was acquired in 1936.¹⁹⁰

¹⁸⁶ Professors Rudolf Welsch and Christian Rabl, "Rechtsgutachten," 20-21 (002420-21). They cite a letter of Dr. Garzarolli to Prof. Dr. Grimschitz, 9 March 1948.

¹⁸⁷ Professors Rudolf Welsch and Christian Rabl, "Rechtsgutachten," 20-21 (002420-21). They cite a letter of Dr. Garzarolli to Prof. Dr. Grimschitz, 9 March 1948

¹⁸⁸ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 2 (001036).

¹⁸⁹ Fritz Novotny, Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1967), 339. Note that according to certain biographical sketches (<http://www.lib.duke.edu/lilly/artlibry/dah/novotnyf.htm>), he became director in 1961, but Novotny was representing himself as director in 1960. See Prof. Dr. Novotny to Luise Gattin, 18 March 1960 (REP 00205).

¹⁹⁰ Tobias Natter and Gerbert Frodl, ed., *Klimt's Women*, 54-92 (003168-80).

Portrait of Adele Bloch-Bauer I, like *Apfelbaum I*, and, the following year, *Portrait of Adele Bloch-Bauer II*, entered the collection of the Österreichische Galerie in 1941. These works remained in the possession of the Österreichische Galerie through the end of the war and into the postwar period.¹⁹¹ However, it took the Österreichische Galerie until 9 July 1947 to acknowledge to either the Bloch-Bauer heirs or the Bundesdenkmalamt that they remained in possession of these three works.¹⁹²

II. Portrait of Adele Bloch-Bauer II (1912)

Oil on canvas; 190 x 120 cm; Novotny/Dobai 177.¹⁹³ Österreichische Galerie inventory number 4210.¹⁹⁴

This later portrait of Adele is widely considered “an outstanding example of the later style” of Gustav Klimt.¹⁹⁵ It features vivid colors and suggests the influence of Henri Matisse and other Fauve painters who worked at the beginning of the twentieth century.¹⁹⁶ This painting signaled a new phase in the career of Klimt, which gives it added art historical importance. Art historian Gerbert Frodl noted, “Klimt abandoned the use of gold in his work. In its place came a stronger use of colour, which was henceforth to characterize all his painting.”¹⁹⁷ He also began to feature his subjects in a standing rather than a sitting position, which suggested greater “urgency.”¹⁹⁸ This painting was first exhibited at the XI International Art Exhibition in Munich in 1913, and was a well-known work in the artist’s oeuvre.¹⁹⁹

Portrait of Adele Bloch-Bauer II was in the memorial room in the Elisabethstrasse *Palais* when Ferdinand fled Austria in March 1938. It remained there through January 1939, when government officials inspected the art housed there. Subsequently, the painting came under the control of Dr. Erich Führer, who sold it to the Österreichische Galerie on 1 March 1943.²⁰⁰ Grimschitz paid 7,500 Reichsmarks for *Portrait of Adele Bloch-Bauer*

¹⁹¹ Dr. Fritz Novotny to Dr. Otto Demus, 9 July 1947 in “Factual Background” (002598-99). A copy of the document is reproduced at 000400. Note that *Apfelbaum I* has the inventory number 3342; *Portrait of Adele Bloch-Bauer I* has the inventory number 3830.

¹⁹² Dr. Fritz Novotny to Dr. Otto Demus, 9 July 1947 in “Factual Background” (002598-99). A copy of the document is reproduced at 000400.

¹⁹³ Fritz Novotny, Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1967), 353 (plate 79).

¹⁹⁴ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 56 (003170).

¹⁹⁵ Brandstätter, *Gustav Klimt und die Frauen*, 60.

¹⁹⁶ Tobias Natter, “Portrait of Adele Bloch-Bauer II,” in Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women*, 124 (003189).

¹⁹⁷ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 56 (003170).

¹⁹⁸ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 56 (003170).

¹⁹⁹ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 56 (003170).

²⁰⁰ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 1 (001635): they cite the Archive of the Österreichische Galerie, Zl. 33/1948, Dr. Bruno Grimschitz, “Stellungnahme zur Erwerbungsfrage der Gemälde von Gustav Klimt aus dem Besitze der verstorbenen Frau Adele Bloch-

II.²⁰¹ This was a considerable sum of money: the average worker in Nazi Germany earned RM 1,800 per year.²⁰² The exchange had dubious qualities to it; these were even observed by Grimschitz's successor, Dr. Garzarolli, who in 1948 was seeking reasons to justify the Österreichische Galerie's retention of the work. Garzarolli wrote, "Unfortunately, no documentation regarding this purchase is available, nor is there any indication of the funds used for this purchase."²⁰³

It is striking that Grimschitz and the Österreichische Galerie paid for Portrait of Adele Bloch-Bauer II, even though it was listed in Adele's 1923 testament. One postwar document (from 25 February 1948), whose author remains in doubt, noted that "the sum was therefore paid because otherwise the [state] finance authorities, which had impounded all the Bloch-Bauer's pictures, otherwise would not have given their permission."²⁰⁴ Dr. Grimschitz, it would appear, was not able to convince the state finance authorities of the binding nature of Adele's will (or he may not have tried to do so, which is also telling).

III. Apple Tree I (Apfelbaum I) (1912)

Oil on canvas; 109 x 110 cm; Novotny/Dobai 180.²⁰⁵ Österreichische Galerie inventory number 3342.²⁰⁶

This painting was first exhibited at the Great Art Exhibition in Dresden in 1912.²⁰⁷ Gerbert Frodl noted "the present picture symbolically recreates the mutuality of nature and light, recalling Klimt's earlier (albeit very different) use of the tree as a symbol, that of the 'tree of life.' *Apple-Tree I* is regarded to be one of the artist's most profoundly private and meditative works."²⁰⁸

Bauer," 1 March 1948. See also Professors Rudolf Welsch and Christian Rabl, "Rechtsgutachten," 15 (002415)

²⁰¹ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 16 (001050): they cite Archive of the Österreichische Galerie, Zl. 33/1948, Dr. Garzarolli to Dr. Grimschitz, 9 March 1948. See also Professors Rudolf Welsch and Christian Rabl, "Rechtsgutachten," 21 (002421).

²⁰² Jackson Spielvogel, *Hitler and Nazi Germany: A History* (Upper Saddle River: Prentice Hall, 2001), 183.

²⁰³ Professors Rudolf Welsch and Christian Rabl, "Rechtsgutachten," 22 (002422). They cite a letter of Dr. Garzarolli to Prof. Dr. Grimschitz, 9 March 1948.

²⁰⁴ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 1 (001635): they cite an "Akttenotiz" signed by "VON GUSTL" 26 February 1948. The Kommission members suggest that the author is Dr. Gustav Rinesch, which appears to be a correct attribution. The document is reproduced at 000503.

²⁰⁵ Fritz Novotny, Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1967), 355 (plate 89).

²⁰⁶ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 84 (003178).

²⁰⁷ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 84 (003178).

²⁰⁸ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 84 (003178).

The painting was taken over in 1938 by Dr. Erich Führer, who in 1941 traded it, along with *Portrait of Adele Bloch-Bauer I*, to the Österreichische Galerie for *Schloss Kammer am Attersee*.²⁰⁹ In this trade, Führer referenced Adele's will and noted that its transfer to the gallery satisfied her last wishes ("*im vollzug de szt. Letztwilligen Verfügung der Frau Adele Bloch Bauer*"). At the Österreichische Galerie, it received an inventory number of 3342—the same number as the painting *Schloss Kammer am Attersee* had been given in 1936.²¹⁰

Fritz Novotny and Johannes Dobai claimed in their catalogue raisonné that the picture had entered the collection in 1936 as a gift, one dedicated to "Adele Bloch-Bauer." This assertion was repeated in the later catalogue of the Österreichische Galerie. But when the details of the trade became known, the Gallery disavowed this provenance.²¹¹ It seems that the 1941 acquisition involved deception to such an extent that it had misled careful provenance researchers and Klimt experts. It is only the recent release of documents that permitted clarification.

IV. Birkenwald/ Buchenwald (Birch/Beech Forest) (1903)

Oil on canvas; 110 x 110 cm; Novotny/Dobai 136.²¹² Österreichische Galerie inventory number 4283.²¹³

This painting was first exhibited at the Viennese Secession XVIII, 1903.²¹⁴ There has long been confusion over its title: Novotny/Dobai called it "*Birchwood*," but another Klimt expert, Gerbert Frodl notes that there are many more beeches than birches depicted.²¹⁵ With regards to the painting's significance to the artist's oeuvre, Frodl observed how "Klimt's few woodland pictures nevertheless exhibit more of the ideas and impact of Impressionism than do his later paintings of gardens and meadows."²¹⁶

²⁰⁹ See also Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 4 (001038): they cite the Archives of the Österreichische Galerie, Zl. 399/1941, Dr. Erich Führer to Dr. Bruno Grimschitz, 3 October 1941 (000298-99 and REP 00023-24).

²¹⁰ Prof. Dr. Ernst Bacher and the Bundesdenkmalamt, "Angaben zu den 241 Kunstgegenstände" (003453). See also Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 4 (001038): they cite the Archives of the Österreichische Galerie, Inventory of the Österreichische Galerie.

²¹¹ Czernin, *Die Fälschung*, 425.

²¹² Fritz Novotny, Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1967), 333 (plate 50).

²¹³ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 74 (003174).

²¹⁴ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 74 (003174).

²¹⁵ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 74 (003174).

²¹⁶ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 74 (003174).

In November 1942, Dr. Erich Führer sold the painting to the Städtische Sammlungen (Historisches Museum) of the City of Vienna for RM 5,000.²¹⁷ Dr. Führer testified in 1957 that the Director of the Städtische Sammlungen of Vienna, Dr. Karl Wagner, had made “urgent inquiries” about the painting and pushed Dr. Führer to sell it to his museum.²¹⁸ Führer also claimed that at that time, he had no knowledge that *Birkenwald* had been claimed by the Österreichische Galerie, but his belated 1957 recollections probably cannot be trusted.²¹⁹ Führer had referenced Adele’s testament in the 3 October 1941 letter he sent to Grimschitz concerning the trade of other works listed in Adele’s will.²²⁰ In other words, over one year prior to the sale, he had some knowledge of the testament, but did not view it as binding.

The director of the Städtische Sammlungen, Dr. Karl Wagner, was a very problematic figure in the cultural bureaucracy of twentieth century Austria. The Deputy Director of the Städtische Sammlungen up through 1938, he took over the top position in December 1938 after the existing Director, Oskar Katann, exhibited insufficient sympathy for the National Socialist regime.²²¹ Many of the exhibitions organized under his direction advanced the racist and intolerant Nazi agenda: e.g, the 100th anniversary of the birth of Georg Ritter von Schönerer in July 1942, (the exhibition was done together with the Gaupropagandaamt and was a “*gehässige Angriff auf Kirche, Judentum und Freimauerei.*”).²²² As noted, above, Wagner was present at the inspection of the Bloch-Bauer Elisabethstrasse *Palais* in early 1939 and he did business with Dr. Erich Führer purchasing property confiscated from Jewish victims. But more generally, he had close relations with individuals who played central roles in the spoliation of property from Holocaust victims: for example, one of Wagner’s employees at the Städtische Sammlungen, Prof. Dr. Julius Fargel (b. 1896) was not only a restorer of pictures there, but also an appraiser (*Schatzmeister*) of the VUGESTA (a branch of the Gestapo that processed property taken from individuals—almost always Jewish—who were deported to concentration and death camps or ghettos in the East). Wagner viewed Fargel as a means of acquiring more objects for the collections he oversaw.²²³ Dr. Karl Wagner was not only complicit in the plundering of the Third Reich, but was an important figure in

²¹⁷ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 2 (001036): they cite the Archive of the Österreichische Galerie, Zl. 33/1948, Dr. Gustav Rinesch to Dr. Karl Garzarolli, 12 April 1948. See also Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 15 (002415), and 25 (002425): the latter cites a letter from Dr. Garzarolli to the Finanzprokuratur, 10 April 1948.

²¹⁸ Dr. Erich Führer to Director of the Municipal Museum of Vienna, 29 November 1957 (000974-75).

²¹⁹ Dr. Erich Führer to Director of the Municipal Museum of Vienna, 29 November 1957 (000974-75).

²²⁰ Archives of the Österreichische Galerie, Zl. 399/1941: Dr. Erich Führer to Dr. Bruno Grimschitz, 3 October 1941. A copy of the document is provided at 00298-99 and REP 00023-24.

²²¹ “Ein Überblick zur Geschichte des Historischen Museums der Stadt Wien,” at www.museum.vienna.at/museum/history.html. (1267-83).

²²² “Ein Überblick zur Geschichte des Historischen Museums der Stadt Wien,” at www.museum.vienna.at/museum/history.html. (1279).

²²³ *Vierter Bericht des amtsführenden Stadtrates für Kultur und Wissenschaft über die gemäss dem Gemeinderatsbeschluss vom 29. April 1999 erfolgte übereignung von Kunst- und Kulturgegenständen aus der Sammlungen der Museen der Stadt Wien sowie den Wiener Stadt- und Landesbibliothek* (10 November 2003), 86-117, at www.wienermuseum.at.

the postwar restitution efforts, as he preserved his position as Director of the Städtische Sammlungen until 1949 (his successor was Dr. Franz Glück).²²⁴

In the postwar period Dr. Wagner was very calculating in his statements about *Birkenwald*. For example, on 5 July 1947, Wagner responded to an inquiry from Dr. Otto Demus, the head of the Austrian Bundesdenkmalamt, who had asked about Bloch-Bauer paintings in the collection of the City of Vienna; Demus had not specifically mentioned Klimt's *Birkenwald*, but the import of his letter was readily apparent. Nonetheless, Wagner took the questions posed in the inquiry literally, responding, for example, that the Städtische Sammlungen did not have Klimt's *Apfelbaum*. Dr. Wagner made no mention that the Städtische Sammlungen were in possession of *Birkenwald*.²²⁵ After a direct inquiry from the Austrian Bundesdenkmalamt, Dr. Wagner finally acknowledged on 28 August 1947 that his museum was in possession of *Birkenwald*.²²⁶ It was only in September 1947 that Dr. Rinesch and the heirs ascertained the fate of this painting.²²⁷

On behalf of the Bloch-Bauer heirs, Rinesch pursued the painting (and parts of the porcelain collection) from the Städtische Sammlungen. In a 3 December 1947 response, Director Dr. Wagner wrote that he was prepared to return both the painting and the porcelain, but only upon the condition that the purchase price be repaid.²²⁸ This was hardly an approach that was favorable to Holocaust victims and their heirs, most of whom no longer had the resources to buy back works. The revenue from the initial "liquidation" during the Third Reich nearly always went to pay the Nazis' punitive taxes, and these tax payments were not always refunded after the war.²²⁹ In short, victims and heirs were sometimes asked to buy back their own art. The expense of funding emigration, and the difficulty of finding lucrative employment in their new countries further undermined the financial position of many who had escaped.

As disadvantageous as this "compensation" proposal was, it did not even remain on the table for long. Wagner's views changed by March 1948: Dr. Garzarolli of the Österreichische Galerie, who wanted the picture for his institution, noted, "Dr. Wagner,

²²⁴ "Ein Überblick zur Geschichte des Historischen Museums der Stadt Wien," at www.museum.vienna.at/museum/history.html. (1281).

²²⁵ Dr. Karl Wagner to Otto Demus, 5 July 1947 and Dr. Otto Demus to Dr. Wagner, 30 June 1947 (000391). Wagner did acknowledge that the Städtische Sammlungen purchased 28 porcelain settings from the Bloch-Bauer collection at a 9 May 1941 auction, and that 16 of those were subsequently traded away.

²²⁶ Dr. Erwin Haimerl of the Bundesdenkmalamt to Dr. Karl Wagner, 12 August 1947, and Dr. Wagner to the Bundesdenkmalamt, 28 August 1947, in "Factual Background" (002599-002600). A copy of the latter is reproduced at 000424.

²²⁷ Bundesdenkmalamt to Dr. Rinesch, 10 September 1947 quoted in "Factual Background" (002600). A copy of the document is reproduced at 000427.

²²⁸ Dr. Karl Wagner to Dr. Rinesch, 3 December 1947, cited in "Factual Background" (002600-01). A copy of the document (or its Abschrift) is provided at 001930 and REP 00099.

²²⁹ "See Constantin Goschler, *Wiedergutmachung. Westdeutschland und die Verfolgten des Nationalsozialismus (1945-1954)* (Munich: R. Oldenbourg Verlag, 1992); Brigitte Bailer, *Wiedergutmachung kein Thema. Österreich und die Opfer des Nationalsozialismus* (Vienna: Löcker Verlag, 1993); Frank Bajohr, "Aryanization" in *Hamburg: The Economic Exclusion of Jews and the Confiscation of their Property in Nazi Germany* (New York: Berghahn, 2002), 244-50; and Charles Kapralik, "Restitution and Indemnification for Emigrants from Austria," in *Aufbau* (10 December 1971; 31 December 1971; 14 January 1972; and 4 February 1972).

the current director of the city collections, knows the facts of the case, and I have asked him for a response. He has stated that from his point of view there are no grounds for returning the painting, since he paid for it.”²³⁰ Later, in a 10 April letter, Dr. Garzarolli reported that as of a month ago, Dr. Wagner’s position was such that he would not give up the painting, even for the repayment of the RM 5,000.²³¹ Garzarolli appeared to recognize that this was not a position supported by postwar Austrian law: he noted in a letter to Grimschitz that he hoped to avoid a lawsuit “for collegial reasons”; but the fact that he thought a law suit to be a possibility shows his doubts about Wagner’s position.²³²

In June 1948, Dr. Garzarolli sent Dr. Wagner several letters in which he made a claim for *Birkenwald*. In the more forcefully worded letter of 30 June, he invoked Adele’s testament; he also noted that all of Dr. Führer’s property had been seized by the Bundesministerium für Vermögenssicherung und Wirtschaftsplanung.²³³ By this point, Garzarolli and Rinesch had come to terms about the six works mentioned in Adele’s testament and—in return for export permits covering other works in the Bloch-Bauer collection—Rinesch agreed to help with the claims of the Österreichische Galerie. Already in May 1948, Dr. Rinesch had supported this claim by writing to the Städtische Sammlungen of Vienna and he did so again later in November.²³⁴ Professors Welser and Rabl write, “Dr. Rinesch, as the heirs’ representative, made the agreement that *Seeufer mit Häuser in Kammer am Attersee* would be handed over to the Gallery, and that the heirs would, in favor of the Österreichische Galerie, give up their claim to restitution of *Birkenwald/Birkenwald* by the immediate (unlawful) acquirer, the Vienna Municipal Collections.”²³⁵

The transfer process nonetheless proved slow and complicated. Garzarolli wrote to the Bundesministerium für Unterricht on 25 October 1948, noting that the Städtische Sammlungen were checking with their attorneys about transferring *Birkenwald* to the Österreichische Galerie.²³⁶ By 18 November, Garzarolli was expressing frustration about the delay: he wrote to Dr. Wagner at the Municipal Collections, “*Da bis heute trotz den nahezu ein Jahr dauernden Verhandlungen keine Finalisierung der Angelegenheit zu erreichen war, teil ich Ihnen mit, dass ich unwiderruflich die Rückstellungsklage gegen den Magistrat Wien einleiten werde, falls das gegenständliche Gemälde nicht bis am 1. Dezember 1948 der Österreichischen Galerie ausgefolgt ist.*”²³⁷ While Garzarolli had been compelled to make threats, this was not necessary: on the same day, prior to the receipt of his letter, the Städtische Sammlungen gave up the picture: a document from the

²³⁰ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 22 (002422). They cite a letter of Dr. Garzarolli to Prof. Dr. Grimschitz, 9 March 1948 (000522-23).

²³¹ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 25-26 (002425-26). They cite a letter from Dr. Garzarolli to the Finanzprokuratur, 10 April 1948 (000560).

²³² Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 22 (002422). They cite a letter of Dr. Garzarolli to Prof. Dr. Grimschitz, 9 March 1948 (000522-23).

²³³ Dr. Garzarolli to Dr. Karl Wagner, 22 June 1948 (REP 000103); and Dr. Garzarolli to Dr. Wagner, 30 June 1948 (REP 00086-97).

²³⁴ Dr. Rinesch to Dr. Karl Wagner, 11 May 1948 (REP 00102). See also Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 16 (002416).

²³⁵ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 113 (002513).

²³⁶ Dr. Garzarolli to Bundesministerium für Unterricht, 25 October 1948 (REP 00104).

²³⁷ Dr. Garzarolli to Direktion der Städtischen Sammlungen in Wien, 18 November 1948 (REP 00106).

Magistrate of the City of Vienna to the Federal Ministry for Education from 18 November 1948 stated that the Gemeinderatsausschuss had approved the transfer and as of that day, the painting had become the property of the Österreichische Galerie.²³⁸ On 23 November 1948, the Galerie confirmed receipt of the painting.²³⁹ Another document, one dating from December 1957, reports on the Österreichische Galerie paying compensation (5,000 Schillings) to the City of Vienna for the picture.²⁴⁰ In other words, the actual compensation and the completion of the acquisition by the Österreichische Galerie took place only at the end of 1957—over eight years after the actual physical transfer.²⁴¹

V. Seeufer mit Häuser in Kammer am Attersee (1916)

Oil on canvas; 110 x 110 cm; Novotny/Dobai 199.²⁴² Österreichische Galerie inventory number 4209.²⁴³

One of the artist's late landscapes, this work was first exhibited in the Gustav Klimt Memorial Exhibition of 1928.²⁴⁴ Although Klimt was living with the Flöge family *am Attersee* at that time, in Frodl's words, "for whom he was practically one of the family," it was purchased before his death by Ferdinand Bloch-Bauer.²⁴⁵ The painting was among those taken over by Dr. Führer when he became the "temporary manager" of Ferdinand Bloch-Bauer's property in 1938.

Professors Rudolf Welser and Christian Rabl note that the fate of this painting is not entirely clear, but that it appears that Dr. Führer retained it.²⁴⁶ They suggest that Führer was permitted to keep it personally as a reward for his efforts to "liquidate" the Bloch-Bauer collection. German government authorities, who monitored the liquidation of

²³⁸ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 2 (001036). They cite the Archives of the Historical Museum of the City of Vienna, Zl. 623/1948, Magistrate of the City of Vienna to the Federal Ministry of Education, 18 November 1948. A copy of the document is REP 00107. See also Dr. Karl Wagner to Dr. Garzarolli, 22 November 1948 (REP 00109), where he states that their letters had crossed.

²³⁹ Fritz Novotny, "Bestätigung," 23 November 1948 (REP 00110).

²⁴⁰ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 2 (001036). They cite the Archives of the Österreichische Galerie Zl. 858/1957: Dr. Karl Garzarolli to Dr. Franz Glück, the Director of the Vienna Municipal Collections, 2 December 1957 (REP 00201). See also Dr. Franz Glück to the Österreichische Galerie, 9 November 1957 (REP 00199). See also Dr. Karl Garzarolli to Dr. Franz Glück, 2 December 1957 (000939).

²⁴¹ See also Czernin, *Die Fälschung*, 364.

²⁴² Fritz Novotny, Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1967), 364 (plate 107).

²⁴³ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 92 (003180).

²⁴⁴ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 92 (003180). Portions of the catalogue for the 1928 exhibition are contained in Monika Meyer, "Gustav Klimt: Amalie Zuckerandl," 25 February 2000, *Beilage 1*(002320-21).

²⁴⁵ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 92 (003180).

²⁴⁶ Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 23-24 (002423-24). See also .Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 17 (001051) they cite Archive of the Bundesdenkmalamt, Dr. Karl Garzarolli to the Bundesdenkmalamt, 2 April 1938.

“aryanized” (seized) estates, apparently permitted Dr. Führer to keep the painting as a kind of recognition for his services. The Director of the Österreichische Galerie, Dr. Garzarolli noted in April 1948 with regards to the painting, “This painting was withheld by and obviously misappropriated by the lawyer, Dr. Erich Führer.”²⁴⁷ It was discovered at war’s end in Dr. Führer’s possession when he was arrested.

After his arrest in 1945, *Seeufer mit Häuser in Kammer* was transferred to Karl Bloch-Bauer, who kept it for the heirs of Ferdinand Bloch-Bauer.²⁴⁸ It is not clear how it passed into the hands of Karl Bloch-Bauer (1901-1968), the nephew of Ferdinand (and brother of Maria Altmann); but the painting evidently came under the control of Allied authorities who then permitted him to take possession.²⁴⁹ Karl Bloch-Bauer had emigrated shortly after the *Anschluss* and returned to his native country as an officer in Allied army (a Czech unit that formed up in Great Britain).²⁵⁰ He took over a residence from a friend and his legal counsel (Kurt Grimm) in Vienna at Am Modenapark 10 (III District), as he pursued the recovery of family property.²⁵¹ Journalist Hubertus Czernin reports that Karl Bloch-Bauer believed he was due to inherit most of Ferdinand’s Czech property, and made several trips on behalf of his uncle to Prague and its environs.²⁵² But Karl was not listed in any of Ferdinand’s wills.²⁵³ Regardless, Karl Bloch-Bauer pursued works in his uncle’s collection. An interesting figure in this regard is Dr. Kurt Grimm, who was not only friends with Karl Bloch-Bauer, but also well-acquainted with Dr. Erich Führer. The Swiss police reported in September 1944 that Grimm and Führer had just met in Zürich; they implied that Grimm was trying to help Führer put his affairs in order (Führer also expressed the desire to remain in Switzerland—and claimed he felt insecure in the Third Reich).²⁵⁴ It is likely that Grimm helped Karl Bloch-Bauer recover some of the works taken by Führer. Subsequently, on 31 March 1948, Dr. Garzarolli and Dr. Balke of the Österreichische Galerie visited Kurt Grimm’s Modenapark 10 apartment and found a number of Bloch-Bauer paintings there, including six works from the first half of the nineteenth century (Pettenkofen, Fendi, and others), and Klimt’s *Seeufer mit Häuser in Kammer am Attersee*.²⁵⁵ Garzarolli maintained that the Klimt picture was covered by the testament of Adele and recognized by Ferdinand: Dr. Grimm was apparently persuaded by this (he evidently consulted with the heirs’ attorney Dr. Rinesch who also stated that this work was covered by Adele’s testament).²⁵⁶ Dr. Garzarolli wrote to Dr. Kurt Grimm on 12 April and said that he had the authorization from Dr. Rinesch to take

²⁴⁷ Dr. Garzarolli to Dr. Otto Demus, 2 April 1948 (REP 00067-68).

²⁴⁸ Professors Rudolf Welsch and Christian Rabl, “Rechtsgutachten,” 15 (002415).

²⁴⁹ Dr. Karl Garzarolli to Dr. Kurt Grimm, 12 April 1948 (REP 00077 and 000564).

²⁵⁰ Deposition of Maria Altmann (29 May 2002), 85 (002695).

²⁵¹ Dr. Garzarolli to Dr. Glatz at the Finanzprokuratur, 1 April 1948 (REP 00065-66).

²⁵² Czernin, *Die Fälschung*, 247.

²⁵³ The other heirs subsequently gave some of the inheritance to Karl Bloch-Bauer, after he complained about his circumstances. See Robert Bentley to Thea Bloch-Bauer, 4 January 1957 (002217).

²⁵⁴ Polizeikorps des Kantons Zürich to the Leiter des Nachrichtendienstes, 28 September 1944 (REP 00491).

²⁵⁵ Dr. Garzarolli to Dr. Otto Demus, 2 April 1948 (REP 00067-68). See also Dr. Garzarolli to the Finanzprokuratur, Dr. Glatz, 1 April 1948 see 001935-36 (and 000550-51 and REP 00065-66); and Dr. Gustav Rinesch to Robert Bentley of 11 April 1948 (001942).

²⁵⁶ Dr. Gustav Rinesch to the Bundesdenkmalamt, 13 April 1948. A copy of the document is provided at 001948-52 (and REP 00126-31).

the painting from the Österreichische Galerie.²⁵⁷ Dr. Grimm, or someone empowered by him, in turn transferred the Klimt to the Austrian National Gallery on that same day.²⁵⁸

Dr. Rinesch, who was representing the heirs, signed a statement on 12 April 1948 permitting the Österreichische Galerie to take possession of the work.²⁵⁹ The rationale given was that it was among the paintings listed in Adele's 1923 will. Because of this understand, it was given as a gift to the Österreichische Galerie in April 1948.²⁶⁰ It is listed in Gerbert Frodl's catalogue of Klimt's work in the Österreichische Galerie as having entered the collection in 1948 "through the Bloch-Bauer bequest."²⁶¹

VI. Schloss Kammer am Attersee III (1910)

Oil on canvas; 110 x 110 cm; Novotny/Dobai 171.²⁶² Österreichische Galerie inventory number 4318.²⁶³

This painting was first exhibited in 1910 at the H. O. Miethke Gallery in Vienna.²⁶⁴ It features the Villa Oleander on the Attersee in the Austrian Alps where Klimt lived between 1908 and 1912. Gerbert Frodl noted, "It has hitherto been assumed that the picture was painted from a boat, but that cannot be stated with certainty."²⁶⁵ Klimt painted three other versions of the villa (one of which is in Prague, the other two in private collections).²⁶⁶

This painting was listed in Adele's 1923 will with five other works by Klimt. In 1936, Ferdinand Bloch-Bauer, who was a regular benefactor to the Österreichische Galerie,

²⁵⁷ Dr. Garzarolli to Dr. Kurt Grimm, 12 April 1948 (REP 00077 and 000564). For Rinesch's authorization, see Dr. Rinesch to the Österreichische Galerie, 10 April 1948 (000562).

²⁵⁸ Dr. Garzarolli to Dr. Otto Demus, 2 April 1948 (REP 00067-68); and Dr. Garzarolli, "Übernahmebestätigung," 12 April 1948 (REP 00078). See also Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 13 (002413).

²⁵⁹ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 1 (001035) and 17 (001053): they cite the Archives of the Österreichische Galerie, "Übernahmebestätigung," 12 April 1948, and Zl. 33/1948, Dr. Gustav Rinesch to Dr. Karl Garzarolli, 12 April 1948 (000566-67). See also Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 25 (002425): they quote a letter from Dr. Garzarolli to the Finanzprokuratur, 10 April 1948 (000560-61).

²⁶⁰ See Gustav Rinesch to the Österreichische Galerie, 10 April 1948 (REP 00071). See also Czernin, *Die Fälschung*, 427.

²⁶¹ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 92 (003180).

²⁶² Fritz Novotny, Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1967),

²⁶³ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 80 (003176).

²⁶⁴ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 80 (003176).

²⁶⁵ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 80 (003176).

²⁶⁶ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 80 (003176).

decided to give this work to the museum.²⁶⁷ In 1941, the Director of the Austrian, Gallery, Prof. Dr. Grimschitz agreed to a trade with Dr. Führer and relinquished *Schloss Kammer am Attersee* to Dr. Führer in exchange for *Portrait of Adele I* and *Apfelbaum*.²⁶⁸ This transaction was acknowledged in an 8 October 1941 letter from Grimschitz to Führer—a communication that the Director concluded, “I thank you very much for your efforts and sign with Heil Hitler, yours, Dr. Bruno Grimschitz.”²⁶⁹

Subsequently, Dr. Führer sold *Schloss Kammer on Attersee* to Gustav Ucicky for RM 4,000.²⁷⁰ Alternatively, Gustav Ucicky reported that his American wife, Ingeborg (Davis) Ucicky, purchased the painting (he claimed for RM 6,000) and gave it to him as a gift for Christmas in 1942.²⁷¹ The painting was housed in the couple’s home in Vienna, Strudelhofgasse 17 (IX district).²⁷² Gustav Ucicky was an illegitimate son of Gustav Klimt.²⁷³ Ucicky became a Nazi stalwart (he joined the SS in 1933), who made propagandistic films with the support of the regime (he was decorated by Reich Minister for Propaganda and People’s Enlightenment Dr. Joseph Goebbels).²⁷⁴ Ucicky earned a huge income as a leading German film director (toward the end, RM 100,000 per film), and could afford to buy art; he had a passion for the work of his father and amassed a significant collection of paintings and drawings.²⁷⁵ Journalist Hubertus Czernin portrays Ucicky as the instigator of the transactions that led to the trade for *Schloss Kammer* and its subsequent sale: the director coveted the landscape and proposed the creative solution by which Grimschitz received two works he valued more, Führer received money for a picture he was charged with liquidating, and Ucicky obtained the painting.²⁷⁶ But these arrangements were probably made verbally and the precise origins of the deal remain elusive.

After the war, Ucicky refused to restitute the picture, telling the lawyer of the Bloch-Bauer heirs (Dr. Rinesch), “that he bought the painting from the representative of President Bloch-Bauer, Dr. Erich Führer, and that there was hence no basis for its return.”²⁷⁷ As Rinesch’s noted in a 1948 letter, “Herr Ucicky maintains that it was a good

²⁶⁷ See Dr. Bruno Grimschitz, “Empfangsbestätigung,” 24 November 1936 (REP 00016).

²⁶⁸ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 3 (001037): they cite the Archives of the Österreichische Galerie, Zl. 33/1948: Dr. Gustav Rinesch to Dr. Karl Garzarolli, 12 April 1948. Czernin, *Die Fälschung*, 423.

²⁶⁹ Dr. Bruno Grimschitz to Dr. Erich Führer, 8 October 1941, cited in “Factual Background” (002583).

²⁷⁰ Professors Rudolf Welsler and Christian Rabl, “Rechtsgutachten,” 25 (002425): they cite a letter from Dr. Garzarolli to the Finanzprokuratur, 10 April 1948.

²⁷¹ Gustav Ucicky, statement, 30 March 1949 (1238). Gustav and Inge Ucicky were divorced sometime before the date of the statement and she returned to her native USA. See also Professors Rudolf Welsler and Christian Rabl, “Rechtsgutachten,” 29 (002429): they cite a letter from Dr. Rinesch to Dr. Garzarolli, 12 April 1948.

²⁷² After the war, Ucicky lived at Gottfried Kellergasse 11. See Dr. Garzarolli to Dr. Glatz at the Finanzprokuratur, 10 April 1948 (REP 00072-73).

²⁷³ Czernin, *Die Fälschung*, 210.

²⁷⁴ Czernin, *Die Fälschung*, 210-12, 410.

²⁷⁵ Czernin, *Die Fälschung*, 210-12.

²⁷⁶ Czernin, *Die Fälschung*, 212-13.

²⁷⁷ Professors Rudolf Welsler and Christian Rabl, “Rechtsgutachten,” 26 (002426): they cite a letter from Dr. Garzarolli to the Finanzprokuratur, 10 April 1948.

faith purchase and refuses to give up the picture.”²⁷⁸ By May 1948, Rinesch was helping the Österreichische Galerie in its quest to obtain the picture: he wrote to Ucicky’s attorney, Dr. Rudolf Skrein, and urged him to hand-over the work.²⁷⁹ On 4 June 1948, Dr. Skrein called Rinesch and the two lawyers negotiated the fate of *Schloss Kammer am Attersee*: although Ucicky was reluctant to part with the painting (he had “*eine grössere Sammlung von Bildern dieses Meisters*”), he was willing to bequeath it to the Österreichische Galerie.²⁸⁰ In other words, Dr. Rinesch negotiated the deal that brought this Klimt picture into the Galerie. This was part of his effort to secure export permits for other works in the Bloch-Bauer collection. Rinesch and Garzarolli had clearly established a *modus vivendi*: around this time (in May 1948) Rinesch sent him a baroque figure—an angel made from terracotta—that had a broken wing, and Garzarolli arranged for a restorer at the Bundesdenkmalamt to repair it (it is not clear if the figure was Rinesch’s personal property or that of his clients).²⁸¹

Dr. Garzarolli, along with Prof. Dr. Novotny from the Österreichische Galerie invited Gustav Ucicky and his lawyer to a meeting at the museum in October 1948: the Gallery officials finally managed to secure a promise from Gustav Ucicky to donate the painting after his death.²⁸² A formal agreement for this painting, as well as the bequest of three other works by Klimt, was concluded on 21 January 1949—with the explicit proviso that there would be no compensation paid by the Gallery.²⁸³ When Ucicky died in 1961, the painting re-entered the collection.²⁸⁴

VII. Portrait of Amalie Zuckerkandl (1917-18)

Oil on canvas; 128 x 128; Novotny/Dobai 213.²⁸⁵ Österreichische Galerie inventory number 7700.²⁸⁶

²⁷⁸ Dr. Gustav Rinesch to Dr. Karl Garzarolli, 12 April 1948, in “Factual Background” (002609).

²⁷⁹ Dr. Gustav Rinesch to Dr. Rudolf Skrein, 11 May 1948 (000608-09).

²⁸⁰ Dr. Gustav Rinesch to Dr. Karl Garzarolli, 4 June 1948 (000624-25).

²⁸¹ Dr. Rinesch to Dr. Garzarolli, 11 May 1948 (REP 00081) and Dr. Garzarolli to Dr. Rinesch, 12 May 1948 (REP 00085).

²⁸² Dr. Garzarolli, “Aktenvermerk,” 26 October 1948 (REP 00096 and 000660). See also the “Rückstellungsvergleich,” between Gustav Ucicky and the Österreichische Galerie, 21 January 1949 (000734-37 and 1240-41).

²⁸³ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 3 (001037): they cite the Archives of the Österreichische Galerie, Zl. 41/1949, “Rückstellungsvergleich” 21 January 1949. See also the “Rückstellungsvergleich,” between Gustav Ucicky and the Österreichische Galerie, 21 January 1949 (000734-37 and 1240-41). The other three paintings by Klimt donated by Ucicky were *Die Birken*, *Ein Apfelbaum*, and *Damenkopf*. These three works were all looted during the Nazi era and have been recently returned by the Austrian Gallery pursuant to the 1998 restitution law. *Die Birken* was returned to the heirs of Hermine Lasus. *Ein Apfelbaum* was returned to the heirs of Nora Stiassny (the daughter of Amalie Zuckerkandl). *Damenkopf* was returned to the heirs of Bernhard Altmann (the brother-in-law of Maria Altmann). See <http://www.belvedere.at/geschichte/restitution.php>.

²⁸⁴ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 3 (001037): they cite the Archives of the Österreichische Galerie., Zl 393/1961, “Übernahme durch die Österreichische Galerie nach dem Tod Gustav Ucickys 1961.” See also “Factual Background” (002612).

²⁸⁵ Fritz Novotny, Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1967), 374 (plate 105).

Amalie Zuckerkandl, whose full name was Miriam Amalie Zuckerkandl (1869-1942), was born a Christian and converted to Judaism one week before marrying surgeon and urologist Dr. Otto Zuckerkandl (1861-1921) in 1895.²⁸⁷ Amalie and Otto Zuckerkandl's relationship with Gustav Klimt came about thanks to an introduction by the latter's sister, Berta Zuckerkandl (1864-1945), a well-known cultural and political figure in fin de siècle Vienna.²⁸⁸ Amalie Zuckerkandl was also a close friend of the Bloch-Bauers, and in particular, of Ferdinand and his sister-in-law Therese Bloch-Bauer (the mother of Maria Altmann).²⁸⁹

This portrait was unfinished at the time of Klimt's death. Klimt had begun working on it before World War I—executing preliminary sketches—but progress was interrupted for several reasons, including Amalie's departure from Vienna when she followed her husband to his posting in Lemberg (Lvov) during the War.²⁹⁰ The Zuckerkandls made two payments on the portrait in November and December 1917 (totaling 4,000 crowns).²⁹¹ But the artist died in February 1918 before he could finish it: in particular, the arms and dress of Amalie are only sketched in a general way and the background is incomplete.

This painting is connected to tragedy and misfortune in other ways: as noted above, Klimt died in 1918 before he could complete the portrait. The Zuckerkandls nonetheless took possession of the painting and placed it in their apartment on the Möllwaldplatz in Vienna; but they divorced shortly thereafter (in 1919) and Otto Zuckerkandl passed away two years later.²⁹² Amalie Zuckerkandl therefore initially retained ownership of the picture.

After the *Anschluss*, the family had most of its property Aryanized and in 1942, Amalie and her younger daughter Nora Stiassny were deported by the Nazis—first to Theresienstadt near Prague, then, evidently to the Belzec death camp, where she and Nora were murdered.²⁹³

²⁸⁶ Gerbert Frodl, *Gustav Klimt in the Österreichische Galerie Belvedere* (Salzburg: Verlag Galerie Welz, 1995), 64 (003172).

²⁸⁷ Tobias Natter, "Portrait of Amalie Zuckerkandl," in Tobias Natter and Gerbert Frodl, eds., *Klimt's Women*, 146 (003191).

²⁸⁸ Tobias Natter, "Portrait of Amalie Zuckerkandl," in Tobias Natter and Gerbert Frodl, eds., *Klimt's Women*, 146 (003191).

²⁸⁹ Deposition of Maria Altmann (29 May 2002), 27 (002681).

²⁹⁰ Ruth Pleyer, "The 'Portrait of Amalie Zuckerkandl' by Gustav Klimt Provenance: Documentation and Comments (Vienna, January 2003), 4 (002726). Tobias Natter, "Portrait of Amalie Zuckerkandl," in Tobias Natter and Gerbert Frodl, eds., *Klimt's Women* (New Haven: Yale University Press, 2000), 146 (003191).

²⁹¹ Tobias Natter, "Portrait of Amalie Zuckerkandl," in Tobias Natter and Gerbert Frodl, eds., *Klimt's Women*, 146 (003191).

²⁹² Pleyer, "Portrait of Amalie Zuckerkandl," 4 (002726). See also Alice Strobl, *Gustav Klimt. Die Zeichnungen, 1912-1918, Bd. III* (Vienna: Publisher?).

²⁹³ Pleyer, "Portrait of Amalie Zuckerkandl," 5-11 (002728-33). Deposition of Maria Altmann (29 May 2002), 27 (002681). Tobias Natter, "Portrait of Amalie Zuckerkandl," in Tobias Natter and Gerbert Frodl, eds., *Klimt's Women*, 146 (003191).

At some point during the 1920s, Amalie sold the painting to her friend, Ferdinand Bloch-Bauer.²⁹⁴ This painting was not mentioned in Adele's 1923 will. But it was listed as the property of Ferdinand Bloch-Bauer in 1928 when he loaned it for a Klimt memorial exhibition at the Secession in Vienna.²⁹⁵ It was also included in the 1932 insurance inventory of Ferdinand's Elisabethstrasse home: the portrait of Amalie Zuckermandl was listed as hanging in his bedroom and insured for 40,000 Czech Crowns.²⁹⁶

The painting was also included in the 28 January 1939 inventory assembled at the time of the "art viewing" at the *Palais* Bloch-Bauer.²⁹⁷ However, it was not on other inventories of art seized from the Elisabethstrasse *Palais* during the war.²⁹⁸ In other words, at some point between late-January 1939 and 1942, the painting was removed from the Bloch-Bauer residence. The details surrounding its transfer after 28 January 1939 remain mysterious. There are two scenarios that emerge as most likely to account for the fate of the painting.

The first suggested scenario is that Ferdinand Bloch-Bauer transferred it to his old friend, and the subject of the portrait, Amalie Zuckermandl. Researcher Ruth Pleyer suggests one possible rationale for doing this, asserting that it was common in 1938-1939 for Nazi authorities to exclude family portraits from confiscation lists (and even to allow for their export); according to her theory, there would have been considerably less interest in a picture depicting a Jewish subject.²⁹⁹ I would stress that this theory is that of Ruth Pleyer: in my over twenty years of studying National Socialist art policy and art theft, I have never seen any other mention of this provision for portraits. Because the only work that Ferdinand Bloch-Bauer was able to export from his Elisabethstrasse home to Zürich was his portrait by Oskar Kokoschka (which he did in September 1944), Ruth Pleyer may be correct.³⁰⁰ But she does not cite any contemporaneous document from the Nazi government or offer compelling proof that this was the government's policy—and clearly

²⁹⁴ Hubertus Czernin says that Ferdinand acquired the work in 1932. See Hubertus Czernin, "Palais, Porzellan und anderer Luxus," in *Der Standard* (9 March 1999), 17 (001190). See also Ruth Pleyer, "Portrait of Amalie Zuckermandl," 4 (002726).

²⁹⁵ Ruth Pleyer, "Portrait of Amalie Zuckermandl," 5 (002727). It was listed as "Portrait of a Lady, Property of F. Bloch-Bauer). See Vereinigung Bildender Künstler Wiener Secession, *Klimt Gedächtnis-Ausstellung* (27 June – 31 July 1928) (002746-48 and 002320-21).

²⁹⁶ Pleyer, "Portrait of Amalie Zuckermandl," 5 (002727). See also Deposition of Maria Altmann (30 May 2002), 260 (002651). See also Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 7 (001041); they cite the March 1932 inventory and note it was provided by Randol Schoenberg. The inventory is reproduced at 000031-91. The "Gedenkzimmer" with the six pictures by Klimt is 000087.

²⁹⁷ Pleyer, "Portrait of Amalie Zuckermandl," 7-8 (002729-30). She cites the 28 January 1939 memorandum to files of Dr. Josef Zykan, of the Zentralstelle für Denkmalschutz, Archives of the Bundesdenkmalamt, Restitution Files Bloch-Bauer, carton 32, ZL 782/1939, which is reproduced as "Annex D" of her report (002756-58). Monika Meyer, "Gustav Klimt: Amalie Zuckermandl," 25 February 2000, *Beilage* 4 (002326-28).

²⁹⁸ Pleyer, "Portrait of Amalie Zuckermandl," 8 (002720). She cites the Restitution Files of the Bloch-Bauers in the Archives of the Austrian Bundesdenkmalamt, Zl. 782/Dsch/30 and Zl. 1204/Dsch/39.

²⁹⁹ Pleyer, "Portrait of Amalie Zuckermandl," 8 (002730).

³⁰⁰ Czernin, *Die Fälschung*, 399. He cites a postwar interview with Dr. Führer.

not all portraits were cleared for export (perhaps most notably with regards to this report, the two portraits of Adele by Klimt).³⁰¹

To buttress her theory, Ruth Pleyer points to extant correspondence showing that Ferdinand Bloch-Bauer remained in contact with Amalie Zuckerkandl during his exile in Switzerland.³⁰² She also suggests that he continued to support Amalie financially into 1941, but there is no conclusive evidence to support this assertion.³⁰³ Her larger point is that the painting would probably not have been recognized by Nazi authorities as one of Ferdinand's family portraits, and qualified for export according to the statutes that existed in 1939. Giving an old friend a portrait of herself offered the greatest likelihood of avoiding confiscation (and Ferdinand knew by 1939 that most of his collection had been seized). It was also somewhat absurd to expect an old widow who was barely surviving on paltry income to send money to a once wealthy magnate, let alone a Jew in the Third Reich to transfer funds to Switzerland. It should be noted that if this theory is true, Ferdinand Bloch-Bauer certainly relinquished the painting under duress. He would have had no other option but to pursue this loophole regarding family portraits.

The problem with this theory is that Ferdinand Bloch-Bauer was not in Austria at the time when the painting left the Elisabethstrasse *Palais*. He had no control over his property and could only have arranged a transfer of the painting by enlisting the aid of Dr. Erich Führer. It is almost impossible that Dr. Führer would have given away a picture that he was charged with "liquidating." Indeed, allowing the painting to be given to Amalie (another Jew), rather than sold to pay the tax judgment would have opened Dr. Führer up to charges of mismanagement and raised questions about his sympathies for Jews. All of Ferdinand Bloch-Bauer's assets were supposed to be sold to pay the tax bill. It is highly unlikely that Dr. Führer would have helped Ferdinand by giving away a valuable asset—especially if it exposed him to prosecution by the Nazi authorities and entailed no profit for him personally.

In light of the facts—that Dr. Führer controlled the Bloch-Bauer artworks, including *Portrait of Amalie Zuckerkandl*, that he would have placed himself in a vulnerable position by permitting the gift of the painting, and that Amalie Zuckerkandl did not have the money to buy such a work—a second and more likely scenario emerges. Dr. Führer used a member of the Zuckerkandl/Hofmann family to sell the painting to Dr. Vita Künstler. The most likely intermediary would have been the son-in-law of Amalie Zuckerkandl, Professor Wilhelm Müller-Hofmann (1885-1948). It helped that he was not Jewish (although he was dismissed from his academic position as a result of his marriage to a Jew and his anti-Nazi political orientation); but the laws prohibiting Jews from trafficking in cultural objects would not apply to him.

It is not exactly clear how these various parties came into contact with one another, but it is not surprising that they did so. Dr. Viktoria ("Vita") Künstler (1900-2001) was a

³⁰¹ For the export permit, see Dr. Herbert Seiberl memorandum, 24 February 1943 (or 24 March 1943—two dates on document) (000307). See also Pleyer, "Portrait of Amalie Zuckerkandl," 8 (002730).

³⁰² Pleyer, "Portrait of Amalie Zuckerkandl," 18 (002740).

³⁰³ Pleyer, "Portrait of Amalie Zuckerkandl," 18 (002740).

Viennese art historian who had become the trustee of Otto Kallir's Neue Galerie in the Grünangergasse; this gallery was located directly across the street from Amalie Zuckerkandl's apartment (that is, before she was expelled by the Nazi authorities).³⁰⁴ Vita Künstler and her husband Gustav Künstler were not Nazis—there were contemporaneous reports by Party functionaries that they were “partisan to Jews and the monarchy.”³⁰⁵ They probably believed that they were assisting Otto Kallir, a Jew, by taking over the gallery and helping him avoid a worse fate with regards to the disposition of his property (Kallir was in France at the time). After the war, Künstler maintained that she had “saved” Kallir's gallery.³⁰⁶ This is debatable. One can also argue that they were party to the economic exploitation of the Jewish population.

Amalie, as the subject of the painting, as a member of a famous Viennese family, and as a friend of Ferdinand Bloch-Bauer's would have emerged as a likely interlocutor. Her son-in-law, Wilhelm Müller-Hofmann, who had been a professor at the Viennese Arts and Crafts School up until the *Anschluss*, was also well-known in the Viennese art world. In short, it would not have been difficult for Dr. Führer, Dr. Künstler and the Zuckerkandl/Müller-Hofmanns to find one another.

The question arises, why didn't Dr. Führer sell directly to Dr. Künstler, as he did to the Gustav and Ingeborg Ucicky? One can only speculate here: perhaps Dr. Künstler would not have purchased the painting if she thought it was part of a liquidation or bought directly from such a prominent Nazi like Dr. Führer (moreover, one clearly complicit in the persecution of Jews). Perhaps Professor Müller-Hofmann helped arrange the deal and received a commission? It is not even clear that Dr. Führer engaged in an off-the-books sale: he may well have applied some of the money received from the painting to the tax bill. The extant documentation does not shed light on these issues.

Dr. Vita Künstler, however, profited from the arrangement. Here, it is helpful to examine Künstler's account of the picture. Dr. Künstler later maintained that she bought the painting from Professor Wilhelm Müller-Hofmann. In an undated memoir called, “*Erinnerungen an die Neue Galerie*,” she wrote:

“During the war I was also offered a painting by Klimt by Prof. Müller-Hofmann, who also needed money. The painting in question was the unfinished portrait of his mother-in-law, Mrs. Amelia Zuckerkandl. I purchased the painting for the Galerie for the negotiated amount of RM 1,600. Around the same time my husband's book *Kleiner Führer zu Kunst und Kultur in Wien* had been published and he had received a payment of RM 2,000 from the publishing house. Of course my husband soon came to the gallery to see the painting and fell in love to the extent that he proposed to buy the painting for his recently received RM 2,000

³⁰⁴ Otto Kallir-Nierenstein, an important proponent of Austrian modern art (he had written the first monograph about Egon Schiele) emigrated first to Paris and then to New York, where he re-established his art dealing business. Pleyer, “Portrait of Amalie Zuckerkandl,” 10 (002732); and Hans Haider, “Wiener Irrwege eines Klimt-Porträts,” in *Print-Presse* (22 June 2002) (002976).

³⁰⁵ Pleyer, “Portrait of Amalie Zuckerkandl,” 10 (002732). She cites the Gauakt of Gustav Künstler from the Austrian State Archives: a note on his political behavior from December 1942.

³⁰⁶ Erwin Budischowsky to Randol Schoenberg, 15 January 2000 (002287-88).

so that I could at least book a small profit which was essential to continue my business. It was such that the painting first came into my husband's office at the Berglandverlag at Schwarzenbergplatz and was later brought to our apartment. After the end of the war I asked Mrs. Müller-Hofmann—whose husband meanwhile had died—whether she wanted to have the painting back. She replied that it would have been bombed in their apartment in the Augarten *Palais*, that she was happy it had been saved and that she did not grudge us the painting.³⁰⁷

While part of this account is most likely true—Gustav Künstler published the above-mentioned guide in 1942—the fact remains that the portrait was acquired at well-below market price. Ruth Pleyer estimates that the RM 1,600 represented about one-seventh of its value: in 1943, when the Österreichische Galerie made plans to exhibit it, they placed a prospective insurance value of RM 10,000.³⁰⁸

As for the Zuckerkandl/Müller-Hofmann family, it is clear that they were in dire straits. Amalie Zuckerkandl was of an advanced age (she was 71 in 1940) and was struggling to cope in a harrowing environment: her daughter Hermine (“Minnie”) Müller-Hofmann (1902-2000), wrote her brother Victor in June 1941, “[Mother] expresses herself in such a confused manner that one can hardly follow.”³⁰⁹ Even Amalie's small pension from the Viennese Jewish Community was in jeopardy and may have been reduced.³¹⁰ Her daughter and son-in-law therefore took the lead in settling Amalie's affairs. By November 1941, Amalie was forced to share a cramped apartment with many others (a “*Sammelwohnung*”) on the Grundlgasse in the 9th district.³¹¹ Minnie Müller-Hofmann and her husband Wilhelm fled Vienna in 1942—under direct threat of deportation to a death camp in Poland (as evidenced by a letter from a local functionary to one of Eichmann's operatives, Alois Brunner, where the former recommended “evacuation”).³¹² They survived the war by hiding in Bavaria.³¹³ Obviously before fleeing Austria, Professor Wilhelm Müller-Hofmann struggled to help support his family. He felt extreme pressure to provide for them.

It is not clear that any member of the Zuckerkandl/Müller-Hofmann family received the RM 1,600 paid by Dr. Künstler and her husband. Indeed, this sum, or most of it, would likely have gone to Dr. Führer. After the war, Minnie Müller-Hofmann said that she did

³⁰⁷ Pleyer, “Portrait of Amalie Zuckerkandl,” 11 (002733). She cites Victoria Maria, a.k.a. Vita Künstler, *Erinnerungen an die Neue Galerie*, 16. The relevant pages of the memoirs are reproduced as “Annex I” to Pleyer's report (002765-67).

³⁰⁸ Pleyer, “Portrait of Amalie Zuckerkandl,” 14 (002736). She cites an insurance list in “Akt zur Klimtausstellung 1943, Archiv der Österreichischen Galerie Belvedere,” that is “Annex M” of her report (002774-75).

³⁰⁹ Pleyer, “Portrait of Amalie Zuckerkandl,” 9 (002731).

³¹⁰ Pleyer, “Portrait of Amalie Zuckerkandl,” 10-11, 41 (002732-33, 002783).

³¹¹ Pleyer, “Portrait of Amalie Zuckerkandl,” 10-11, 41 (002732-33, 002783).

³¹² Pleyer, “Portrait of Amalie Zuckerkandl,” 12 (002734). She cites a letter from a Gaustabsamtsleiter in Vienna to Alois Brunner, from September 1942 in Prof. Wilhelm Müller-Hofmann's Gauakt. The document is reproduced as “Annex K” (002770-71).

³¹³ Erwin Budischowsky to Randol Schoenberg, 18 February 2000 (002298-99).

not remember having given up the painting.³¹⁴ This would have been much more likely if her husband had acted as an intermediary. There are even reports that she did not recall having possessed the picture.³¹⁵ In one letter that Minnie Müller-Hofmann wrote to Luise Gutmann in 1986 or 1987 she said that the portrait was “acquired by Dr. Vita Künstler through [*durch*] Dr. Kalir (sic).”³¹⁶ This was certainly not the case (as noted earlier, Kallir had fled the country). Minnie Müller-Hofmann’s sketchy memory of this painting—a portrait of her mother who perished in a Nazi death camp—suggests that her husband may have played a more central role in its disposition and that the circumstances were probably quite complicated and unknown to Minnie. In any case, Minnie could not have had any first-hand knowledge of Ferdinand’s intentions or his instructions, if any, to Dr. Führer with regard to the painting.

There is also the fact that the Müller-Hofmann’s never made a claim for the picture after the war. Dr. Vita Künstler maintained up until the end of her life that she offered to return the painting to the Müller-Hofmanns after repayment of the original price.³¹⁷ Her nephew, who studied the situation, added that “the previous owners declined the return out of gratitude and because they did not need the picture any more.”³¹⁸ This assertion defies credibility.

A somewhat more likely—but still dubious—reason for the failure to make a claim stems from the circumstances of the Müller-Hofmanns in the immediate postwar period. Their apartment in Vienna had been looted, resulting in a loss of nearly all their furniture and property; and Wilhelm Müller-Hofmann experienced his own career tribulations as he sought reinstatement at the Academy.³¹⁹ In other words, they had limited financial resources and could not raise the funds to buy back the painting. There was also the trauma of the war (having lost family members in the Holocaust). They also may well not have been informed about their rights concerning recovery. Wilhelm Müller-Hofmann then died in September 1948. Minnie was left with a small pension that barely covered outstanding debts.³²⁰

The disinterest in restitution also suggests that they may have been party to a clandestine deal between Dr. Führer and Dr. Künstler—a deal that would have precluded their own

³¹⁴ Minnie Müller-Hofmann, “Gedächtnisprotokoll,” 2 June 1999 in Monika Meyer, “Gustav Klimt: Amalie Zuckerkandl,” 25 February 2000, *Beilage* 14 (002345). See also “Factual Background” (002586).

³¹⁵ Frau Müller-Hofmann told Dr. Gerbert Frodl (the Director of the Österreichischen Galerie) on 2 June 1999 that she “*jedoch nicht an den Zeitpunkt der Übergabe erinnern ebensowenig daran, wer ihr das Bild übergeben hat.*” See Monika Mayer, “Gustav Klimt: Amalie Zuckerkandl,” 25 February 2000, 7 (002316). See also Randy Schoenberg to Ernst Bacher, 24 November 1999 (where he quotes an e-mail he sent to Monika Mayer in May 1999 about his meeting with Frau Müller-Hofmann) (002258-59).

³¹⁶ Pleyer, “Portrait of Amalie Zuckerkandl,” “Annex P”: Minnie Müller-Hofmann to Luise Gutmann, undated (002780).

³¹⁷ When Dr. Vita Künstler was 100 years old and no longer able to communicate, but her claim was articulated by her nephew, who, as noted above, shared this opinion. See Erwin Budischowsky to Randol Schoenberg, 15 January 2000 (002287-88).

³¹⁸ Erwin Budischowsky to Randol Schoenberg, 15 January 2000 (002287-88).

³¹⁹ Pleyer, “Portrait of Amalie Zuckerkandl,” 15, 42 (002737, 002781).

³²⁰ Pleyer, “Portrait of Amalie Zuckerkandl,” 15 (002737).

recovery of the painting and also brought shame and ignominy to the family.³²¹ Again, in light of the subject matter of the portrait and the fate of Amalie, it is striking that Minnie Müller-Hofmann did not pursue the painting. In 1956, Minnie Müller-Hoffmann criticized her nephew for having sold a Klimt landscape that had been in the family: her strong reaction in this instance suggests that she would not have voluntarily parted with a picture of her own mother.³²² The second scenario outlined above, where Dr. Führer offered a kind of commission (and perhaps dealt exclusively with Wilhelm Müller-Hofmann) fits best with the extant evidence.

The painting therefore emerged in the postwar period in the possession of Dr. Vita Künstler and her husband: a spring 1948 exhibition at the Academy of Fine Arts in Vienna, for example, listed the Neue Galerie as the owner; according to Jane Kallir, the grand-daughter of the gallery's founder, "it was the gallery's practice to list the gallery as the owner when an individual owner associated with the gallery did not want his/her name disclosed."³²³ While Vita Künstler did not disguise her possession of the painting, she also did not conclude a written agreement with Minnie Müller-Hofmann confirming her acquisition of the picture (there had been no original bill of sale).³²⁴ But it is striking that Künstler did not request or acquire written confirmation attesting to the Müller-Hofmanns' acquiescence of the wartime transfer.

Dr. Vita Künstler went on to enjoy a successful career as an art dealer. In the early postwar years, she came to terms with Otto Kallir and his heirs regarding the Neue Galerie in Vienna (she first became his partner when he did not want to return to Vienna, then in 1952 transferred her share to his daughter Evamarie). Dr. Künstler then continued on her own as a major dealer of modern art. Perhaps most notably, she sold Egon Schiele's important painting, *Winter Flowers* (1911/12) to then U.S. Ambassador to Austria Ronald Lauder in 1987. Lauder sought to export the Schiele picture to the United States and this proved controversial: many regarded it as a national treasure. However, the export permit was granted (many observers noted that the request came at a time when revelations about President Kurt Waldheim's wartime past were straining bilateral relations and that the Austrian authorities did not want to exacerbate tensions).³²⁵

The granting of the export permit for Schiele's *Winter Flowers* was tied to the subsequent fate of Klimt's *Portrait of Amalie Zuckermandl*. Dr. Künstler's husband had requested that the Klimt painting go to the Österreichische Galerie after the death of his wife. In

³²¹ Hubertus Czernin also suggests that there may have been improprieties in the wartime transfer of the painting. Czernin, *Die Fälschung*, 429.

³²² "Factual Background" (002586-87).

³²³ Pleyer, "Portrait of Amalie Zuckermandl," 15-16 (002737-38). She cites the catalogue, *Entwicklung der Österreichischen Kunst von 1897 bis 1938* (Vienna: Akademie der bildenden Künste, March/April 1948). The relevant section of the catalogue is reproduced in Monika Meyer, "Gustav Klimt: Amalie Zuckermandl," 25 February 2000, *Beilage 7* (002332-34). Jane Kallir is paraphrased by Randol Schoenberg in his letter to Vita Künstler, 9 December 1999 (002348-50).

³²⁴ Note that a bill of sale would have created dangerous evidence that would have further jeopardized the position of both the buyer and seller. Erwin Budischowsky to Randol Schoenberg, 15 January 2000 (002287-88). Pleyer, "Portrait of Amalie Zuckermandl," 19 (002741).

³²⁵ Hans Haider, "Wiener Irrwege eines Klimt-Porträts," in *Print-Presse* (22 June 2002) (002976).

circumstances that echoed the experiences of Adele and Ferdinand Bloch-Bauer, he died first and Dr. Vita Künstler inherited the work, but with a request connected to it. She then stated that she would not donate the Klimt unless she was granted an export permit for the Schiele painting purchased by Ambassador Lauder. In a move reminiscent of the postwar “*Tauschgeschäften*” for export permits, the General Conservator and head of the Austrian Monument Office Professor Dr. Ernst Bacher announced on 28 January 1988, “there are many variations of Schiele’s *Winter Flowers* in Austrian collections, but that the previous owner [Dr. Vita Künstler] has declared that as compensation [*als Gegenleistung*] she will give the *Portrait of Amalie Zuckermandl* to the Österreichische Galerie.”³²⁶ Therefore, Künstler signed an agreement promising the painting to the Österreichische Galerie as a bequest; although it remained in her home during her lifetime.³²⁷ Upon her death at age 101 in 2001 *Portrait of Amalie Zuckermandl* was physically transferred to the Gallery and exhibited in *Schloss Belvedere*.³²⁸

In her analysis of the case, Ruth Pleyer argues that because Ferdinand did not sell the portrait to Amalie, “the transfer of the painting from Ferdinand Bloch-Bauer’s estate to the Zuckermandl/Müller-Hofmann family cannot be considered an invalid transaction under the conditions set forth in the 3rd Restitution Act.”³²⁹ She concludes that the subsequent sale, from Wilhelm Müller-Hofmann to Vita Künstler, was an illegal transaction at the time because he had not registered the painting with the Nazi authorities (and therefore held it illegally) and because of the December 1938 law that prohibited Jews from selling works of art worth over RM 1,000.³³⁰ In short, Wilhelm Müller-Hofmann “had to sell the painting to someone he knew ... [and was not] in a position to freely choose the buyer.”³³¹ Furthermore, because the Müller-Hofmanns were preparing to flee and needed money to do so, it was a sale under duress (what in German would be called a *Notverkauf*).³³² Pleyer also provides compelling evidence that Künstler did not pay a price commensurate with its market value.³³³

While I would agree with her analysis about the illegal nature of any sale from the Müller-Hofmanns to Künstler, I think a more persuasive argument can be made that the painting should be restituted to the heirs of Ferdinand Bloch-Bauer. If one accepts the

³²⁶ Hans Haider, “Wiener Irrwege eines Klimt-Porträts,” in *Print-Presse* (22 June 2002) (002976).

³²⁷ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 25 (001059): they cite Archive of the Österreichische Galerie, Zl. 21/88, Dr. Viktoria Künstler to the Federal Ministry for Science and Culture, 15 December 1987, as well as the bequest contract of 17 March 1988. These documents are reproduced in Monika Meyer, “Gustav Klimt: Amalie Zuckermandl,” 25 February 2000, *Beilage* 9 (002336-37) and *Beilage* 10 (002338-40).

³²⁸ Pleyer, “Portrait of Amalie Zuckermandl,” 17 (002739). The painting arrived at the Österreichische Galerie on 11 September 2001. Hans Haider, “Wiener Irrwege eines Klimt-Porträts,” in *Print-Presse* (22 June 2002) (002974).

³²⁹ Pleyer, “Portrait of Amalie Zuckermandl,” 20 (002742).

³³⁰ Pleyer, “Portrait of Amalie Zuckermandl,” 20-21 (002742-43). She cites the 27 April 1938 decree concerning the registration of assets (Anmeldung des Vermögens von Juden, RGBI I, 414), and the 3 December law prohibiting the sale of “objects made from precious metals, jewelry and works of art with a value over RM 1,000” (Verordnung über den Einsatz jüdischen Vermögens,” RGBI I, 1709).

³³¹ Pleyer, “Portrait of Amalie Zuckermandl,” 20 (002742).

³³² Hans Haider, “Wiener Irrwege eines Klimt-Porträts,” in *Print-Presse* (22 June 2002) (002976).

³³³ Pleyer, “Portrait of Amalie Zuckermandl,” 21 (002743).

first scenario discussed above, then Ferdinand relinquished the painting under duress. He would have known that his best chances for saving the work from seizure by Nazi authorities was to transfer the painting to Amalie and hope that the provisions for family portraits would prevent its confiscation. The Austrian postwar law of 1946, known as the “Annulment Law” (*Nichtigkeitsgesetz*) would render void this and similar transfers from the post 13 March 1938 period up until war’s end.³³⁴ Under the second scenario, the painting was confiscated and liquidated by Dr. Führer, transactions clearly voidable under the Annulment Law.

With both scenarios, the fact remains that the painting left the Bloch-Bauer collection after Ferdinand had fled the country and that neither he nor his heirs ever received compensation for it. If there had been no Nazi regime in Austria, it is almost certain that the painting would have remained in possession of Ferdinand Bloch-Bauer and then passed to his heirs. In my view, the painting was confiscated first from Ferdinand Bloch-Bauer.

Concluding Observations

Ferdinand Bloch-Bauer was persecuted by the Nazi regime: he was forced to flee and his property was stolen. His niece, Maria Altmann, recalled that after arriving in Switzerland, “*er war ein gebrochener alter Mann. Man hatte ihm alles geraubt.*”³³⁵ After the war, the restitution process moved so slowly that he was unable to recover most of the pieces in his collection prior to his death. Neither Ferdinand nor his heirs recovered all his property. For example, the *Schloss* in Czechoslovakia and most of its contents were never returned, and certain pieces of porcelain were written off as lost during the war (although they continue to turn up on the art market).³³⁶

The works by Klimt that entered into the custody of the Österreichische Galerie between 1938 and 1945 did not leave Ferdinand’s estate in a legitimate way—at least according to the laws enacted by the Republic of Austria after the war. Two of the works (numbers 1 and 2) came into the possession of the Österreichische Galerie through a trade with the Nazi property custodian Dr. Führer, while one (number 3) was purchased. After the war, such transactions were presumed to be voidable. Two other works came into the Österreichische Galerie as a result of postwar decisions concerning restitution—decisions, of course, based on a specific and idiosyncratic interpretation of Adele’s will. Two other works entered the collection of the Österreichische Galerie as a result of later bequests: *Schloss Kammer am Attersee* coming from Gustav Ucicky and the *Portrait of*

³³⁴ For the 15 May 1946 law (BGBl. Nr. 106/1946), see Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 107 (002507). See also Randol Schoenberg to Prof. Dr. Ernst Bacher, 6 March 2000 (002352-53).

³³⁵ See also Hubertus Czernin, “Der Besuch der alten Dame,” in *Der Standard* (6/7 March 1999), 21 (001186).

³³⁶ Lillie, *Was einmal War*, 208. She cites, Museen der Stadt Wien, Wiener Stadt- und Landesbibliothek, eds., *Die Restitution von Kunst- und Kulturgegenständen im Bereich der Stadt Wien, 1998-2001* (Vienna: Historisches Museum der Stadt Wien, 2002), 20. “Stolen by Austria,” 11 (002556).

Amalie Zuckerkanl from Dr. Vita Künstler. In both instances, pressure was brought to bear on the individuals in possession of the works to relinquish them after their deaths. It is ironic that one of these works, *Schloss Kammer am Attersee III*, had actually been a gift of Ferdinand Bloch-Bauer back in 1936. This in itself distinguishes the ownership from the other works; although its rightful ownership is put in doubt by the de-accessioning of the painting by the Österreichische Galerie in 1941.³³⁷

At war's end Ferdinand Bloch-Bauer himself attempted to recover his paintings. Although he never returned to Vienna after his flight in 1938--he was 81 years old in 1945 and the journey back to the war-ravaged city was too difficult--he engaged two attorneys to assist him: Dr. Erwin Lowatschek and Dr. Gustav Rinesch. Both were established lawyers: the former was based in Zürich, the latter, who had considerable experience helping Jews emigrate (and salvaging what he could of their property), resided in Vienna.³³⁸ Indeed, Dr. Rinesch helped the Bloch-Bauer family in 1938 as well.³³⁹ Ferdinand Bloch-Bauer instructed the lawyers to work with one another and referenced his "claims" (*Ansprüche*), including the Elisabethstrasse *Palais* and his art collection.³⁴⁰ On behalf of Ferdinand, Gustav Rinesch began making inquiries to Austrian authorities about the artworks: for example, in a letter to Professor Dr. Bruno Grimschitz, dated 28 September 1945, he asked about the location of the works, "*um diese nach Möglichkeit sicherzustellen.*"³⁴¹

Ferdinand Bloch-Bauer and his attorneys were still unsure of the location of many works from the collection: it was a challenge just to determine their location. Many of the old Austrian works, including those that had gone into Hitler's and Göring's collections, were in the Americans' Munich Central Collecting Point, and the Klimt paintings were dispersed among various locations in Vienna. It helped that Dr. Erich Führer was apprehended and some of his files recovered: on 20 May 1945, French troops had arrested him near Lustenau on the Swiss border and taken him back to France. Führer's Vienna office was occupied by Soviet forces, but some of the files were preserved.³⁴² A list of Bloch-Bauer artworks, dated 28 September 1945 and presumably written by Karl Bloch-Bauer, apparently made use of Führer's files: the six works were all acquired by private individuals in 1941 as the property was being liquidated.³⁴³ But well into the autumn of 1945, neither Ferdinand nor his representatives knew the location of works

³³⁷ Professors Rudolf Welsch and Christian Rabl, "Rechtsgutachten," 13 (002413).

³³⁸ Czernin, *Die Fälschung*, 247, 260. Among Rinesch's other clients was Heinrich Schnitzler, son of author Arthur Schnitzler, who was seeking the recovery of his father's valuable library (much of which was in the Austrian National Library). See also Dr. Erwin Lowatschek to Ferdinand Bloch-Bauer, 30 August 1945 (000309) and Ferdinand Bloch-Bauer to Lowatschek, 30 August 1945 (000310).

³³⁹ Deposition of Maria Altmann (29 May 2002), 48 (002686).

³⁴⁰ Ferdinand Bloch-Bauer to Dr. Erwin Lowatschek, and Dr. Gustav Rinesch, 30 August 1945 and 5 September 1945, respectively, quoted in "Factual Background" (002587-88).

³⁴¹ Dr. Gustav Rinesch to Professor Dr. Grimschitz, 28 September 1945, transcribed in "Factual Background" (002588). A copy of the document is provided at 001928-29 and 000312-33. See also Czernin, *Die Fälschung*, 250-51.

³⁴² Czernin, *Die Fälschung*, 249.

³⁴³ For the document, "Copy: Report to Uncle Ferdinand," 28 September 1945, in "Factual Background" (002589-90).

such as Klimt's *Birkenwald*, *Adele Bloch-Bauer II*, or *Seeufer mit Häuser in Kammer am Attersee*.³⁴⁴

Ferdinand Bloch-Bauer's other pressing concern was his will, which he re-drafted in October—that is, shortly before his death. Yet he began the document with the statement, “In full control of my mental faculties and free from any duress, I instruct...”³⁴⁵ As noted earlier, he declared in this will that his estate should be divided between three heirs, with Baroness Luise receiving half of the estate, and Maria and Robert each receiving a one-quarter share.³⁴⁶ The will covered all of his assets (he used the phrase “personal and real property” or “*mobilen und immobilien Vermögen*”)—and he concluded the document by stating explicitly that all previous testaments were null and void.

Ferdinand Bloch-Bauer's testament represented a clear reversal of his earlier position regarding the disposition of the Klimt paintings. Although he had stated in probate court in 1926 that he intended to donate the paintings to the Österreichische Galerie, this was clearly no longer his intention. He believed that he had retained control over the fate of the works: in light of events in Austria (and Europe more generally) after 1938, he did not want them to go to the Österreichische Galerie.

While Ferdinand and his representatives had incomplete and imperfect knowledge of the precise fate of his art collection, he knew that the works had been seized by the Nazi state and sold off to pay for a fraudulent tax fine. Back in 1941 he had written to Oskar Kokoschka, “*Nun bin ich schon ‘amortisiert’ Was man von Wien und Prag hört ist furchtbar!*”³⁴⁷ Ferdinand Bloch-Bauer undoubtedly also knew about the complicity of the museum officials at the Österreichische Galerie in helping the Nazi leaders execute their program of plunder. As noted earlier, Prof. Dr. Bruno Grimschitz and many of his colleagues were making valuations for the purposes of liquidation and they themselves were acquiring “aryanized” property for their institutions. They were also usually members of the Nazi Party.³⁴⁸ By the autumn of 1945, Grimschitz had been suspended as Director and an investigation into his actions during the Third Reich was under way as part of the de-Nazification process.³⁴⁹

Before his death in November 1945, Ferdinand Bloch-Bauer would also have been cognizant of the Austrians' problematic approach to restitution issues. The initial Law for the Review (*Erfassung*) of Property Removed Through Aryanization and Other

³⁴⁴ Czernin, *Die Fälschung*, 252.

³⁴⁵ Czernin, *Die Fälschung*, 253. Ferdinand Bloch-Bauer testament, 22 October 1945 is reproduced at 1499-1500.

³⁴⁶ Czernin, *Die Fälschung*, 253-54.

³⁴⁷ See Ferdinand Bloch-Bauer to Oskar Kokoschka, 2 April 1941, in Gloria Sultano and Patrick Werkner, *Oskar Kokoschka: Kunst und Politik, 1937-1950* (Vienna: Böhlau, 2003), 124 (002935-39).

³⁴⁸ Prof. Dr. Grimschitz worked with Herbert Seiberl and others at the Institut für Denkmalpflege to prepare exhibitions of art seized by the Nazis. See Finanzamt Wieden to Dr. Brumno (sic) Grimschitz, 25 November 1940 (REP 00020). For Grimschitz's valuation of seized works in the Bloch-Bauer collection see Prof. Dr. Grimschitz to the Finanzamt Wieden, 2 December 1940 (REP 00021).

³⁴⁹ Czernin, *Die Fälschung*, 255.

Actions in Connection with the National Socialist Seizure of Power” from 10 May 1945 stated that claimants would have only one month to file claims.³⁵⁰ This narrow window was extremely prejudicial to victims—nearly all of them abroad at war’s end (there were only 5,000 Jews in Vienna in May 1945 from a pre-*Anschluss* population of some 180,000). With the city scarred from the recent battle between the Red Army and the Wehrmacht, with tremendous shortages and damage to infrastructure, and with a fledgling Austrian government finding its way in an uncertain environment complicated by the presence of Allied armies, this law was certainly untenable (or at least unfair to claimants). Indeed, it was subsequently revised--and there were seven different restitution laws that emerged in the immediate postwar period.³⁵¹ But this first statute is suggestive of the prevailing mindset. Even a recent Austrian Ambassador to the United States, Peter Moser, noted with regard to these seven restitution laws, “but these measures took a slow pace and were carried out rather reluctantly.”³⁵²

Furthermore, there was the burgeoning myth that grew out of the Allies’ 1943 Moscow Declaration (this had been an attempt to divide Austria from the Axis, as Italy had done a month earlier, and it stated that if the Austrians rose up against the Nazi government, then they would be treated as liberated and the first victims of fascist aggression. But of course, the Austrians did no such thing. The Alpine regions of Austria were among the last to be conquered by the Allies).³⁵³ Still, Austrians embraced the notion that they were victims—this despite the fact that they were over-represented in relation to their population in the Nazi Party, the SS, and among concentration camp guards. Statements by old friends like Karl Renner, who opposed restitution to individual Jewish victims, also did little to improve the situation.³⁵⁴

In the immediate postwar period, a number of key figures with regards to the disposition of the works in question had a very problematic understanding of history. For example, Dr. Bruno Grimschitz’s version of events is problematic in many regards. The Director of the Österreichische Galerie from 1939 to 1945, Grimschitz portrayed Dr. Führer as a conventional representative of Ferdinand Bloch-Bauer’s interests.³⁵⁵ After the end of the war, before he was suspended from the directorship, Grimschitz was not forthcoming with information about the disposition of the three Bloch-Bauer Klimt paintings in possession of the Österreichische Galerie. Granted, this was also the case with his successor, Dr. Garzarolli: in June 1947, Dr. Otto Demus of the Bundesdenkmalamt was still writing to the Österreichische Galerie to see if they had the pictures (they did—the

³⁵⁰ Czernin, *Die Fälschung*, 264. See also Brigitte Bailer, *Wiedergutmachung kein Thema. Österreich und die Opfer des Nationalsozialismus*, 23-28.

³⁵¹ For the texts of several of the seven restitution laws (26 July 1946 and 6 February 1947) see Appendices A-C (003201-07).

³⁵² See “Rav Tov Annual Dinner: Remarks by Ambassador Peter Moser,” Williamsburg, New York (2 May 2000); he adds, “only in 1961 could the Claims Conference thus attest Austria to have done the bulk of the restitutions” (003007).

³⁵³ Günter Bischof, *Austria in the First Cold War, 1945-1955: The Leverage of the Weak* (Basingstoke: Macmillan, 1999).

³⁵⁴ See Karl Renner, “Probleme II: Volkswirtschaft,” April 1945 (002034-42). See also Czernin, *Die Fälschung*, 262.

³⁵⁵ Professors Rudolf Welsch and Christian Rabl, “Rechtsgutachten,” 19 (002419).

works never having left the custody of the museum).³⁵⁶ But he was not helpful to Rinesch or the Bloch-Bauer heirs in this regard. Furthermore, Grimschitz portrayed Dr. Führer as uncooperative with the Gallery: e.g., he stated that Führer “was unaware of Mrs. Bloch-Bauer’s will” and refused to relinquish the pictures in 1938. Grimschitz was partly correct in his assertions: Dr. Führer did not recognize any obligation in Adele’s will with regard to the Bloch-Bauer Klimts; but Führer certainly knew about the document, as he stated in his 3 October 1941 letter to Grimschitz.³⁵⁷ It was the attitude of people like Garzarolli and Grimschitz that helped Dr. Führer escape incarceration in 1948.³⁵⁸ Denazification in Austria was to be highly problematic. The treatment of Dr. Erich Führer is only one of many examples.

To summarize: Ferdinand Bloch-Bauer was a victim of theft and persecution; he was cognizant of Austrians’ complicity in the Third Reich; he knew of the direct involvement of officials from the Österreichische Galerie in the Nazis’ spoliation programs; and he was increasingly aware of the challenges victims faced in recovering property. Furthermore, he and most of his family no longer lived in Austria. It was therefore certainly not his wish for the Österreichische Galerie to receive the Klimt paintings. Indeed, this was not merely a passive position he held. In light of the way in which the Österreichische Galerie and others had come into possession of the pictures—not to mention the tragic fate of friends like Amalie Zuckermandl and her daughter who perished in a Nazi death camp—it was of tremendous importance to Ferdinand that he and his family retain the paintings rather than donating them to the Austrian state. Ferdinand Bloch-Bauer continued to believe that he owned the paintings. He presumably reasoned that unless he gave the pictures to the Österreichische Galerie they would remain part of his property; with regards to six of the seven works discussed in this report there was no gift by Ferdinand to the Austrian state before, during, or after the war. He therefore had grounds to believe that the Klimt paintings were part of his estate.

Despite Grimschitz’s complicity in the Nazis’ rapacious art plundering program and his less than objective view of events in the immediate postwar period, he remained director of the Österreichische Galerie until October 1945. As a result, Ferdinand Bloch-Bauer’s representatives were initially forced to deal with him. In his approaches to Grimschitz, Dr. Gustav Rinesch tried to be as friendly and collegial as possible. For example, he wrote to Grimschitz on 19 October (addressing him with the honorific title, “*Herr Hofrat!*”) and thanked him for his “friendly letter” about Reich Germans who had acquired Bloch-Bauer pieces. Rinesch took a similar approach with other Austrian officials, as he sought grounds for common cause: this is the most compelling explanation for phrases such as that found in a letter to Dr. Berg of the State Office for People’s Enlightenment and Education of 21 November 1945, where he talked about

³⁵⁶ Dr. Otto Demus to the Österreichische Galerie, 30 June 1947 (REP 00033). A response was provided by Fritz Novotny of the Österreichische Galerie to the Bundesdenkmalamt, 9 July 1947 (REP 00034).

³⁵⁷ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 2 (001036). They cite the Archives of the Österreichische Galerie, Zl. 399/1941: Dr. Erich Führer to Dr. Bruno Grimschitz, 3 October 1941 (000298-99 and REP 00023-24). See also Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 14 (002414).

³⁵⁸ Führer was released from internment on 9 May 1948 and placed on probation for three years. See “Neues von ganz rechts—September 2001. Zu Erich Führer” (003060).

works in American-administered depots and stated, “the recovery of these valuable pictures is doubtless of the greatest importance for Austrian art holdings and I therefore ask for your support.”³⁵⁹ In such statements, Rinesch was not promising works to Austrian state collections or renouncing his clients’ rights over this property; he was attempting to use diplomacy and other tactics to advance the cause of restitution.

Ferdinand Bloch-Bauer died in Zürich on 13 November 1945. His October 1945 will governed his estate.³⁶⁰ Even though it took until 23 May 1947 for the Swiss authorities to recognize the validity of the will, the heirs moved quickly after his death in an effort to recover the Klimt paintings from the Austrian authorities.³⁶¹ The 22 October 1945 will of Ferdinand Bloch-Bauer explicitly nullified all other previous wills: it was reasonable to assume that this included statements such as his 1925 declaration that he would strive to honor the wishes of his deceased wife.³⁶²

The heirs, led by Robert Bentley, continued to engage Gustav Rinesch, who persevered in his efforts to track and recover the paintings.³⁶³ Rinesch worked with Anton Meyer in the search for the artworks in the Bloch-Bauer collection, many of which had been taken to the German part of the Reich, were subsequently stored in the salt mines at Altaussee and Bad Aussee, and were now in Allied depots.³⁶⁴ Beginning in September 1945, Rinesch wrote frequently to both Austrian and Allied authorities in an effort to locate and recover artworks from the Bloch-Bauer collection. These efforts continued into the 1950s.³⁶⁵ On 1 July 1946, Rinesch submitted a report to Bentley that listed a number of the works from the Bloch-Bauer collection and noted their current location.³⁶⁶ On 19 August 1946, Rinesch directed an inquiry to the Österreichische Galerie about the disposition of the family’s works (he was answered by the interim director Prof. Dr. Fritz Novotny, who told him that Josef Zykan at the Zentralstelle für Denkmalschutz was better informed).³⁶⁷

³⁵⁹ Czernin, *Die Fälschung*, 258-59. On the same day, Rinesch wrote a letter with similar wording to Dr. Fr. Balke at the Österreichische Galerie, 21 November 1945 in “Factual Background” (002591)

³⁶⁰ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 12 (001046): a transcription of the will is in the Archive of the Bundesdenkmalamt. A copy of the will is 000318. For his death certificate (“Todesschein”), completed on 27 November 1945, see 000321.

³⁶¹ See the Erbbescheinigung from the Zürich Bezirksgericht, 23 May 1947 (001869-70 and 000378-79).

³⁶² Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 26 (001060); they cite Randol Schoenberg to Bundesministerin Elisabeth Gehrler, 25 November 1998.

³⁶³ In a letter to American authorities on 6 September 1946, Rinesch says that he represented the “heirs” (plural). See “Factual Background” (002593). Maria and her husband Frederick Altmann signed a document in December 1945 giving Rinesch power of attorney. Deposition of Maria Altmann (30 May 2002), 200-01 (002639).

³⁶⁴ James Garrison, “Britische Anforderung Nr. 2,” 25 April 1947 (000368-69). See also Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 12 (001046): Archive of the Bundesdenkmalamt, Restitution files Bloch-Bauer, carton 32. Note that a number of the Bloch-Bauer paintings that were recovered in Germany and sent to the Munich Central Collecting Point were returned to Austria when they were transported to Salzburg on 15 March 1948. See the Bundesdenkmalamt memorandum, 14 April 1948 (000580).

³⁶⁵ See, for example, S. Lane Faison (Director of the Central Collecting Point, Munich) to Robert Bentley, 25 July 1951 (000876); and Dr. Rinesch to the Bundesdenkmalamt, 28 January 1954 (00910).

³⁶⁶ Dr. Gustav Rinesch to Robert Bentley, 1 July 1946 (000345).

³⁶⁷ Dr. Gustav Rinesch to Dr. Erhard Buschbeck of the Österreichische Galerie, 19 August 1946, and Dr. Fritz Novotny to Dr. Rinesch, 29 August 1946 (000346-47).

In September, Rinesch wrote to Allied officials at the Munich Central Collecting Point.³⁶⁸ Rinesch then wrote to the Austrian Bundesdenkmalamt on 31 March 1947, noting that he was now empowered to represent all three heirs, and that documentation about his power of attorney, as well as Ferdinand Bloch-Bauer's death, was available. He made it clear that he was attempting to secure the artworks in the Bloch-Bauer collection, and that he had been partially successful.³⁶⁹

Rinesch often had to triangulate between the Austrian authorities, the American restitution officials, and his clients. To take one of many examples—the Aubusson tapestry portraying a hunting scene that had been seized and transferred to the Führermuseum collection—it required enormous effort to identify the piece and claim it as part of Ferdinand Bloch-Bauer's estate. On 15 November 1948, the Bundesdenkmalamt wrote and informed him that the tapestry was in Munich; Rinesch in turn contacted the heirs and had them identify it and provide proof of the family's ownership.³⁷⁰ Rinesch's efforts to secure the widely dispersed articles from the Bloch-Bauer collection required him to communicate with not only the Austrian and American authorities, but also the British and French.³⁷¹ It was a painstaking process that involved the compilation and circulation of lists of various kinds: from a reconstruction of the collection to a documentation of works on specific transports, and more.³⁷²

The inquiry of Dr. Rinesch to Dr. Garzarolli on 19 January 1948 should also be interpreted in this light; Rinesch noted that the three Klimt pictures in question had “been given over by the Bloch-Bauer's attorney, Dr. Erich Führer, on the occasion of the forced liquidation of the private property of the Bloch-Bauers during the time of the German rule.” He added, “the precise circumstances of the transfer are not known to me. I would be grateful if you would inform me how you would respond to my clients' restitution claims.”³⁷³ In this letter Rinesch was seeking the return of the three Bloch-Bauer Klimts (the two portraits and *Apfelbaum*) then in possession of the Österreichische Galerie. He believed he had already secured the agreement from the Städtische Sammlungen to return *Birkenwald* to the heirs on 3 December 1947.³⁷⁴ At that time, *Seeufer mit Häuser in*

³⁶⁸ Dr. Gustav Rinesch to Munich Central Collecting Point, 6 September 1946 (000350-51).

³⁶⁹ Dr. Gustav Rinesch to Ministerialrat Kautschitsch of the Austrian Federal Office of Monument, 31 March 1947 (000365). He notes that many of the works in possession of Erich Führer were secured by the British Military Government and then handed over to Karl Bloch-Bauer.

³⁷⁰ Dr. Gustav Rinesch to the Bundesdenkmalamt, 26 November 1948 (000680). The 15 November letter from the Bundesdenkmalamt is referenced in this letter.

³⁷¹ See, for example, Dr. Gustav Rinesch to Prof. Dr. Bruno Grimschitz, 28 September 1945 (000312-34); Dr. Gustav Rinesch to Dr. Berg at the Staatsamt für Volksaufklärung und Unterricht, 21 November 1945 (000323); Dr. Gustav Rinesch to Dr. Zykan at the Staatliche Denkmalamt, 28 November 1945 (000332-33); and Dr. Gustav Rinesch to Military Government of Bavaria, 6 September 1946 (REP 01071-74); Dr. Gustav Rinesch to Dr. Kraucic of the Staatsdenkmalamt, 9 October 1947 (about his contact with the French Mission in Munich); and letters contained in REP 01075-01165.

³⁷² See, for example, “Verzeichnis der mit dem 16. und 17. amerikanischen Transport vom 15.3.1948 von München nach Salzburg rückgeführten Kunstgegenstände der Sammlung Ferdinand Bloch-Bauer” (000582).

³⁷³ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 121 (002521): they cite a letter from Dr. Rinesch to Garzarolli, 19 January 1948. A copy of the document is provided at 001931 and REP 00036.

³⁷⁴ Randol Schoenberg to Prof. Dr. Ernst Bacher, 5 March 1999 (001018).

Kammer am Attersee was in the apartment of Karl Bloch-Bauer (or his attorney Kurt Grimm). In other words, he was working with what appeared to be some success toward the recovery of the Klimt pictures.

There is no doubt then, that the Klimt paintings were the subject of restitution efforts on the part of Ferdinand Bloch-Bauer and then by his heirs. Dr. Gustav Rinesch, of course, was the primary representative of the family. He communicated their wishes for recovery to the Austrian authorities. While Rinesch may not have done all he should have to keep the heirs informed, he in turn gave them a general understanding of some of the challenges they faced. Robert Bentley, for example, wrote to his sister, Luise, “*Es ist jedenfalls unmöglich in Ziffern auszudrücken, wie viel die oesterr. Verlassenschaft wert ist, da man jedem einzelnen Bild etz. nachjagen muss u. noch lange Prozesse und Verhandlungen folgen werden.*”³⁷⁵ In his correspondence with Austrian officials, such as the letter he sent to the Direktion of Österreichische Galerie on 19 January 1948, Rinesch used the phrase “restitution claims of my clients” (*Rückstellungsansprüchen meiner Klienten*).³⁷⁶ It is fair to say that the letters and conversations that Rinesch had with Austrian officials—including Dr. Grimschitz and Dr. Garzarolli from the Österreichische Galerie and Dr. Demus from the Bundesdenkmalamt—constituted negotiations. Dr. Garzarolli’s remark to Dr. Demus on 2 April 1948, when he discussed the disposition of Klimt’s *Seeufer mit Häuser in Kammer am Attersee* and urged “a delayed response” to the issue of export permits, provides just one of many indications that Rinesch and the heirs were negotiating with the Austrian authorities about the Klimt pictures.³⁷⁷ Indeed, because of the power that the museum directors and Monument Office chief had regarding the disposition of the Bloch-Bauer artworks, their positions on the Bloch-Bauer artworks constituted a de-facto adjudication of the restitution issues. The Städtische Sammlungen, as noted earlier, at one point agreed to restitute the painting *Birkenwald*. It is also fair to say that *Häuser in Unterach am Attersee*, which was recovered by Karl Bloch-Bauer (and then subsequently relinquished to the Austrian Gallery), was in fact restituted.

Dr. Gustav Rinesch, the attorney engaged by Ferdinand Bloch-Bauer, then by Robert Bentley, and subsequently by other heirs, did not always represent them in a way consistent with an adversarial legal system. He did not consistently advance arguments representing the interests of his clients, but rather, he often times assumed the role of mediator or conciliator. In certain respects, this was understandable. Making deals was an important part of the legal and bureaucratic culture stretching back to the Habsburg Empire.³⁷⁸ Indeed, Ferdinand Bloch-Bauer and the other leaders of the sugar industry had been notorious for buying influence from members of parliament (they enjoyed some

³⁷⁵ Robert Bentley to Luise Gutmann, 26 March 1947 (000363-64).

³⁷⁶ Dr. Gustav Rinesch to Direktion of the Österreichische Galerie, 19 January 1948 (000465).

³⁷⁷ Dr. Karl Garzarolli to Dr. Otto Demus, 2 April 1948 (001937-38). He writes, “*Ich bitte die Erwerbungs- und Tauschvorhaben erst denn laut werden zu lassen, wenn von der Finanzprokurator der Zeitpunkt hierfür als gegeben bezeichnet werden wird, wovan augenblicklich Nachricht gegeben wird, d.h. also, dass aus taktischen Gründen um eine Verzögerende Behandlung gebeten wird.*”

³⁷⁸ Lothar Höbelt, *Parliamentary Politics in a Multinational Setting: Late Imperial Austria* (Minneapolis: University of Minnesota, 1992).

of the highest state subsidies in the Empire).³⁷⁹ It was common practice to advance one's interests in a manner deemed mutually advantageous—if not always consistent with certain lofty legal principles. After the *Anschluss*, as Rinesch knew from personal experience, it was common to buy favors from officials: corruption was especially rampant in Vienna after 1938 as authorities denuded Jews of their property prior to emigration.³⁸⁰ Furthermore, there was a strong legal tradition of compromise—of lawyers fighting not for their clients, but for the position or solution which they themselves deemed just (this was the case with the state attorneys or *Staatsanwälter*). Rinesch was therefore steeped in a tradition of pragmatic deal-making.

To the contemporary American observer, Rinesch's representation of his clients appears inadequate. For quite some time, he appeared ignorant of Adele Bloch-Bauer's will: in his letter to Robert Bentley of 26 February 1948, quoted by Professors Welser and Rabl, he says, "I am not aware of the wording of the will."³⁸¹ Rinesch had only a general knowledge of the document: he had written Robert Bentley on 6 December 1947, "apparently, Adele B.B left through a testament her Klimts to the museum, although the President [Ferdinand] had, as long as he lived, still retained the legal rights to the pictures."³⁸² This lack of specific and concrete knowledge of the will's contents left Rinesch in a vulnerable position—one where it was difficult to challenge the interpretation offered by Dr. Garzarolli and other Austrian officials. Indeed, Garzarolli attempted to present the matter as unambiguous, such as in his 16 February 1948 letter to Rinesch.³⁸³ Rinesch and the heirs were ignorant of the specifics in the will because officials from the Österreichische Galerie had removed it (as well as other court documents) from the court files.³⁸⁴ It is not certain when he became cognizant of the will's contents—Rinesch later claimed that he first saw it on 10 April 1948 when he met with Dr. Garzarolli and arranged the transfer of the Klimts mentioned in Adele's testament.³⁸⁵ But when Rinesch met with Garzarolli on 10 April 1948 and concluded an oral agreement ("*mundliche Vereinbarung*") about the six paintings—one which led to the heirs giving up the pictures—he clearly had imperfect knowledge of Adele's will at the time.³⁸⁶ Dr. Garzarolli possessed a report on the estate of Adele Bloch-Bauer,

³⁷⁹ See Berthold Unfried, "Arisierung und Restitution in der Zuckerindustrie" (Vienna: Österreichische Historikerkommission, 2002), 648 (003018).

³⁸⁰ Even Minnie Müller-Hofmann, according to her son (Victor Müller-Hofmann), had bribed an official to avoid designation as a Jew (although she was not able to sustain this deception). See Pleyer, "Portrait of Amalie Zuckerandl," 6 (002728).

³⁸¹ Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 14 (002414). Dr. Rinesch to Robert Bentley, 26 February 1948. A copy of the document is provided at 000501. He writes, "*Der Wortlaut des Testaments ist mir leider nicht bekannt.*" Note that Dr. Rinesch wrote to the Direktion der Österreichische Galerie on 19 January 1948 about the Klimt paintings and noted, "*Die genauen Bedingungen dieser Uebergabe sind mir nicht bekannt*" (REP 00036).

³⁸² Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 13 (001044); Dr. Rinesch to Robert Bentley, 6 December 1947. See also "Factual Background" (002601).

³⁸³ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 14 (001048); they cite, Archive of the Österreichische Galerie, Zl. 33/1948, Dr. Karl Garzarolli to Dr. Gustav Rinesch, 16 February 1948. A copy of the document is provided at 001932 and REP 00038. See also "Factual Background" (002603-604).

³⁸⁴ "Stolen by Austria," 8 (002553).

³⁸⁵ "Stolen by Austria," 9 (002554).

³⁸⁶ Dr. Rinesch to Dr. Garzarolli, 12 April 1948 (REP 00074-75).

including “*Abschriften*” of the testament and 1926 declaration, at least one month prior to the 10 April meeting: the Finanzprokurator Dr. Glatz had sent these documents to Garzarolli on 6 March 1948.³⁸⁷ Garzarolli obviously did not share these documents with Dr. Rinesch before their fateful 10 April 1948 meeting.

After examining the will, Rinesch began to change his opinion on the issue whether it was a binding obligation to give the paintings. In an 11 April 1948 letter to Robert Bentley, where he discussed his recent efforts to obtain export permits for certain artworks, he cited Adele’s testament and noted, “*Dies ist zwar nicht die Form eines Legats, jedoch findet sich im Akte eine Erklärung des Onkels, lauch welcher er die Bitte seiner Frau zu erfüllen verspricht.*”³⁸⁸ Rinesch, it appears, underwent a gradual metamorphosis in his views about Adele’s testament. While he expressed doubts about its binding nature in the 11 April 1948 letter to Bentley, he still believed that the Österreichische Galerie had a claim and that the testament required the bequest of the paintings. But he steadily became more skeptical. On 13 July 1949, while still engrossed in negotiations for export permits, Rinesch wrote, “*wenn auch dieses Legat ursprünglich bereits im Testament der vorgestorbenen Gattin Ferdinand Bloch-Bauers vorgesehen war, so hätten die Erben sicherlich die Handhabe gehabt, die Legaterfüllung zu verhindern, weil sich inzwischen die Vermögensverhältnisse der Erblasserin in katastrophaler Weise verändert hat und auch die übrigen Voraussetzungen der Widmung durch Ereignisse des dritten Reiches weggfallen waren.*”³⁸⁹ Rinesch therefore understood that it would have been perfectly feasible to contest the validity of the legacy and Ferdinand Bloch-Bauer’s declaration, but that in order to obtain the export permits, he and the heirs were refraining from doing so. On 5 November 1948, he had written Dr. Benesch, the Director of the Albertina, “*dass die Erben Bloch-Bauer der Oesterreichischen Galerie bereits mehrere Gemälde von Gustav Klimt, darunter einige representative Hauptwerke, übergeben haben, wie dies der letztwilligen Verfügung von Frau Adele Bloch-Bauer entsprach. Dieses sicherlich grosszügige Legat rechtfertigte die Erwartung der Erben, dass bei der Ausfuhr weiterer erheblich geringwertiger Kunstgegenstände auch seitens der Behörden Entgegenkommen gezeigt wird.*”³⁹⁰

While his reasons for not contesting the Österreichische Galerie’s interpretation of the will appear to have been grounded in the efforts to make a trade, Rinesch subsequently often gave the impression that he interpreted Adele Bloch-Bauer’s will and Ferdinand Bloch-Bauer’s statement (through his attorney) of 1926 as a legally binding obligation. He wrote to Robert Bentley on 11 April 1948 about the latter document, “*Therein, the Österreichische Galerie doubtless has a legal claim.*”³⁹¹ Of course, this is a very doubtful proposition: Ferdinand Bloch-Bauer did not notarize this statement or “*meet other formal requirements,*” to use the words of Professor Rudolf Welser. The fact that Professor

³⁸⁷ Dr. Glatz to Dr. Garzarolli, 6 March 1948 (000524-25, 000021-22, 000024-28).

³⁸⁸ Dr. Gustav Rinesch to Robert Bentley, 11 April 1948 (000563).

³⁸⁹ Dr. Gustav Rinesch to the Bundesdenkmalamt, 13 July 1949 (000775-81 and REP 000114-20).

³⁹⁰ Dr. Gustav Rinesch to Dr. Benesch, 5 November 148 (000666-67).

³⁹¹ For Dr. Rinesch to Robert Bentley, 11 April 1948, see Kommission für Provenienzforschung, “*Sammlung Bloch-Bauer. Stand: 29.III.1999,*” 17-18 (001051-52), and *Beilage 4* (001671). See also Professors Rudolf Welser and Christian Rabl, “*Rechtsgutachten,*” 27 (002427). A copy of the document is provided at 001942.

Welser could conclude that neither Adele's testament nor Ferdinand's statement in probate court were "binding," but that Rinesch suggested to his client that the statement was binding shows that Rinesch did not properly analyze the situation.³⁹² The logical position for Rinesch to take as the advocate for the heirs was that Ferdinand had inherited the paintings; that it would have taken an explicit and legally correct document from him to effect a gift to the Österreichische Galerie (which never occurred); and that Ferdinand's 22 October 1945 will, which divided the property (including the paintings) among the heirs, was the document that governed the disposition of the estate.

Even Dr. Garzarolli saw the vulnerability of the Österreichische Galerie's claim: that the museum had never obtained written confirmation of the donation from Ferdinand Bloch-Bauer. As he wrote to his predecessor, Prof. Dr. Grimschitz, on 9 March 1948, "In the documents in possession of the Österreichische Galerie, no mention is made of these facts, and there are no statements from a district court, nor are there any notarized statements or even a personal statement from President Ferdinand Bloch-Bauer. In my view, you should have definitely sorted this out. I am therefore in a particularly difficult situation, especially as the letter from Dr. Führer dated 3 October 1941, which mentions the will, creates a situation that is inconsistent with the meaning of the will and your knowledge thereof.... I cannot understand why even during the Nazi era an incontestable declaration of gift in favor of the state was never obtained from Ferdinand Bloch-Bauer.... In any case, the situation is growing into a sea snake. I am very concerned that up until now all of the cases of restitution have brought with them immense confusion. In my opinion it would also be in your interest to stick by me while this is sorted out. Perhaps that way we will best come out of this not exactly danger-free situation."³⁹³ In other words, Dr. Garzarolli went to the local court in Vienna (Bezirksgericht Innere Stadt Wien) to try to clarify the situation. He was not forthcoming with Rinesch or the heirs about all that he found.³⁹⁴ Despite his investigations, Garzarolli did not appear especially well-informed about Adele's will and the related issues: in one letter to Dr. Kurt Grimm on 12 April 1948 (that is, just as the Österreichische Galerie was securing the paintings), he referred to Adele as the "mother" of the heirs (she was their aunt).³⁹⁵ Director Garzarolli wanted the Klimt pictures for the Österreichische Galerie and did not comport himself in a neutral way with regard to the heirs' restitution claims.

A Viennese attorney who understood the manner in which the Austrian government was then releasing valuable artworks for export only in exchange for the relinquishing of claims on other desired works, Rinesch engaged in this "*Tauschgeschäft*." He and the Bloch-Bauer heirs were experiencing first-hand the Austrians' intransigence concerning the granting of export permits for valuable cultural property: on 28 January 1948, Dr. Richard Ernst of the Museum of Applied Arts in Vienna wrote the Austrian Bundesdenkmalamt, where he advised "that export permits *not* be granted for 19 of the

³⁹² Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 5-6 (002405-06)

³⁹³ Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 20 (002420): they cite a letter from Dr. Garzarolli to Prof. Dr. Grimschitz, 9 March 1948. A copy of the document is provided at 001933-34.

³⁹⁴ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," 26 (001060).

³⁹⁵ Dr. Garzarolli to Dr. Kurt Grimm, 12 April 1948 (001943).

34 porcelain settings purchased by the museum from the 1941 auction.”³⁹⁶ This position was affirmed by Dr. Demus and communicated to Rinesch on 12 February 1948.³⁹⁷ On 2 April 1948, Garzarolli wrote Demus and requested that export permits be denied for many of the Bloch-Bauer paintings; furthermore, he suggested trades for other paintings.³⁹⁸ Sixteen drawings by Klimt from the Bloch-Bauer collection that had been in possession of Dr. Führer and then passed over to Karl Bloch-Bauer were relinquished to the Albertina Museum on behalf of Ferdinand Bloch-Bauer’s heirs so as to obtain export permits for the rest of the drawings.³⁹⁹ It was in this context that Rinesch wrote Robert Bentley on 11 April 1948, for example, about how he was conceding to the Österreichische Galerie the six Klimt works mentioned in Adele’s will, and that the Gallery appeared supportive of export permits for the other works.⁴⁰⁰ On 13 April 1948, Rinesch wrote to Garzarolli and asked him to write to the chief of the Austrian Bundesdenkmalamt, Dr. Otto Demus, and support the application for export permits for a long list of other artworks.⁴⁰¹ Rinesch knew that Garzarolli played a key role in the decision-making process about export permits for artworks and that his support was essential.

Dr. Garzarolli did what Rinesch asked of him: the Director of the Österreichische Galerie wrote to Demus on 21 July 1948 and supported the export of certain works owned by the Bloch-Bauer heirs.⁴⁰² In this letter, he specifically noted the preparedness of the heirs to recognize the Österreichische Galerie’s interpretation of Adele’s will. This act on the part of the heirs, in his view, justified the granting the expert permission, “by way of an exception.”⁴⁰³ Garzarolli adopted a tactical, and indeed cynical, approach to the negotiations. Earlier, on 2 April 1948, he had written to Dr. Demus, stating that export works should not be granted for certain works (mostly Austrian pictures from the first half of the nineteenth century); he added, “I ask that the acquisition and trade proposals only be made when the attorney general has given the okay; in other words, for tactical reasons a delayed procedure is requested.”⁴⁰⁴ In other words, officials from various Austrian agencies colluded in an effort to secure the works they deemed most desirable for the state museums: at the end of March 1948 representatives of the Österreichische Galerie and the Bundesdenkmalamt had visited Karl Bloch-Bauer’s apartment to inspect works there, including Klimt’s *Seeufer mit Häuser in Kammer am Attersee*; on 1 April 1948, Garzarolli “wrote to the Austrian Attorney General (Finanzprokurator) seeking [further] legal assistance in obtaining the Klimt paintings which were not yet in the possession of the Österreichische Galerie” (the Attorney General had already sent

³⁹⁶ Dr. Richard Ernst to the Bundesdenkmalamt, 28 January 1948 (000476).

³⁹⁷ Dr. Otto Demus to Dr. Gustav Rinesch, 12 February 1948 (000489-91).

³⁹⁸ Dr. Karl Garzarolli to Dr. Otto Demus, 2 April 1948 (00554-55).

³⁹⁹ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 33-34 (002433-34).

⁴⁰⁰ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 28 (002428): he quotes Dr. Rinesch to Robert Bentley, 11 April 1948. A copy of the document is provided at 001942.

⁴⁰¹ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 31 (002431): he quotes Dr. Rinesch to Dr. Garzarolli, 13 April 1948. See also Dr. Garzarolli to the Bundesdenkmalamt, 28 April 1948 (REP 00125).

⁴⁰² Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 122 (002522).

⁴⁰³ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 122-23 (002522-23).

⁴⁰⁴ Dr. Garzarolli to Dr. Demus, 2 April 1948 (001937-38).

Garzarolli a report on the estate files of Adele on 6 March 1948); and on 2 April 1948, in the letter quoted above, Garzarolli told Dr. Demus that the Österreichische Galerie wanted to obtain the Bloch-Bauer Klimts.⁴⁰⁵ These efforts to secure the paintings in exchange for export permits preceded the “donation” of the Klimt paintings arranged by Dr. Rinesch on 10 or 12 April 1948.

In recent years the Austrian Historians’ Commission has found that in the late-1940s and 1950s, the Austrian government took an adversarial approach to Jewish claimants and used a wide array of tactics to block or limit restitution. This was the case with the Bloch-Bauers: despite giving up the Klimt works, Rinesch and the heirs struggled to obtain export permits for other works in the collection.⁴⁰⁶ In June 1949, the Austrian authorities (through the Bundesdenkmalamt) issued a verdict on 23 paintings that Rinesch and the heirs sought to export: export permits were granted for sixteen of the artworks, but denied for seven others.⁴⁰⁷ Therefore, beginning in July and continuing through September 1949 (and beyond), Dr. Rinesch was writing to the Austrian Bundesdenkmalamt complaining about the failure to grant export permits for specific works.⁴⁰⁸ For example, the Bundesdenkmalamt refused permission to export the picture attributed to the atelier of Holbein the Younger and this position was confirmed by the Bundesministerium für Unterricht on 30 September 1949.⁴⁰⁹ Rinesch tried to get the portrait out of Austria by offering to sell or trade another blocked picture (Waldmüller’s *Mutterglück*—which had been sold by Dr. Führer to the Munich Pinakothek in 1940), but the files do not show how this offer was received.⁴¹⁰ To take another, specific, case concerning a water-color by Rudolf von Alt (*Nonnbergportal in Salzburg*), the Austrian authorities (the Bundesdenkmalamt and the Albertina Museum together) denied permission to export and tried to induce a trade. The heirs rejected the proposed exchange and Rinesch demanded that he be given the two artworks to keep (but not to

⁴⁰⁵ Complaint, Maria Altmann v. Republic of Austria, August 2000, 14-15. For a reproduction of the letter from Dr. Garzarolli to the Finanzprokuratur, Dr. Glatz, 1 April 1948 see 001935-36 (and 000550-51 and REP 00065-66). See also the letter from Dr. Gustav Rinesch to Robert Bentley of 11 April 1948 quoted by Randol Schoenberg to Bundesministerin Gehrler, 25 November 1998 (1539). See also Randol Schoenberg to Mag. Tina Walzer, 14 January 1999 (001588). A copy of the document is provided at 001942.

⁴⁰⁶ For the recommendation that a painting by Waldmüller (*Mutterglück*) not be granted an export permit, see the Direktion of the Österreichische Galerie (Dr. Fritz Novotny) to the Bundesdenkmalamt, 16 February 1949 (REP 00134 and 000709). See also Dr. Garzarolli to the Bundesdenkmalamt, 30 May 1949 (000746); and Dr. Garzarolli to the Bundesdenkmalamt, 3 June 1949 (000751).

⁴⁰⁷ Dr. Erwin Haimerl of the Bundesdenkmalamt, “Ausfuhrbewilligung,” 18 June 1949 (000771-72).

⁴⁰⁸ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 21 (001055): they cite Archive of the Österreichische Galerie, Zl. 67/1949, Dr. Rinesch to the Bundesdenkmalamt, 13 July 1949. For a copy of the document see 000775-81 (and REP 000114-20). For a subsequent complaint (“Beschwerde”) see Dr. Gustav Rinesch to the Bundesdenkmalamt, 9 September 1949 (000826-28). These letters followed earlier ones: e.g., Dr. Rinesch to Dr. Garzarolli, 22 March 1949 (REP 00178-85).

⁴⁰⁹ Thomasberger for the Bundesminister für Unterricht to Rinesch, 30 September 1949 (000834-35). See also Dr. Otto Demus of the Bundesdenkmalamt to the Bundesministerium für Unterricht, 16 September 1949 (000830).

⁴¹⁰ Dr. Rinesch to Dr. Garzarolli, 23 December 1949 (REP 00197). For the sale of Waldmüller’s *Mutterglück* (along with a second picture by Waldmüller, *Versöhnung*) to the Munich Pinakothek in 1940 for RM 30,000, see Dr. Führer to the Alpenländische Treuhand- und Revisionsgesellschaft, 23 May 1940 (000123). Note that the “*Uebersicht*” compiled in 1947 says that the Neue Pinakothek in Munich acquired the paintings in 1942 (000436).

export). Rinesch filed a formal complaint with the Austrian Bundesdenkmalamt on 13 July for this and six other works that were being blocked.⁴¹¹ The Albertina then offered to trade another work by Rudolf von Alt (*Doge Palace in Venice*) for *Portal of the Church*, and this was accepted in 1950.⁴¹² But the negotiations were difficult and the Austrian officials were less than generous in their offers.

The Bloch-Bauer heirs experienced similar tribulations with regards to the porcelain collection, where they were required to relinquish certain pieces to the Austrian Museum for Applied Art in exchange for export permits.⁴¹³ At one point, Dr. Richard Ernst suggested that a trade was justified because of the museum's service in saving the porcelain when it had been auctioned off during the Third Reich; or as he put it, "*Der Vergleich sichert dem Österr. Museum die bedeutendsten Objekte, der Porzellansammlung Bloch-Bauer nämlich die gesamten Erwerbungen, die das Museum auf der Auktion Bloch-Bauer im Jahre 1944 zur Sicherung des österreichischen Kunstbesitzes durchgeführt hat.*"⁴¹⁴ This was indeed a generous perspective on the museum's earlier purchases, but such thinking led to an eventual deal ("*Rückstellungsvergleich*").⁴¹⁵ This point aside, Dr. Rinesch fought hard for these export permits: it appears that he felt strongly that he had an agreement with the Austrian authorities and he felt that their obstructionist tactics regarding export permits was unfair, dishonorable, and even (in the case of Dr. Garzarolli's behavior) a personal betrayal. As noted above, the practice of "*Tauschgeschäft*" was rejected conclusively in the December 1998 Restitution Law and works acquired in this way deemed eligible for return to owners and heirs.

In the case of the Bloch-Bauer heirs, the disposition of the assets contained in the sugar company cannot be entirely separated from the fate of the artworks. Because the majority of the stockholders in the Österreichische Zuckerindustrie A.G. were Jewish, the firm was "aryanized", with a German national, Clemens Auer, taking it over.⁴¹⁶ Even

⁴¹¹ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999" (Dr. Maren Gröning), "Albertina": she includes a reproduction of Dr. Gustav Rinesch to the Bundesdenkmalamt, 13 July 1949 (001717-23). See also the earlier negotiations, in Dr. Gustav Rinesch to Dr. Otto Benesch, 25 April 1949 (000732-73).

⁴¹² Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999" (Dr. Maren Gröning), "Albertina" 8-9 (001695-96). See also the proposed trade (that the Bloch-Bauer heirs rejected) in Dr. Otto Benesch, "Vorschlag eines Restitutionsausgleiches," (n.d. 1949) (001711). See also the trading involving Klimt drawings in Dr. Otto Benesch to Dr. Gustav Rinesch, 12 November 1948 (000671-72).

⁴¹³ Kommission für Provenienzforschung, "Sammlung Bloch-Bauer. Stand: 29.III.1999," Julia König, MAK report, 6-7 (001736-37). For the postwar trades of certain objects in exchange for export permits, see Dr. Richard Ernst, "Betr. Tauschaktion Porzellansammlung F. Bloch-Bauer Vertreten durch Dr. Rinesch, Protokoll," 7 June 1949 (001755), as well as the accompanying documents detailing how the Museum received 19 porcelain settings for the release of others (001756-71).

⁴¹⁴ Dr. Richard Ernst to the Bundesministerium für Unterricht, 11 July 1949 (000773).

⁴¹⁵ See the "Rückstellungsvergleich" for the porcelain, 23 July 1939 (00790-96). Part of the collection kept by the museum was the "*Widmung der Erben*," and the second, smaller group was as an exchange for "*Porzellan-Dublekten des Österr. Museums.*" See Dr. Richard Ernst to the Bundesdenkmalamt, 3 August 1949 (000803). Only the donated works, and not the traded works, were subsequently restituted to the Bloch-Bauer heirs after the 1998 law, even though there was some indication that the traded works had been exchanged for inferior works.

⁴¹⁶ See Finanzdirektion für Wien, Niederösterreich und Burgenland, "*Bescheid*," 29 April 1964 (004375).

though negotiations for the artworks preceded the settlement for the sugar business, the latter always loomed in the background. Ultimately, in 1956, Ferdinand's heirs recovered the shares, but the shareholders were forced to pay 1.5 million Schillings in taxes and Ferdinand's heirs had to forfeit the Elisabethstrasse *Palais*.⁴¹⁷

There is other evidence that shows that Rinesch and the heirs agreed to leave the Klimts with the Österreichische Galerie in exchange for export permits. Rinesch wrote Robert Bentley on 11 April 1948: “[Dr. Otto] Demus declared that he and the Österreichische Galerie place the greatest value on these [the Klimt] pictures and that an agreement about the almost immediate export of the demanded pictures is hardly possible [*schwer möglich ist*]. I am of the opinion that one should file for a joint export permit for all the pictures in question (including those currently in Munich)—one will fare much better this way. Demus has agreed to this [*Demus pflichtet dem bei*].⁴¹⁸ I agree with the conclusion of Professors Welser and Rabl (among others) that, “there is no doubt that there is a connection between the acknowledgment of the legacy and the granting of export permits for other artworks from Ferdinand Bloch-Bauer's collection.”⁴¹⁹ The Klimt paintings themselves were not the subject of an explicit export ban, but an implicit one. Gustav Rinesch and the heirs had no doubts that any efforts to export the works would result in a negative response. The manner in which Garzarolli, Demus, and others demanded the Klimt pictures in exchange for their support for certain other export permits constituted a *de facto* ruling on the issue of exporting the Klimts. But Rinesch was not even making progress advancing his clients' claims for the Klimt pictures; to request the export of the works would have entailed putting the cart before the horse. Furthermore, seeking export permits for works that he had not yet successfully secured for his clients ran contrary to the way that he operated: Rinesch thought of himself as practical--as a deal-maker. It was not in his nature to spend time on legal proceedings that he knew were futile. Rinesch was well aware that the Austrian authorities were demanding the Klimts in exchange for the export permits: it was difficult and illogical to continue with formal proceedings for works he realized must be sacrificed. This “*Tauschgeschäft*” for export permits, which was actually a kind of extortion, was recognized as unlawful by Austrian authorities in 1998.⁴²⁰

Once Rinesch had decided on the tactic of trading the Klimts paintings for the export permits, he gave the impression that he also interpreted Ferdinand's 1926 declaration as binding. Because of his earlier statements and actions, this position appears to have been feigned for tactical reasons. Rinesch also supported the Österreichische Galerie vis-à-vis the Viennese Städtische Sammlungen and Gustav Ucicky, which had two of the Klimt

⁴¹⁷ Randy Schoenberg to Berthold Unfried, 29 June 2004 (003046).

⁴¹⁸ Dr. Gustav Rinesch to Robert Bentley, 11 April 1948, in “Factual Background” (002607). A copy of the document is provided at 001942.

⁴¹⁹ Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 123 (002523).

⁴²⁰ Bundesgesetz über die Rückgabe von Kunstgegenstände aus der Österreichischen Bundesmuseen und Sammlungen vom 4. Dezember 1998, BGBl I 1998/181 (specifically paragraph 1 of § 1) (002922-23 and 002080-81). See also Professors Rudolf Welser and Christian Rabl, “Rechtsgutachten,” 104, 111 and 124 (002504, 002511, 002524).

paintings in their respective possessions at war's end.⁴²¹ Indeed, recognizing the binding nature of Adele's will may have been part of the deal. But he did give the impression that he supported the Österreichische Galerie's claim: for example, in a 13 April 1948 letter to the Austrian Bundesdenkmalamt, Dr. Rinesch wrote that it was "pursuant to the last wills of Ferdinand and Adele Bloch-Bauer that the six Klimt paintings from the Bloch-Bauer collection should pass to the Österreichische Galerie."⁴²²

In fact, Ferdinand Bloch-Bauer's last will of October 1945 said no such thing. Dr. Rinesch would have known about the Annulment Act (*Nichtigkeitsgesetz*) of 1946, which stated that "legal transactions with or without remuneration were deemed null and void if they were carried out during the German occupation of Austria and in conjunction with political or economic persecution by the German Reich and resulted in natural or legal persons being deprived of property or property rights that was theirs on 13 March 1938."⁴²³ This was the foundational postwar law governing restitution and it clearly provided the heirs a basis to claim the works in question. Professor Welser and Rabl, for example, believe that all of Dr. Führer's transactions were voidable according to the 1946 Annulment law.⁴²⁴

Dr. Rinesch appears to have been the sole representative of the Bloch-Bauer heirs with regard to the Klimt paintings, and he did not always keep them well-informed of the state of affairs. He did not give them a careful analysis of Adele's will and he entered into an agreement with Austrian authorities without explaining to them their full range of options. Rinesch pushed the idea of the trade for export permits and this was easier to realize if the heirs believed that Adele's will (or Ferdinand's declaration) was binding with regard to the disposition of the Klimt paintings. The heirs, as already noted, were hindered by geographic distance—or as Maria Altmann testified with a rather poetic touch about her knowledge of Ferdinand's will, "I was years and miles away from the time where he died."⁴²⁵ Maria Altmann stated that she did not actually read Adele's will until 1999.⁴²⁶ She also noted that "Rinesch was a friend and lawyer of the family"; that she had known him since she was a child; and that he was the best friend of her brother Robert: in other words, he held a position of trust for the heirs.⁴²⁷ Neither Maria Altmann nor the other heirs ever signed a document regarding the disposition of the Klimt paintings (including an authorization of any "donation").⁴²⁸ Among the relatives of Ferdinand Bloch-Bauer, Karl initially took the lead: while he was in Europe in 1945 in an attempt to locate and recover property, he returned to Vancouver by 1946 and monitored

⁴²¹ Dr. Gustav Rinesch to Robert Bentley, 11 April 1948, in "Factual Background" (002608). A copy of the document is provided at 001942.

⁴²² Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 30 (002430): he quotes Dr. Rinesch to the Bundesdenkmalamt, 13 April 1948. This letter is reproduced in "Factual Background" (002610-11). See also 000569-73.

⁴²³ Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 107 (002507).

⁴²⁴ Professors Rudolf Welser and Christian Rabl, "Rechtsgutachten," 108 (002508).

⁴²⁵ Deposition of Maria Altmann (30 May 2002), 148 (002626).

⁴²⁶ Deposition of Maria Altmann (30 May 2002), 150 (002626).

⁴²⁷ Deposition of Maria Altmann (30 May 2002), 181 (002634).

⁴²⁸ Deposition of Maria Altmann (29 May 2002), 87 (002696). See also Complaint, Maria Altmann v. Republic of Austria, 32.

developments from a distance.⁴²⁹ Robert Bentley handled the restitution claims for the heirs from Vancouver until he returned to Vienna around 1954 to deal with the claims concerning the sugar company. In short, the heirs remained poorly informed of the paintings' disposition.

While one can be critical of Rinesch's efforts to advance the interests of the Bloch-Bauer heirs, one should point out the often intractable position of the officials representing Austrian museums and state. Despite Rinesch's willingness to sacrifice the Klimt pictures, the officials held up the export of other works in the Bloch-Bauer collection. For example, the museum and government officials could not agree on export permits for paintings by Waldmüller and Eybl; and on 18 June 1949, the Austrian authorities (the Monument Office) rejected a request for an export permit for sixteen drawings from Klimt, as well as a watercolor by Fendi.⁴³⁰ Further negotiations and trades were required for certain works from the Bloch-Bauer collection to be released: Dr. Garzarolli finally supported the export of the paintings by Waldmüller and Eybl—but “entirely exceptionally” as he emphasized in a 21 July 1949 letter.⁴³¹

Interestingly, this rejection seems finally to have prompted Dr. Rinesch to recognize the very compelling arguments of the heirs not to transfer the Klimt paintings to the Österreichische Galerie. In his appeal concerning the export permit for the Klimt drawings, which he sent to the Bundesdenkmalamt in June 1949, Rinesch wrote about the Klimt paintings, “... wenn auch dieses Legat ursprünglich bereits im Testament der verstorbenen Gattin Ferdinand Bloch-Bauers vorgesehen war, so hätten die Erben sicherlich die Handhabe gehabt, die Legaterfüllung zu verhindern, weil sich inzwischen die Vermögensverhältnisse der Erblasserin in katastrophaler Weise verändert hat und auch die übrigen Voraussetzungen der Widmung durch die Ereignisse des dritten Reiches weggefallen waren.”⁴³² Around this time, even Dr. Garzarolli acknowledged that the problems with his institution's claim for the paintings, as he wrote the Austrian Bundesdenkmalamt on 21 July 1949, that the heirs had observed the testamentary wishes of Adele, “despite various transactions carried out through legal representatives of President Bloch-Bauer during the National Socialist period that fundamentally undermined (“überaus verschlehten”) the position of the Österreichische Galerie.”⁴³³ Dr. Rinesch's recognition of the heirs' arguments, however, came too late.

Because of Dr. Rinesch's counsel, the heirs of Ferdinand Bloch-Bauer appeared to have had an imperfect understanding of the legal circumstances surrounding the estate and the

⁴²⁹ Deposition of Maria Altmann (30 May 2002), 192 (002637).

⁴³⁰ Professors Rudolf Welsch and Christian Rabl, “Rechtsgutachten,” 31 (002431). For the rejection of export permits for the works by Franz Eybl (*Portrait of a Young Man*) and Waldmüller (*Ochsenesapann im Wienerwald*), see Dr. Garzarolli to the Bundesdenkmalamt, 30 May 1949 (001957). See also the Bundesdenkmalamt (a representative of the President) to Dr Rinesch, 18 June 1949 (001959). For Rinesch's continued efforts, see Rinesch to Dr. Garzarolli, 15 July 1949 (001962-63 and REP 00112-13).

⁴³¹ Dr. Garzarolli to the Bundesdenkmalamt, 21 July 1949 (001964 and REP 00121-22).

⁴³² Dr. Rinesch to the Bundesdenkmalamt, 13 June 1949 (000775-781).

⁴³³ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 21-22 (001055-56) and *Beilage* 6 (001674-75): they cite Archive of the Österreichische Galerie, Zl. 67/1949, Dr. Karl Garzarolli to the Bundesdenkmalamt, 21 July 1949. See also “Factual Background” (002612).

restitution process. Certainly, their thinking was informed by the belief that relinquishing the Klimt paintings was a necessary precondition for the possible export of other works in the estate.⁴³⁴ But in light of their initial efforts to recover the paintings, dating back to the summer of 1945 when Karl Bloch-Bauer arrived in Vienna and attempted to locate and obtain the paintings, and extending through the voluminous correspondence between their attorney Dr. Rinesch and Austrian authorities, it is accurate to say that there were negotiations about the restitution of at least five of the paintings (*Portrait of Amalie Zuckermandl* is the clear exception; the complicated circumstances surrounding *Schloss Kammer am Attersee*, which was given by Ferdinand Bloch-Bauer to the Gallery in 1936 are also somewhat less clear). Indeed, the exchanges between 1945 and 1948 constituted a form of restitution proceedings.

Up until the 1990s, representatives of Austrian State Museums persistently and consciously repressed the actual history of many works in their collections. Journalist Andrew Decker coined a phrase back in the 1980s with regards to artworks discovered at war's end by the Allies, transferred to the Austrians in the early 1950s, and then kept out of public view in the Mauerbach monastery outside of Vienna during the subsequent decades: "a legacy of shame."⁴³⁵ The article detailed how these works were kept out of public view, and how, when the occasional act of restitution occurred, claimants were often charged storage fees. Decker's revelation in 1984 contributed to a process that took over fifteen years to play out: gradually, the Nazi-connected history of artworks in custody of the Austrian came to light. Works in the Mauerbach repository were auctioned off for the benefit of the Austrian Jewish community in 1994, and this sale, which raised \$14.6 million, heightened the public's awareness of this history.

In early 1998, New York District Attorney Robert Morgenthau ordered the seizure of two works by Egon Schiele that had been loaned by the Leopold Museum in Vienna to the Museum of Modern Art in New York: Morgenthau believed that there was compelling evidence that the works had been looted by the Nazis and never properly restituted. The decision to keep the paintings in the United States suggested concerns that the claimants would have difficulty recovering the works if they were returned to Austria. Needless to say, the seizure of the works by Schiele generated considerable press—especially in Austria. The Austrian Federal Minister of Education and Culture, Elisabeth Gehrer ordered the opening of archives that had previously been difficult to access; the intent was to exonerate Austrian museums and show that state collections did not contain looted works that had not been properly restituted. The resulting research, however, revealed the opposite. Author and journalist Hubertus Czernin, for example, wrote a series of articles where he showed that Austrian museums had profited both from Nazi policies and from the postwar restitution process. He wrote extensively about the Bloch-Bauer family and in 1999, published a two-volume book, *Die Fälschung: Der Fall Bloch Bauer*.

⁴³⁴ Professors Rudolf Welsch and Christian Rabl, "Rechtsgutachten," 110 (002510).

⁴³⁵ Andrew Decker, "A Legacy of Shame," *ARTnews* 83/10 (December 1984), 54-76. See also Oliver Rathkolb, "From Legacy of Shame to the Auction of 'Heirless' Art in Vienna: Coming to Terms 'Austrian Style' with Nazi Artistic Booty," at <http://www.museum-security.org/ww2/Legacy-of-Shame.html>.

Once the archives were opened, it became clear that there was considerable misinformation about the provenance of certain works in the national collections. A prime example is the Bloch-Bauer Klimts. In the 1995 catalogue published by Gerbert Frodl, the director of the Österreichische Galerie, the following was reported: *Adele Bloch-Bauer I* was acquired by the Österreichische Galerie in 1936; that *Adele Bloch-Bauer II* was acquired by the Österreichische Galerie in 1928 “through a bequest of Ferdinand Bloch-Bauer”; that *Birkenwald/Birch Forest* was acquired in 1948 through a bequest of the Bloch-Bauer family; that *Schloss Kammer am Attersee* was “acquired through a bequest (1961) of the Bloch-Bauer family; and that *Seeufer mit Häuser in Kammer am Attersee* was “acquired in 1948 through the Bloch-Bauer bequest.”⁴³⁶ While it is a stretch, but a conceivable one, to construe the 1948 trades for export permits as a bequest, the statements about the portraits of Adele represent complete fabrications. As noted earlier, *Adele Bloch-Bauer I* was hanging on the wall of the Elisabethstrasse Palais in 1936 (and in 1938, for that matter). There was no action taken by Ferdinand regarding *Adele Bloch-Bauer II* in 1928 (other than a loan for the Klimt memorial exhibition). And *Schloss Kammer am Attersee* had a rather more complicated provenance than the one reported: it had been donated by Ferdinand in 1936; traded by the Gallery to Dr. Führer in 1941 for two other Bloch-Bauer works; then sold to Gustav and Ingeborg Ucicky; who in turn left it to the Gallery in 1961. Frodl’s entry made no mention of the 1936 gift from Ferdinand Bloch-Bauer. The omissions and misinformation in Frodl’s book proved especially startling because he gave the impression of scholarly precision (listing the Novotny/Dobai numbers, the places and dates where the works were first exhibited, etc.). Moreover, because of his position as Director of the Österreichische Galerie, the catalogue conveyed an air of official authority. Prof. Dr. Fritz Novotny had also been a director of the Österreichische Galerie. He and Johannes Dobai also made fundamental errors in their catalogue raisonné of Klimt’s art: as noted earlier, they had listed *Portrait of Adele Bloch-Bauer I* as having entered the Österreichische Galerie in 1936 (they repeated this error in both the original 1967 edition and the 1975 second edition).⁴³⁷ The revised edition of Novotny and Dobai’s catalogue had *Portrait of Adele Bloch-Bauer II* as entering the collection of the Österreichische Galerie in 1928.⁴³⁸ It is easy to see why observers, including Maria Altmann, would not have had accurate information about how the Klimt paintings entered the collection of the Österreichische Galerie. Because Frodl had access to relevant documents in the archives of the Österreichische Galerie, the errors in the provenance information that he provides are especially troubling.

In April 1965, Robert Bentley contacted Prof. Dr. Novotny and inquired about six Klimt paintings (number I-VI above) and asked, “*hat die Österreichische Galerie eigentlich diese beiden Bilder auf Grund von Tante Adele’s Testament zurueck erhalten?*”⁴³⁹ Bentley clearly had only a sketchy understanding of the fate of the paintings: he also

⁴³⁶ Tobias Natter and Gerbert Frodl, eds., *Klimt’s Women*, 54-92 (003168-80).

⁴³⁷ Fritz Novotny, Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1967), 339. Fritz Novotny and Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1975, 2nd ed.), 339 (1300).

⁴³⁸ Fritz Novotny and Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1975, 2nd ed.), 353 (1303). Among other mistakes, they also had *Apfelbaum I* as a bequest (“Widmung”) of Adele Bloch-Bauer in 1936. Fritz Novotny and Johannes Dobai, *Gustav Klimt* (Salzburg: Verlag Galerie Welz, 1975, 2nd ed.), 355 (1304).

⁴³⁹ Robert Bentley to Prof. Dr. Fritz Novotny, 2 April 1965 (REP 00209).

inquired about the fate of *Birkenwald* and *Schloss Kammer am Attersee*. The response of Director Novotny to Robert Bentley is not included in the files. But one must surmise that his answer did not communicate the complexities of the case. Indeed, the Bloch-Bauer heirs, like the general public, long remained unaware of the complicated history of these Klimt pictures.

Minister Gehrler was compelled to respond to these revelations. First, she closed the archives of the Bundesdenkmalamt and created a commission to evaluate the files. This commission, comprised of archivists from various federal museums, was headed by the Director of the Bundesdenkmalamt, Dr. Ernst Bacher.⁴⁴⁰ The researchers found numerous cases where Austrian state institutions had indeed acquired works that had been plundered by the Nazis or had been the subject of postwar trades for export permits. In response to the findings of the Commission, Minister Gehrler proposed a new restitution statute, which was unanimously approved by the Austrian parliament and signed into law by President Klestil in December 1998.⁴⁴¹ This law established an expert committee, comprised of art historian and government officials (and chaired by an official in Gehrler's Ministry, Rudolf Wran), who were charged with evaluating state collections and making recommendations to Minister Gehrler.

The December 1998 restitution law yielded tangible results. For example, starting in 1999, the Städtische Sammlungen returned approximately 2,500 objects that stemmed from the collections of eighteen victims' families.⁴⁴²

The attorney for Maria Altmann (and several other Bloch-Bauer heirs) Randol Schoenberg, wrote to Bundesministerin Gehrler on 17 November 1998 and expressed the wish "to present our questions, concerns and conclusions to you and the Beirat prior to a final resolution of the matter [involving the Klimt paintings]."⁴⁴³ Schoenberg was in regular contact with Gehrler, Wran, and Bacher in 1998-1999: for example, in February 1999 he drafted an eleven-page letter to Bacher that outlined the case for the heirs regarding the Klimt pictures and in April 1999, he sent Wran certified copies of the Probate Orders that documented the status of the heirs.⁴⁴⁴ Schoenberg also traveled to Vienna and met with Dr. Wran in May 1999.⁴⁴⁵

The Committee made its first announcements about its findings in February 1999: they did not address the Bloch-Bauer objects, but recommended the return of hundreds of works belonging to the Rothschild family, and this subsequently occurred (the objects

⁴⁴⁰ See Bundesministerin Elisabeth Gehrler to Dr. Franz Sturm, 18 June 1998 (1493).

⁴⁴¹ See the Stenographisches Protokoll 146. Sitzung des Nationalrates der Republik Österreich XX. Gesetzgebungsperiode (5 November 1998) (003208-003414).

⁴⁴² *Vierter Bericht des amtsführenden Stadtrates für Kultur und Wissenschaft über die gemäss dem Gemeinderatsbeschluss vom 29. April 1999 erfolgte übereignung von Kunst- und Kulturgegenständen aus der Sammlungen der Museen der Stadt Wien sowie den Wiener Stadt- und Landesbibliothek* (10 November 2003), 42, at www.wienermuseum.at.

⁴⁴³ Randol Schoenberg to Bundesministerin Gehrler, 17 November 1998 (1507-08).

⁴⁴⁴ Randol Schoenberg to Professor Dr. Ernst Bacher, 18 February 1999 (001597-001007); and Randol Schoenberg to Dr. Rudolf Wran, 12 April 1999 plus appended documents (001777-001814).

⁴⁴⁵ For the 5 May 1999 meeting, see Randol Schoenberg to Dr. Rudolf Wran, 15 April 1999 (00815-16).

were auctioned in July 1999 for \$ 90 million).⁴⁴⁶ The Austrian Parliament set up its own committee of inquiry and induced Minister Gehrler to respond formally to questions in late-February. Among the topics was that history of the Klimt paintings from the Bloch-Bauers that were housed in the Österreichische Galerie. Minister Gehrler acknowledged that a “connection between the donation of the Klimt paintings and the export permit law is evident.”⁴⁴⁷ This had also been the conclusion of the Commission on Provenance Research within the Austrian Bundesdenkmalamt.⁴⁴⁸ With Minister Gehrler publicly committing herself and the Austrian government to “justice” (*Gerechtigkeit*) and to “generosity” (*Grosszügigkeit*), many observers concluded that the paintings and other non-restituted artworks from the Bloch-Bauers would be returned.⁴⁴⁹ The Austrian government also appointed an expert, Prof. Dr. Walter Barfuss, to provide “an expert opinion regarding the legal succession of Ferdinand Bloch-Bauer”: that is, to verify the legitimacy of Maria Altmann and the other purported heirs (and this was done successfully).⁴⁵⁰

In March 1999, the research committee chaired by Ernst Bacher submitted a report to the restitution committee chaired by Rudolf Wran. This report did not reference all the available documentation (certainly compared to the documents produced during discovery for the current lawsuit). At the time, Randol Schoenberg responded to the research report by alleging they had ignored key documents.⁴⁵¹ The 29 March 1999 report by Bacher’s committee, for example, did not take into account all of the points that Schoenberg had made in his 18 February 1999 letter to Bacher (an eleven page document that cited a range of documents).⁴⁵² Schoenberg requested that the additional documentation be shown to Wran’s committee. This evidently did not occur. Certain legal opinions offered by Andreas Lintl, an expert on estate law, where he stated that Adele Bloch-Bauer’s will was non-binding with regard to the Klimt paintings, were also evidently not shown to most of the committee members.⁴⁵³ The *Beirat* did, however, review the findings of the Vice-President of the Finanzprokuratur (Attorney General) Dr.

⁴⁴⁶ Ernst Bacher and the Bundesdenkmalamt, “Angaben zu den 241 Kunstgegenstände,” which includes information about many works from the Rothschilds’ collections (003419-87).

⁴⁴⁷ Randol Schoenberg to Professor Dr. Ernst Bacher, 5 March 1999 (001018).

⁴⁴⁸ Kommission für Provenienzforschung, “Sammlung Bloch-Bauer. Stand: 29.III.1999,” 27 (001061).

⁴⁴⁹ Randol Schoenberg to Dr. Rudolf Wran, 10 June 1999 (001853).

⁴⁵⁰ Among other documents, see Prof. Dr. Walter Barfuss to Prof. Dr. Nelly Auersperg, 17 June 1999 (001854-55) and Prof. Dr. Walter Barfuss to Randol Schoenberg, 17 June 1999 (001857-58); and Randol Schoenberg to Prof. Dr. Barfuss, 17 June 1999 (001859-61), as well as the accompanying documentation (001864-001904).

⁴⁵¹ Randol Schoenberg to Prof. Dr. Ernst Bacher, 20 April 1999 (001818-22). See also Randol Schoenberg to Bundesministerin Gehrler, 28 June 1999 (001919-25); and See also Randol Schoenberg to Bundesministerin Gehrler, 2 July 1999 (001981-84).

⁴⁵² Randol Schoenberg to Professor Dr. Ernst Bacher, 18 February 1999 (001597-001007).

⁴⁵³ While the *Beirat* may have seen the 9 March 1999 opinion written by Dr. Lintl, Schoenberg claimed that they did not see his subsequent reports of 23 and 24 June 1999. See Randol Schoenberg to Dr. Rudolf Wran, 23 June 1999 (001905); Dr. Andreas Lintl to Randol Schoenberg, 23 June 1999 (001906-10); and Dr. Andreas Lintl to Randol Schoenberg, 24 June 1999 (001967-76). Bundesministerin Gehrler responded in general terms that the *Beirat* members examined all the documents submitted by Schoenberg. See Bundesministerin Gehrler to Randol Schoenberg, 12 July 1999 (002013).

Manfred Kremser.⁴⁵⁴ Furthermore, Schoenberg was not permitted to offer a response (either in writing or orally) to Kremser's report.⁴⁵⁵

Schoenberg also took issue with certain conceptions articulated by Bacher's committee in their 29 March 1999 report. For example, he objected to the committee's categorization of the paintings, where they placed *Schloss Kammer am Attersee*, which had been donated to the Österreichische Galerie by Ferdinand Bloch-Bauer in 1936, in the same group as *Adele Bloch-Bauer I* and *Apfelbaum I*, which had initially come to the Gallery as a result of a trade in 1941 and then justified as an expression of Adele's testament.⁴⁵⁶ He also expressed surprise that the chief author of the MAK section of the report, Julia König, would raise the question whether the taxes imposed upon Ferdinand Bloch-Bauer (especially the Reich Flight Tax) were appropriate or inappropriate.⁴⁵⁷ Furthermore, Schoenberg objected to the suggestion in König's section of the report that the Bloch-Bauer heirs should pay for the return of expropriated property. He noted that he saw no provision for this in the 1998 restitution law.⁴⁵⁸

As the process continued to unfold—leading to meetings of the *Beirat* on 10 May and 28 June 1999 where the Bloch-Bauer Klimts would be considered--Schoenberg was also not shown certain legal opinions opposing restitution that were submitted as evidence (e.g., one mentioned above by the Vice-President of the Finanzprokuratur Dr. Kremser, who was also not permitted to discuss the case with him).⁴⁵⁹ Schoenberg also charged that he had not received certain documents found by Austrian authorities: subsequent to the *Beirat*'s decision, he wrote to an official at the Österreichische Galerie who had conducted some of the research that he had not seen certain tax documents relating to Adele's estate, among other materials.⁴⁶⁰ Perhaps more significantly, Dr. Rudolf Wran did not permit Schoenberg to address the *Beirat* on behalf of his client (this, after Dr. Kremser, Dr. Bacher, and other key figures had refused to discuss the details of the case with him).⁴⁶¹ While the *Beirat* did consider certain documents provided by Schoenberg, they also imposed restrictions on his participation in the review process. After the *Beirat*'s decision, Schoenberg was compelled to comment, "The Bloch-Bauer heirs and their attorney had been purposely excluded from the entire decision-making process."⁴⁶² This viewpoint appears largely justified.

⁴⁵⁴ For Dr. Kremser's report, see Dr. Manfred Kremser to Dr. Rudolf Wran, 10 June 1999 (001995-002007).

⁴⁵⁵ See also Randol Schoenberg to Bundesministerin Gehrler, 2 July 1999 (001981-84).

⁴⁵⁶ Randol Schoenberg to Prof. Dr. Ernst Bacher, 20 April 1999 (001818).

⁴⁵⁷ Randol Schoenberg to Prof. Dr. Ernst Bacher, 20 April 1999 (001822).

⁴⁵⁸ Randol Schoenberg to Prof. Dr. Ernst Bacher, 20 April 1999 (001822).

⁴⁵⁹ Randol Schoenberg to Prof. Dr. Ernst Bacher, 12 May 1999 (001831-32). The plaintiff's attorney had to rely on press reports, such as Hubertus Czernin, "Staat schmiedet Pläne gegen Rückgabe," in *Der Standard* (12/13 May 1999), 8 (001833-34). Randol Schoenberg to Dr. Rudolf Wran, 17 May 1999 (001839-40); and Randol Schoenberg to Dr. Rudolf Wran, 10 June 1999 (001852).

⁴⁶⁰ Randol Schoenberg to Monika Mayer, 8 July 1999 (001993).

⁴⁶¹ Randol Schoenberg to Bundesministerin Gehrler, 2 July 1999 (001985).

⁴⁶² See the Complaint Against the Republic of Austria and the Austrian Gallery (Altmann v. Republic of Austria; Case No. 00-08913), 20-23.

Wran's committee convened on 28 June 1999: they concluded that 16 Klimt drawings in the collection of the Albertina Museum should be returned, as well as 19 porcelain settings; they recommended that the Klimt painting should not be returned.⁴⁶³ The sixteen drawings and nineteen porcelain settings were returned in late-1999, but only after considerable delay because the Austrian authorities required extensive documentation and various kinds of legal confirmation. Randol Schoenberg and his clients expressed acute frustration at what they perceived was foot-dragging and needless bureaucratic obstructionism.⁴⁶⁴

Evidently not all members of Wran's committee supported the decision not to return the Klimt paintings to the Bloch-Bauer heirs. Ilsebill Barta-Fliedl abstained from the vote and subsequently resigned from the committee. She is reported to have said that "it was clear from the first couple of meetings that the attitudes of other members of the committee were inconsistent with the purposes of the committee."⁴⁶⁵ While this view is perhaps too harsh—Wran's committee recommended the return of nearly 2,000 objects—there is considerable truth with regards to the Bloch-Bauer Klimt paintings. She testified to having been pressured by her superior, a government minister, "not to vote in favor of restitution."⁴⁶⁶

As noted earlier, the Bloch-Bauer Klimts hold a special place in the cultural life of Austria: they are among the most famous works in the most visited museum in the country. The *Portrait of Adele Bloch-Bauer I* has been on the cover of catalogues and is featured prominently in the publicity surrounding the city, as well as its memorabilia (there are mugs, playing cards, and much more bearing the image). These works are icons of Vienna and would be sorely missed if removed from the city. In light of the importance of these works, the committee members were indeed subject to extreme pressure.

It is perhaps in this light that one can understand Minister Gehrler's subsequent refusal in July 1999 to enter into arbitration with the Bloch-Bauer heirs and their representative. The Culture Minister stated that "the only remedy is to go to court."⁴⁶⁷ As noted above, the decision not to return the Klimt paintings was made on 28 June 1999; national elections were scheduled for October of that year. Minister Gehrler's party, the conservative Austrian People's Party, subsequently suffered a major set-back, finishing third behind the Social Democrats and the extreme-right Freedom Party led by Jörg

⁴⁶³ A summary of the objects ordered returned by the Beirat can be found in Dr. Freund to Prof. Dr. Nelly Auersperg, 28 July 1999 (002023-29).

⁴⁶⁴ See the exchanges documented between 002043-002243.

⁴⁶⁵ See the Complaint Against the Republic of Austria and the Austrian Gallery (Altmann v. Republic of Austria; Case No. 00-08913), 20-23.

⁴⁶⁶ See the Complaint Against the Republic of Austria and the Austrian Gallery (Altmann v. Republic of Austria; Case No. 00-08913), 20-23.

⁴⁶⁷ Bundesministerin Gehrler claims that Schoenberg misinterpreted her meaning when she said "*müssten Ihr Recht vor ordentlichen Gericht suchen*," but I would also interpret Minister Gehrler as recommending adjudication in an "ordinary court." See Bundesministerin Gehrler to Dr. Stefan Gulner, 31 March 2000 (002356-57). Note that Bundesministerin Gehrler is quoted in the *New York Times* as saying, "many questions, like the Bloch-Bauer case, would have to be resolved not by the advisory panel, but in the courts." See Judith Dobrzynski, *New York Times*, 23 November 1998 (1490-91).

Haider. In short, the decision about the Bloch-Bauer Klimt paintings was made amidst strong political pressures. Minister Gehrler, who proposed the foundational law and was identified with Wran's committee, was closely identified with the Austrians' renewed restitution efforts. Returning the Klimt paintings to the Bloch-Bauer heirs, which could have led to the removal of the works from the Österreichische Galerie and the export abroad, would not have met with public approval. Minister Gehrler was presumably put under considerable pressure—both personally in terms of her own career, and on behalf of her party.

As a result of the October 1999 election, a coalition government was formed that included the extreme-right Austrian Freedom Party. This elicited widespread protests--the withdrawal of ambassadors from certain countries and sanctions from the European Union.⁴⁶⁸ The leader of the Austrian Freedom Party, Jörg Haider, was well-known for his statements praising members of the SS and for emphasizing “positive” aspects of the Third Reich. His own family profited handsomely from the “aryanization” of a Jewish-owned estate. With this administration in power, there was little likelihood of a successful appeal by the Bloch-Bauer heirs.

This Austrian government even went so far as to impede the heirs' recourse to file a lawsuit. Maria Altmann, George Bentley and Trevor Mantle had attempted to file suit in an Austrian court in September 1999, with Austrian attorney Dr. Stefan Gulner as their counsel.⁴⁶⁹ Under Austrian law, the plaintiff must pay court costs that are linked to the value of the property that is under consideration; this bond is forfeited if the plaintiff loses the case. The bond for the Klimt paintings would have been 18 million Schillings (about \$ 1.8 million when the heirs made the application).⁴⁷⁰ In November 1999, an Austrian court granted Mrs. Altmann and the heirs a partial waiver, but still required her to pay approximately 5 million Schillings (\$200,000 each from Maria Altmann and Trevor Mantle and \$100,000 from Trevor Mantle).⁴⁷¹ With the rising dollar in the period that followed, the sum of 5 million Schillings was ultimately worth about \$350,000, but the court's ruling was that all the available assets had to be paid, meaning that it would have still required the \$500,000 bond even after the exchange rates changed. This, however, was not the end of the matter. After Maria Altmann and the heirs recovered the 16 Klimt drawings and the 19 porcelain settings, the Austrian government petitioned the court for a larger bond—one that reflected the value of the drawings and porcelain. The government also claimed that the heirs were not entitled to any relief from the bond requirement. If successful (the appeal was dismissed as moot) this would have raised the bond to over \$1.8 million (and climbing to \$2 million if they had pursued an appeal). This request for

⁴⁶⁸ See “Rav Tov Annual Dinner: Remarks by Ambassador Peter Moser,” Williamsburg, New York (2 May 2000), where he discusses the sanctions of the 14 other European Union members states (003006).

⁴⁶⁹ See the complaint (“*Klage*”) of 13 September 1999 (002131-73); the “*Beschluss*” of 15 September 1999 (002106), as well as the presentation of documents (“*Urkundenvorlage*”) of 13 October 1999 (A 0210-23). Note that the suit was for five paintings by Klimt: they did not pursue *Schloss Kammer in Unterach am Attersee* or the *Portrait of Amalie Zuckerkandl*.

⁴⁷⁰ The exchange rate at this time was 10 Austrian Schillings to 1 dollar.

⁴⁷¹ Complaint, Maria Altmann v. Republic of Austria, 26. See also *Stolen by Austria*, 17 (002562). See also Gottfried Toman (Finanzprokuratur) to Landesgericht für ZRS Wien 13 December 1999 (002274-002284); and Dr. Stefan Gulner to Dr. Gottfried Toman (18 February 2000 (002295-97)).

a higher bond can only be interpreted as an act of intimidation and an attempt to prevent the case from coming to trial.

The Republic of Austria has committed itself in international treaties and agreements to return property taken after the *Anschluss* (13 March 1938). An explicit provision of this nature was included in the Austrian State Treaty of 15 May 1955 (Article 26), and in 1959, the U.S. Ambassador to Austria, H. Freeman Matthews, stated as part of a settlement regarding Article 26 that the U.S. reserved the right to assert claims in the future.⁴⁷² There were repeated charges after 1955 that the Austrians did not live up to the obligations regarding compensation and restitution to Jewish victims of Nazi persecution: the Canadian Jewish Congress wrote to the Canadian government in 1960, for example, and articulated this opinion.⁴⁷³ The Austrian record with regards to reparations to Holocaust victims has been a mixed one, although credit should be given for the steps taken beginning in the late-1990s.

For the reasons elaborated above, Maria Altmann and her attorney Randol Schoenberg decided to pursue litigation in a United States court. Prior to filing a lawsuit, Schoenberg wrote to the Austrian government and expressed his interest in arbitration (or some kind of alternative dispute resolution).⁴⁷⁴ This offer was not accepted by the Austrian state. A complaint was filed in U.S. District Court in California. Austrian authorities challenged the court's jurisdiction: the U.S. Court of Appeals for the Ninth Circuit subsequently rejected their motion for dismissal on jurisdictional grounds.⁴⁷⁵ This decision was confirmed by the United States Supreme Court on 7 June 2004. In May 2005, Austria finally concluded an agreement to arbitrate the legal dispute with the heirs of Ferdinand Bloch-Bauer.

Summary

After reviewing the extant documentation concerning the seven paintings by Gustav Klimt that are under consideration, I have come to the follow conclusions:

- 1) The seven Klimt paintings were owned by Ferdinand Bloch-Bauer. He commissioned many of them. He paid for many of them (such as *Portrait of Adele I*). There is no evidence that he ever gave them to Adele as a gift. Furthermore, Austrian law at the time stated that in cases where ownership is

⁴⁷² Complaint, Maria Altmann v. Republic of Austria, 26-27. See also the documents relating to the Canadian Accession to the Austrian State Treaty in 005222-005500. Article 26 “imposes on Austria the obligation to return to the owners, irrespective of their citizenship, such properties as were subject to German forcible measures because of the racial origin or religion of the owner” (005253).

⁴⁷³ B. Margaret Meagher, Canadian Embassy, Vienna, to Department of External Affairs, Canada, 22 May 1962 (005179-82); see also J. S. Macdonald, Canadian Embassy, Vienna, to Department of External Affairs, Canada, 18 January 1961 (005190-92).

⁴⁷⁴ Randol Schoenberg to Werner Brandstetter, 23 August 1999 (002044-45).

⁴⁷⁵ See the “Order Deny Defendants’ Motion to Dismiss; Order Granting Leave to Amend Complaint,” for Maria Altmann v. Austria, 7 May 2001.

- ambiguous, the presumption is that the property belongs to the husband and not the wife.
- 2) Ferdinand's ownership of the Klimt paintings (all but the *Portrait of Amalie*) was widely acknowledged at the time of Adele's death. No death-taxes were paid on the paintings (which would have been the case if Adele had been the owner) and the state accepted this, and did not pursue the taxes. In the 7 January 1926 declaration, Ferdinand's ownership of the paintings was stated explicitly by Gustav Bloch-Bauer, the executor of Adele's will. Furthermore, the fact of Ferdinand's ownership was communicated to the Österreichische Galerie and they did not contest it at the time.
 - 3) Adele's testament was in the form of a request (*bitte*) and did not take away from Ferdinand the right to determine the disposition of the paintings. Through Gustav Bloch-Bauer, he communicated clearly in 1926 that Adele's request was not of a binding character ("*nicht den zwingenden Charakter*") and that he retained control over the works. This was proven in 1936 when he donated one of the paintings to the Österreichische Galerie—an act that was technically inconsistent with Adele's testament which asked for a bequest after his death.
 - 4) Ferdinand Bloch-Bauer and other family members—including Maria Altmann--were victims of Nazi persecution. Ferdinand lost nearly all of his property due to the imposition of discriminatory taxes and the state-ordered liquidation of his assets. The person carrying-out the liquidation, Dr. Erich Führer, was not only a radical Nazi, but also avaricious and corrupt. As he sold off Ferdinand Bloch-Bauer's property Dr. Führer enriched himself (and kept a number of the victim's paintings).
 - 5) Dr. Führer, an attorney, did not regard Adele's testament as binding. Although he was aware of the document, and made reference to it in certain communications, he frequently violated or ignored the request made to Ferdinand: his selling of *Häuser in Unterach* to Ingeborg and Gustav Ucicky, for example, was inconsistent with Adele's wishes.
 - 6) German state authorities during the Third Reich also evidently did not regard Adele's testament as binding. Dr. Grimschitz wrote after the war that the "*Finanzbehörde*" would not accept a donation of the paintings, but that they required them to be sold off.
 - 7) During the Third Reich, Dr. Grimschitz, Dr. Novotny, and other officials at the Österreichische Galerie also did not treat Adele's testament as binding. While cognizant of the testament, they too frequently violated its provisions. Trading away *Schloss Kammer am Attersee* and purchasing other works through Dr. Erich Führer constituted a clear statement that they did not view Adele's testament as binding. Even Dr. Garzarolli noted in July 1949, "...*verschiedener während der*

*NS-Zeit durch den rechtsvertreter des Präs. Bloch Bauer erfolgter Transaktionen, welche die Situation der österr. Galerie überaus verschlechterten....*⁴⁷⁶

- 8) Ferdinand Bloch-Bauer attempted to transfer the paintings from Vienna to his place of exile in Switzerland. He was sufficiently realistic to realize that he would not be able to recover all the works, but he held out hope for the portraits of Adele (as he wrote to Oskar Kokoschka).
- 9) During the war, Ferdinand expressed his clear wishes that the Klimt paintings not go to the Österreichische Galerie. Such sentiments are evident in his October 1942 will, where he directed most of his property go to one of his nieces.
- 10) As stated in his final will—a document which explicitly superceded all earlier wills and testaments—Ferdinand wanted his heirs to receive all his property, including the Klimt paintings. He knew a great deal about the comportment of Austrians during the Third Reich, and, through his contact with his attorney Dr. Rinesch and others, he had extensive knowledge of the complicity of museum officials in the Nazis' plundering campaign. In short, Ferdinand Bloch-Bauer did not want the Klimt paintings to go to the Österreichische Galerie.
- 11) After Ferdinand Bloch-Bauer's death, neither the heirs nor their attorney, Dr. Gustav Rinesch, were well-informed about Adele's testament and the legal status of the paintings. Indeed, Rinesch did not study the testament carefully before concluding the 10 April 1948 agreement relinquishing the majority of the Klimt paintings under consideration to the Österreichische Galerie.
- 12) The Austrian authorities responsible for restitution and state art collections colluded with one another and worked to prevent the Bloch-Bauer heirs from recovering and exporting works from the estate. This included concealing information about the testament. It also involved delaying notification of export permits for tactical reasons. Perhaps most obviously, Austrian authorities used the leverage of export permits—and refused to issue them for a number of works—as a means to prevent the Bloch-Bauer heirs from recovering property that was rightfully theirs.
- 13) The most plausible explanation for the behavior of the Austrian officials with regard to the Klimt paintings is that they sensed their claims to the paintings lacked legal foundation. Dr. Garzarolli's letter to Dr. Grimschitz on 9 March 1948 is most telling in this regard, where he confided, *“Ich kann nicht verstehen, dass selbst während der NS Zeit eine zu Gunsten eines Staatsinstitutes erfolgte, unangreifbarer Legatserklärung nicht hätte geachtet werden sollen, wenn man darauf Bezug genommen oder mit dem bereits im Ausland befindlichen Präsidenten Bloch-Bauer durch seine kommissarische Vermögensverwaltung Föhlung hergestellt hätte.... Ich bin sehr bekümmert darüber, dass bisher alle mit*

⁴⁷⁶ Dr. Karl Garzarolli to the Bundesdenkmalamt, 21 July 1949 (000785-88).

*Rückstellungsfragen zusammenhängenden Komplexe unübersehbare Unklarheiten mit sich gebracht haben.*⁴⁷⁷

- 14) The reason that Dr. Rinesch relinquished the Klimt paintings was that he believed—and was led to believe by Austrian officials—that this gesture would result in export permits for other works in the collection. Rinesch agreed that the Österreichische Galerie could have the Klimt paintings on or around 10 April 1948; by 13 April he had submitted a careful formal request to the Bundesdenkmalamt where he requested export permits for most of the other works in the collection of Ferdinand Bloch-Bauer.⁴⁷⁸ As discussed in this report, there is an abundance of supporting evidence showing that Dr. Rinesch and the heirs were engaged in *Tauschhandel* with the Austrian authorities: while Rinesch and the Bloch-Bauer heirs ultimately gave up sixteen Klimt drawings and some porcelain, the objects that were at the center of the negotiations were the Klimt paintings.
- 15) For much of the postwar period, Austria had, at best, a mixed record with regard to the restitution of Holocaust victims' assets. This included the tacit acceptance of the *Tauschhandel* that required owners to relinquish works in exchange for export permits, and the problematic management of the Mauerbach repository outside Vienna, which contained many so-called “heirless” assets that were not restituted (largely due to inadequate efforts to publicize the objects stored there).
- 16) In the 1990s, Austrians began to address the shortcomings in the restitution efforts of earlier years. The auction of the contents of the Mauerbach repository in 1994, with most of the profits benefiting Jewish communities, and the 1998 *Bundesgesetz über die Rückgabe von Kunstgegenständen an Österreichischen Bundesmuseen und Sammlungen*, which declared earlier *Tauschgeschäfte* null and void and helped victims recover certain works, were important measures in this regard.
- 17) The state agencies and bureaucratic procedures involved with the renewed restitution efforts did not always function perfectly. In the case of the claims of Maria Altmann and the other Bloch-Bauer heirs, there were instances when considerable obstacles were put in their way. For example, their attorney Randol Schoenberg was not permitted to address the committee (*Beirat*) chaired by Dr. Wran; and the return of sixteen drawings and nineteen porcelain settings as ordered by the *Beirat* was a slow and tortuous process—one, as the documents show clearly, that was dragged out by Austrian authorities. The manner in which Austrian officials demanded a prohibitively high bond for a civil trial also worked against a fair resolution of the dispute in Austria.
- 18) For the reasons discussed above, it is my sincere and convinced opinion that six of the paintings discussed in this report should be returned to Maria Altmann and

⁴⁷⁷ Dr. Garzarolli to Dr. Grimschitz, 9 March 1948 (000522-23).

⁴⁷⁸ Dr. Rinesch to the Bundesdenkmalamt, 13 April 1948 (000569-73).

the heirs of Ferdinand Bloch-Bauer pursuant to the 1998 *Bundesgesetz über die Rückgabe von Kunstgegenstände aus Österreichischen Bundesmuseen und Sammlungen*. This is the case for *Portrait of Adele Bloch-Bauer I* (1907); *Portrait of Adele Bloch-Bauer II* (1912); *Apfelbaum I* (1912); *Seeufer mit Häuser in Kammer am Attersee* (1916); and *Birkenwald/Buchenwald* (1903), which were all owned by Ferdinand Bloch-Bauer and which he sought to leave to his heirs. The painting, *Portrait of Amalie Zuckerandl* (1917-18), was also owned by Ferdinand Bloch-Bauer, but either given up under duress or sold without his consent during the war. In either case, it should also be returned to the Bloch-Bauer heirs. *Schloss Kammer am Attersee III* (1910), which was donated by Ferdinand Bloch-Bauer to the Österreichische Galerie in 1936, should remain there (despite the fact that the Director of the Österreichische Galerie traded it away in 1941).

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ACADEMIC POSITIONS

John V. Croul Professor of European History, Claremont McKenna College, 2001-present.

Director of the Gould Center for Humanistic Studies, Claremont McKenna College, 2001-present.

Associate Director of the Center for the Study of the Holocaust, Genocide, and Human Rights, Claremont McKenna College, 2003-present.

Visiting Fellow, Clare Hall, Cambridge University (U.K.), 9/2004 – present.

Professor of History, Claremont McKenna College, 2000-01.

Associate Professor of History, Claremont McKenna College, 1999-2000.

Associate Professor of History, Loyola College in Maryland, 1997-1999.

Assistant Professor of History, Loyola College in Maryland, 1993-1997.

Lecturer on History and Literature, Harvard University, 1990-1993.

Lecturer on History, Harvard University Extension School, 1992-93.

Lecturer on History, Harvard University, 1990-1992

Teaching Fellow in History and in the Core Program, Harvard University, 1985-1990.

EDUCATION

Ph.D. Harvard University, Modern European History, 1990.

A.M. Harvard University, Modern European History, 1984.

B.A. U.C.L.A., History (with honors), 1983. University of London, Visiting Student, 1981-82.

PUBLICATIONS

Monographs:

Royals and the Reich: The Princes von Hessen in Nazi Germany (under contract with Oxford University Press, forthcoming, autumn 2005).

The Faustian Bargain: The Art World in Nazi Germany (New York: Oxford University Press, 2000). Published in the United Kingdom (London: Penguin Books, 2000).

Art as Politics in the Third Reich (Chapel Hill: University of North Carolina Press, 1996). Paperback edition in 1999. Translation in German (Berlin: Ullstein-Propyläen, 1999). Revised and reissued edition, 2003.

Anthologies:

Co-editor with John Roth, *Gray Zones: Ambiguity and Compromise During and After the Holocaust* (New York/Oxford: Berghahn Press, forthcoming, autumn 2005).

Co-editor with Scott Denham (Davidson) and Irene Kacandes (Dartmouth), *A User's Guide to German Cultural Studies* (Ann Arbor: University of Michigan Press, 1997).

Editorial Board Member for Elizabeth Simpson, ed., *The Spoils of War: The Loss, Reappearance, and Recovery of Cultural Property During and After World War II* (New York: Harry Abrams, 1997).

Scholarly Articles:

"The Gray Zone of Denazification and Postwar Justice," in Jonathan Petropoulos and John Roth, eds., *Gray Zones: Ambiguity and Compromise During and After the Holocaust* (New York/Oxford: Berghahn Press, forthcoming, 2005).

"The Nazi Kleptocracy: Reflections on Avarice and the Holocaust," in Dagmar Herzog, ed., *Lessons and Legacies VI* (Evanston, IL: Northwestern University Press, forthcoming 2005).

"The Polycratic Nature of Art Looting," in Gerald Feldman and Wolfgang Seibel, eds., *Networks of Persecution: The Holocaust as Division-of-Labor-Based Crime* (New York/Oxford: Berghahn Books, 2004).

"From Seduction to Denial: Arno Breker's Engagement with National Socialism," in Richard Etlin, ed., *Culture and the Nazis* (Chicago: University of Chicago Press, 2002), 205-29.

"Kunstraub: Warum es wichtig ist, die Biographien der Kunstsachverständigen im Dritten Reich zu verstehen," in Dieter Stiefel, ed., *Die Politische Ökonomie des Holocaust* (Vienna: Querschnitt, 2001), 239-58.

"Art Historians and Nazi Plunder," in *The New England Review* 21 (Winter 1999), 5-30.

"Karl Haberstock: als Kunsthändler der Naziführer," in Eugen Blume and Dieter Scholz, eds., *Überbrückt: Ästhetische Moderne und Nationalsozialismus: Kunsthistoriker und Künstler, 1925-1937* (Cologne: Walther König, 1999), 256-64.

"Holocaust Denial: A Generational Typology," in Peter Hayes, ed., *Lessons and Legacies of the Holocaust: Memory, Memorialization, and Denial* (Evanston, IL: Northwestern University Press, 1998), 239-47.

"Business as Usual: Switzerland, the Commerce in Artworks during and After World War II, and National Identity," in *Contemporary Austrian Studies* VII (1998), 229-42.

"German Laws and Directives Bearing on the Appropriation of Cultural Property in the Third Reich," in Elizabeth Simpson, ed., *The Spoils of War: The Loss, Reappearance,*

and Recovery of Cultural Property During and After World War II (New York: Harry Abrams, 1996), 106-111.

"The Primacy of *Kulturpolitik*: Tolerance, Hegemony, and Subsumption in Interwar Austria as a Background to the Artist in Exile," in John Czaplicka, ed., *Emigrants and Exiles: A Lost Generation of Austrian Artists in America, 1920-1950* (Vienna/New York: Österreichische Galerie, 1996), 71-100.

The History of the Second Rank: the Art Plunderer Kajetan Mühlmann," in *Contemporary Austrian Studies IV* (1995), 177-221.

"The Administration of the Visual Arts in National Socialist Germany," in Glenn Cuomo, ed., *National Socialist Cultural Policy* (New York: St. Martin's Press, 1995), 141-99.

"Confronting the 'Holocaust as Hoax' Phenomenon as Teachers," in *The History Teacher* 28/4 (August 1995), 523-39.

"Not a Case of 'Art for Art's Sake': the Collecting Practices of the National Socialist Elite," in *German Politics and Society* 32 (Summer 1994), 107-24.

"Public and Private Debates: The Evolution of the National Socialist Aesthetic Policy," in *Zeitgeschichte* 11/12- 21 (November-December 1994), 388-97.

"Für Deutschtum und Eigennutz: Die Bedeutung der Kunstsammlungen der nationalsozialistischen Eliten" in Jan Tabor, ed., *Kunst und Diktatur* (Vienna: Künstlerhaus Wien, 1994), 568-79.

"Bannerträger und Tiroler Bergjäger: Die von den USA beschlagnahmte NS-Kunst," in Jan Tabor, ed., *Kunst und Diktatur* (Vienna: Künstlerhaus Wien, 1994), 864-71.

"Developments in German History and Culture from 1870 to 1945: an Illustrated Chronology," and "A Selected Bibliography of the Cultural History of the Third Reich," in *Degenerate Art: the Fate of the Avant-Garde in Nazi Germany* (New York: Harry Abrams, 1991), 391-401, 406-09.

"Should the Kaiser Ride Again?" in *German Politics and Society* 16 (Spring 1989), 87-90.

Edited *Anthology on Weimar and Nazi Culture* (Harvard University Sourcebook Publications: editions produced in 1986, 1987, 1988, 1989 and 1990).

Journalistic Articles:

"Leni Riefenstahl: Coy Propagandist of the Nazi Era," in *Wall Street Journal* (11 September 2003), D-10.

"Art Historians and Nazi Plunder" in *Jewish Central Europe* (2002), 126-37.

"Scholar in Transition," in *Humboldt Kosmos* (July 2001), 26.

"For Sale: A Troubled Legacy," in *ARTnews* 100/6 (June 2001), 114-20.

"The Roller Coaster of Restitution: The United States Government's Involvement with Holocaust Victims' Assets" in *Dimensions* 15/1 (May 2001), 9-18.

"Hitlers Williger Händler: Karl Haberstock," in *Berliner Zeitung* 139 (17 June 2000).

"Exposing Deep Files," in *ARTnews* 98/1 (January 1999), 143-44.

"Co-Opting Nazi Germany: Neutrality in Europe during World War II" in *Dimensions* 11, No. 1 (Spring 1997), 15-21.

"Plunder and Power: Art Looting and the Essence of National Socialism," *American Council on Germany Occasional Papers* 5 (March 1995).

"Occasional Paper: Report on the XIII American-German Young Leaders Conference," *American Council on Germany Occasional Papers* 9 (1992).

"Saving Culture From the Nazis" in *Harvard Magazine* 92, No. 4 (cover story, March 1990), 34-42.

Book Reviews and Review Essays:

"Provenance Research as History: Reconstructed Collections and National Socialist Art Looting" (Review essay) in *Contemporary Austrian Studies* (forthcoming, 2005).

James Sheehan, *Museums in the German Art World: From the End of the Old Regime to the Rise of Modernism*, in *Journal of Central European History* 36/1 (2003), 117-21.

Joachim Fest, *Albert Speer: Eine Biographie*, in *The Berlin Journal* (January 2000).

Barbara McCloskey, *George Grosz and the Communist Party* in *The American Historical Review* 103/4 (October 1998), 1268-69.

Hector Feliciano, *The Lost Museum*, for internet H-German list, March 1998.

Klaus Fischer, *Nazi Germany: A New History*, in *American Historical Review* 103, No. 1 (February 1998), 220-21.

Kurt Waldheim, *Die Antwort*, in *Contemporary Austrian Studies* 6 (June 1997), 295-99 (review essay).

Ronald Smelser, Enrico Syring, and Rainer Zitelmann, eds., *Die Braune Elite II. 21 weitere biographische Skizzen*, in *German Studies Review* XIX, No. 2 (May 1996), 351-52.

Volker Dahm, "Nationale Einheit und Partikuläre Vielfalt. Zur Frage der kulturpolitischen Gleichschaltung im Dritten Reich," in *Vierteljahrshefte für Zeitgeschichte* 43 (1995) (review for internet H-German list).

"Austrian Menschenjäger," in *Contemporary Austrian Studies* III (Fall, 1994), 80-94 (review essay).

"Berlin's Cultural History: Making the *Weltstadt* Accessible," in *German Politics and Society* 23 (Summer 1991), 62-70 (review essay).

Desmond Seward, *Napoleon and Hitler: a Comparative Biography* in *Harvard International Review* XII, No. 2 (Winter 1990), 56.

Anton Kaes, *From Heimat to Hitler: The Return of History as Film*, in *German Politics and Society* 20 (Summer 1990), 99-100.

Timothy Ryback, *Rock Around the Bloc: A History of Rock Music in Eastern Europe and the Soviet Union*, in *Harvard International Review* XII, No. 4 (Summer 1990), 63.

RELATED ACADEMIC WORK

Research Director for Presidential Advisory Commission on Holocaust Assets in the United States (chaired by Edgar Bronfman). Oversee research and draft report concerning art looted from Holocaust victims by American forces, as well as victims' art which subsequently entered American collections, 3/99 – 10/2001.

Expert Witness in a number of legal cases, including *Altmann v. Austria* (6 paintings by Klimt); *Rosner et. al. v. U.S.A.* (the Hungarian Gold Train); and *Kann v. Wildenstein* (medieval manuscripts looted by the Nazis), 2000 - present.

Administrative Director and Board Member of The Project for the Documentation of Wartime Cultural Losses, a not for profit organization created in 1998 for the purpose of gathering, centralizing and making available information relating to works of art,

archives, and other types of cultural property displaced as a consequence of war, 6/98 – present.

Consultant on looted artwork for U.S. Department of State, CBS *60 Minutes*, ABC *Primetime Live*, Arts and Entertainment *Biography*, *The Boston Globe*, *The Christian Science Monitor*, and *ARTnews* magazine, the BBC, Actual Films, etc., 7/97 - present.
Scholarly Associate (Wissenschaftliche Mitarbeiter) at Künstlerhaus Wien. Worked with curator Jan Tabor in preparation of exhibition *Kunst und Diktatur* (March-August 1994): helped arrange loans from collections in the United States, located illustrations for catalog, consulted on provenance of exhibits. Part time position December 1993-April 1994.

Assistant to Curator at Los Angeles County Museum of Art. Worked with curator Stephanie Barron in preparation of exhibition, *Degenerate Art: The Fate of the Avant Garde in Nazi Germany* (February-November 1991): prepared section of exhibition on artists and intellectuals during the Third Reich and assisted with production of catalog. Full time position, Summer 1989 and Summer 1990. Part time September 1989-May 1991.

Affiliate of the Minda de Gunzburg Center for European Studies, Harvard University, 1990-1993. Participated in scholarly exchanges at a research center which promotes the interdisciplinary study of modern Europe.

Consultant at the Derek C. Bok Center for Teaching and Learning, Harvard University, 1991-1992. Advised Teaching Assistants and administrators with the aim of improving the quality of instruction at the university.

Tutor in History at Lowell House, Harvard University. A Non-Resident Tutor from 1985 to 1989 and 1992 to 1993 and a Resident Tutor from 1989 to 1992. As a member of the Senior Common Room, advised students, voted on fellowship recommendations; also participated in extra-curricular activities.

GRANTS AND AWARDS

Visiting Fellowship, Clare Hall, Cambridge University, 2004-2005.

Visiting Fellowship, Wolfson College, Cambridge University, 2004-2005 (unable to accept).

Huntoon Senior Teaching Award (outstanding teacher), Claremont McKenna College, 2002.

New York Public Library, *The Faustian Bargain* named one of the 25 most memorable books of 2000.

Alexander von Humboldt Foundation, fellowship for 2000-01.

American Academy in Berlin, Prize Fellow, 1999-2000 (unable to accept).

Fulbright Senior Scholar Fellowship, 1999-2000 (unable to accept).

Holocaust Educational Foundation, Research Grant, summer 1998.

German Academic Exchange Service (DAAD) Research Grant, May-July 1997.

Summer Research Grant, Loyola College, August 1997.

German Academic Exchange Service (DAAD), subvention for book, *A User's Guide to German Cultural Studies*, December 1996.

Summer Research Grant, Loyola College, June-August 1996.
Junior Faculty Sabbatical, Loyola College, July 1995-January 1996.
Enhancing Classroom Teaching (for trip to Holocaust sites in Eastern Europe), Loyola College, June 1995.
Holocaust Educational Foundation, for research into pedagogy of Holocaust, June 1995.
German Academic Exchange Service (DAAD) Research Grant for Recent PhDs, August 1993-January 1994.
Selected as "Young Leader" by the American Council on Germany, August 1993.
Grant from Austrian Foreign Office, Vienna, for research in Austria, summer 1992.
Milton Fund, Harvard University, for research in Austria, summer 1992.
German Academic Exchange Service (DAAD), for study and research in the Federal Republic of Germany, 1987-1988.

Harvard University Minda de Gunzburg Center for European Studies Summer Research Grant, 1986.

Harvard University Committee on Undergraduate Education Distinguished Teaching Award, 1988-89 and 1989-90.

Graduated from the Honors College at U.C.L.A.: a selective and rigorous program which the university calls its "highest academic achievement," 1983.

Phi Beta Kappa at U.C.L.A., 1983.

BOARDS AND PROFESSIONAL ASSOCIATIONS

Chair, Richard M. Hunt and Guido Goldman Fellowships, American Council on Germany (2003-04); American Association of Museums Task Force on Nazi-Era Provenance; Board member of the War Documentation Project (New York); Advisory Board Member of the Commission on Art Recovery (London); Scholarly Board (Wissenschaftliches Beirat) for the Archive of the Obersalzberg (Berchtesgaden); Nominating Committee for Conference Group for Central European History (within American Historical Association). Chair, Fritz Stern Dissertation Prize, German Historical Institute (2001); Treasurer of the Friends of the German Historical Institute (1996-2001). Member of the following organizations: American Council on Germany; German Studies Association; American Historical Association; College Art Association.

SPEAKING ENGAGEMENTS

"Royals and the Reich," Modern European History Seminar, Cambridge University, Cambridge, UK, 28 February 2005.

"Culture and Barbarism: Nazi Art Looting and its Aftermath," Newcastle University, Newcastle, UK, 15 February 2005.

"Holocaust Era Property and Estate Law," Heckerling Institute, University of Miami, Miami, FL, 14 January 2005.

"Recent Developments and Legal Considerations Concerning Holocaust-Era Cultural Property," Lauterpacht Center for International Law, Cambridge University, UK, 11 November 2004.

“Culture and Barbarism: Nazi Art Looting and Its Legacies,” Heilbronn Lecture at the University of New Hampshire, Durham, NH, 26 October 2004.

Lecture: “Nazi Art Looting: History, Legacies, and Unsolved Mysteries,” at conference of the Infectious Disease Association of California, Dana Point, CA, 1 May 2004.

Lecture: “The Art World in Nazi Germany: Choices, Rationalizations, and Justice,” at the Miller Symposium, “The Arts in Nazi Germany,” University of Vermont, Burlington, VT, 25 April 2004.

Chair: “The Market of War—Dealers in the Nazi Era,” at conference, “Beauty and Truth for Sale: The Art of the Dealer,” J. Paul Getty Museum, Los Angeles, CA, 30 March 2004.

Chair (and co-organizer of conference): “Fallen and Risen Cities: Germany during and After World War II,” at conference, “Fallen Cities and the Lure of Ruin,” Claremont Graduate University, Claremont, CA 28 February 2004.

Chair (and co-organizer of conference): “Ambiguity and Compromise in the Writing of the Holocaust: The Accomplishment of Raul Hilberg,” at conference, “Gray Zones: Ambiguity and Compromise in the Holocaust and Its Aftermath,” Claremont, CA, 7 February 2004.

Paper: “Postwar Justice and the Treatment of Nazis’ Assets,” at conference, “Gray Zones: Ambiguity and Compromise in the Holocaust and Its Aftermath,” Claremont, CA, 7 February 2004.

Lecture: “The Legal Implications of Nazi Art Looting,” at The American College of Trust and Estate Counsel (ACTEC) regional conference, Carmel, CA 17 January 2004.

Comment: Panel “Too Little Too Late? Nazi Art Theft and Restitution Efforts After World War II,” German Studies Association annual conference, New Orleans, 20 September 2003.

Paper: “Ten Essential Themes about Restitution for Nazi Atrocities and Plunder,” at San Diego State University, San Diego, CA, 5 May 2003.

Comment: “Response to Stuart Eizenstat and his Lecture, ‘Imperfect Justice,’” University of Judaism, Los Angeles, 30 March 2003.

Lecture: “Nazi Art Looting and Postwar Efforts at Restitution,” Benefit for American Friends of the Israel Museum held at Christies’, Beverly Hills, CA, 4 March 2003.

Chair and Commentator, “Daniel Goldhagen and His Critics: The Vatican and the Holocaust,” Claremont McKenna College, Claremont, CA, 5 February 2003.

Paper: “Reflection on the Presidential Advisory Commission on Holocaust Assets,” at conference, Commissioning History: The Work of Historical Commissions in Germany, Austria and the United States, the D-Day Museum, New Orleans, 21 November 2002.

Comment: on papers concerning memoirs during World War II, Pomona College, Claremont, CA, 16 November 2002.

Paper: “Greed and the Nazi Kleptocracy,” at Lessons and Legacies, University of Minnesota, Minneapolis, MN, 1 November 2002.

Lecture: “Royals and the Reich: The Princes of Hessen in Nazi Germany,” at The Athenaeum, Claremont McKenna College, 24 October 2002.

Lecture: “Adolf Hitler and Art,” Williams College, Williamstown, MA, 3 October 2002.

Commentator: on panel, “New Approaches to the History of the Third Reich and the Holocaust,” American Historical Association conference, San Francisco, 5 January 2002.

Abe Kanof Annual Lecture: "The Faustian Bargain: The Art World in Nazi Germany and Beyond," at the North Carolina Museum of Art, Raleigh, NC, 8 April 2002.

Lecture: "Nazi Art Looting," at The Desert Museum, Palm Springs, CA, 21 March 2002.

Lecture: "Nazi Art Looting," at Iowa State University, Ames, Iowa, 28 January 2002.

Commentator: on panel, "New Approaches to the History of the Third Reich and the Holocaust," American Historical Association conference, San Francisco, 5 January 2002.

Paper: "Recent Developments in Researching Nazi Looted Art" for panel, "The Crime of the Century: Researching Nazi Era Provenance," Western Art Museums Association, Palm Springs, 11 October 2001.

Keynote speaker: "Arno Breker and Sculpture during the Third Reich," at symposium on 20th century German figurative sculpture, Henry Moore Gallery, Leeds, UK, 23 June 2001.

Lecture: "Researching Looted Art," at symposium of provenance researchers and museum curators at the Alte Pinakothek, Munich, 18 May 2001.

Participant: round-table symposium convened by the U.S. Consulate in Munich on compensation to slave and forced laborers by German industry, Munich, 19 April 2001.

Lecture: "Nazi art looting: A Transatlantic Perspective," at Washington University in St. Louis, 8 March 2001.

Lecture: "Nazi Dealer Karl Haberstock," at the Armory in Augsburg, co-sponsored by the University of Augsburg and the Municipal Paintings Collection, 8 February 2001.

Lecture: "Biographical Approaches to researching Looted Art," part of a series on the political economy of the Holocaust at the Technical University of Vienna, 18 December 2000.

Speaker and co-organizer: symposium convened by filmmakers who are producing a PBS documentary on looted art called *The Rape of Europa*, Washington, DC, 11 November 2000.

Member of U.S. delegation and adviser to Deputy Secretary of the Treasury Stuart Eizenstat at the Vilnius Forum on Holocaust Cultural Property, Vilnius, Lithuania, 2-5 October 2000.

Commentator: panel "Intermediary Agencies and Spoliation," at conference, "Networks of Persecution: The Holocaust as a Division-of-Labor Based Crime" at the University of Konstanz, 27-29 September 2001.

Participant : round-table discussion of museum officials and researchers concerning Holocaust era looted art at the National Archives, College Park, MD, 16 August 2000.

Lecture: "Recent Developments Concerning Art Looting," sponsored by the American Council on Germany, Manhattan, 19 June 2000.

Testimony on looted cultural property before the Select Committee on Culture, Media, and Sport, United Kingdom House of Commons, London, U.K., 18 May 2000.

Paper: "Recent Trends in Research into Looted Art," American Museum Association, Baltimore, MD, 16 May. 2000.

Testimony on looted art before the House Banking Committee, U.S. House of Representatives, Washington, DC, 10 February 2000.

Paper: "The History of Art Looting in World War II: The Implications for Locating Works Still Missing," at conference, *Holocaust Research and Holocaust Studies in the 21st Century* at The U.S. Holocaust Memorial Museum, Washington, DC, 15 December 1999.

Respondent: "Panel on Teaching Innovation," Presidential Inauguration Symposium, Claremont McKenna College, 13 October 1999.

Lecture: "The History of Nazi Art Looting: Tracking Works Still Missing" at The Marion Cook Athenaeum, Claremont McKenna College, 29 September 1999.

Paper: "Arno Breker and the Third Reich--From Seduction to Denial," at symposium, "Kultur und Staatsgewalt: Formen und Folgen der Kulturpolitik im Dritten Reich und in der DDR," Technische Universität, Dresden, 4 June 1999.

Lecture, "The Art World in Nazi Germany," at The Art Seminar Group, Baltimore, MD, 4 May 1999.

Keynote speaker: "Looted Art and World War II" at the U.S. Foundation for the World Federation of Friends of Museum, Baltimore, MD, 23 April 1999.

Paper: "Crossing Disciplinary Boundaries: History and Art History," at German Studies Forum, Duke University, Durham, NC, 16 April 1999.

Keynote Speaker: "Looted Art of World War II," at the Memorial Art Gallery, Rochester, NY, 14 April 1999.

Paper: "Researching and Writing About Holocaust-Era Art Looting, Recovery, and Restitution," at a symposium of the National Archives and Records Administration, "Records and Research Related to Holocaust-Era Assets," College Park, 4 December 1999.

Paper: "An Overview of Nazi Art Looting during World War II" at the U.S. Department of State organized, "Washington Conference on Holocaust-Era Assets," Washington, DC, 1 December 1999.

Paper: "'People Turned to Ashes, Their Property Did Not': Plundering and the Pursuit of Profit during the Holocaust," at the German Historical Institute symposium, "The Genesis of Nazi Policy," University of Florida, Gainesville, FL, 11 April 1998.

Scholar in Residence, Beth El Synagogue, Fairfield, CT, 27 February - 1 March 1998.

Paper: "Karl Haberstock: Kunsthändler der Nazi-Führer," at conference "Überbrückt: Ästhetische Moderne und Nationalsozialismus: Kunsthistoriker und Künstler, 1925-1937," at Hamburger Bahnhof--Museum für Gegenwart, Berlin, 29 November 1997.

Lecture and Panel Discussion: "The Nazi Conspiracy and the Market for Stolen Art," at the Metropolitan Museum of Art, New York, NY, 22 October 1997.

Paper: "Business as Usual: Switzerland, the Commerce in Artworks during and after World War II, and National Identity," at the German Studies Association Conference, Washington, DC, 26 September 1997.

Paper: "Museum Director Ernst Buchner--Compromise, Corruption, and Rehabilitation," at Washington Area Germanists' Seminar, Washington, DC, 28 April 1997.

Paper: "From Seduction to Denial: Arno Breker's Engagement with National Socialism," at German Studies Association Conference, Seattle, 12 October 1996 and at College Art Association, New York, 14 February 1997.

Chase-Crowe Lecture: "The Faustian Bargain: The Cooptation of the Artistic Professions in Nazi Germany," at Northwestern University, 3 February 1997.

Comment: on panel "Redefining the Past? Vergangenheitspolitik and Historians in Germany," at German Studies Association Conference, Seattle, 14 October 1996.

Chair and Commentator, for session "Artistic Interactions in Exile," at symposium "Emigrants and Exiles: A Lost Generation of Austrian Artists in America," at Northwestern University, 20 April 1996.

Co-organizer, Chair and Commentator: for symposium, "German Studies as Cultural Studies," at Davidson College, Davidson, N.C., 17-18 March 1995.

Lecture: "Anti-Modernism, Anti-Semitism, and the Essence of National Socialism," Davidson College, Davidson, N.C., 16 March 1995.

Paper: "German Laws and Directives Bearing on the Appropriation of Cultural Property in the Third Reich," at The Spoils of War, New York, 20 January 1995.

Paper: "Holocaust Denial: a Generational Typology," at Lessons and Legacies III: Memorialization, Representation and Teaching the Holocaust, Dartmouth College, 23 October 1994.

Paper: "The Radical Right in Germany and Austria," at the United States Institute of Peace, Washington, DC, 18 July 1994.

Panel participant: "Should One Exhibit National Socialist Art in Museums Today?," at Künstlerhaus Wien, Vienna, 15 April 1994.

Lecture: "Kunst als Politik in Nationalsozialismus," at the Institut für Neuere Geschichte, Ludwig-Maximilian Universität, Munich, 24 November 1994.

Participant: "Differenzen in der Bearbeitung des Nationalsozialismus, des Antisemitismus und des Holocaust in Österreich, in der Bundesrepublik und in der DDR. Zeitgeschichtlich Forschung im Vergleich," at Schloss Leopoldskron, Salzburg, 7-10 November 1993.

Paper: "Teaching the Holocaust in an Interdisciplinary Manner: Confronting the Holocaust as Hoax Phenomenon," at the German Studies Association Conference, Washington, DC, 10 October 1993.

Paper: "The Politics of Art Collecting in the Third Reich," Minda de Gunzburg Center for European Studies, Harvard University, Cambridge, MA, 18 December 1991.

Conference participant: XIII American-German Young Leaders' Conference (sponsored by the American Council on Germany and the Atlantik Brücke), Richmond Virginia, 19-26 August 1991.

Lecture: "Germania and Genocide: The World View of National Socialist Leaders as Expressed Through Their Art Collections": public lecture at Davidson College (Davidson, North Carolina, 14 March 1991).

TEACHING EXPERIENCE

Claremont McKenna College

History of European Aristocracy Since 1750 (Hist. 180e), Fall 2003.

Germany since 1740 (Hist. 146), Spring 2000, Spring 2004.

The Rise of Modern Europe (Hist. 76), Fall 2001, Fall 2002.

The Culture of Fascism (Hist. 145), Spring 2000.

Culture and Politics in Europe, 1880-1918 (Hist. 142), Spring 2000.

Freshman Honors Seminar on World War II (Hist. 100), Fall 1999.

Culture and Society in Weimar and Nazi Germany (Hist. 139), Fall 1999, Fall 2001, Fall 2002, Spring 2003.

Researching the Holocaust (Hist. 180), Spring 2002, Spring 2003, Spring 2004.

Loyola College in Maryland:

Modern Civilization (HS 101), Spring 1994 through Fall 1998.

Honors Program: The Modern World (HN 280), Spring 1997 and Spring 1998.

The Creation of Modern Germany, 1770 to the Present (HS 318), Spring 1994, Fall 1996, and Fall 1998.

The Holocaust and the USA (HS 716--graduate course), Fall 1996.

Culture and Politics in Fin-de-Siècle Europe (HS 310), Fall 1994 and Spring 1998.

Nazi Germany and the Holocaust (HS 478), Spring 1995, Fall 1997.

Hitler and the Third Reich (HS 410), Spring 1996.

Historical Methods (HS 400), Spring 1996.

Harvard University:

History of Germany, 1890-1900 (History E-1575), Spring 1993.

The Culture of Fascism in 20th Century Europe (History 1506), Spring 1992.

Culture and Politics in Weimar and National Socialist Germany (History 90S), Fall 1992.

SERVICE

Claremont McKenna College

Chair, Committee for Rhodes and Marshall Scholarships, 1999-2001.

European Union Center, Claremont McKenna College delegate, 1999-present.

Phi Beta Kappa Committee, 1999-present.

Board of Trustees College Advancement Committee, 2001-present.

Committee on Appointments, Promotions, and Tenure, 2001-present.

Study Abroad Committee, 2002-2003.

Campus Center Committee, 2002-present.

Fulbright Committee, 2002-present.

Administration Committee, 2005-present.