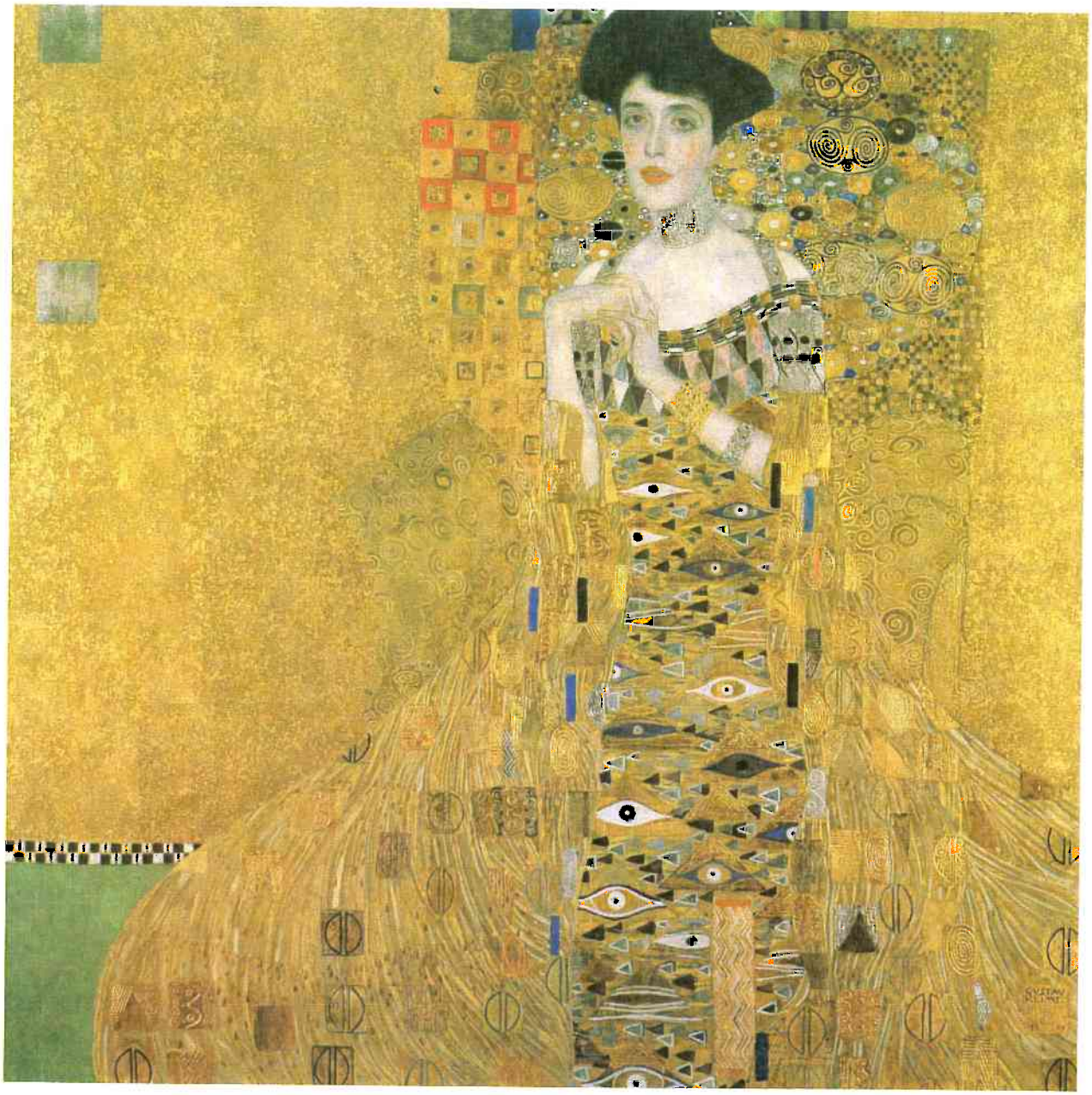


THE GOLD PORTRAIT

Treatment by
E. Randol Schoenberg
January 4, 2007

THE GOLD PORTRAIT

Part I 1998 Vienna and L.A.

Scene 1

Vienna. Journalist Hubertus Czernin (42) eating breakfast. Smoking. Reading newspaper and watching small tv. Wife and 3 daughters getting ready for school. Talks with wife Valerie about article in the newspaper reporting on Nazi-looted paintings seized in New York. Education and Culture Minister Gehrer has said there are no looted paintings in Austria. Everything was returned. Do you believe that, Hubertus asks Valerie? I don't know, she says, not paying much attention.

Scene 2

Hubertus goes to Belvedere museum (old Habsburg palace) to look at the paintings. Sees Klimt's Adele I.

Scene 3

Los Angeles. Lawyer Randy Schoenberg (32) at home getting ready to leave for work. Bekins boxes in background show they just moved in. Kisses wife Pam (29), holding 6-month old daughter Dora. Drives in LA traffic downtown to office. Gets to small office, greets secretary, sits down at computer for typical work day. As Randy surfs internet, boss pops head in to ask if he's finished brief for the securities case. Will get to it.

Scene 4

Phone rings. Maria Altmann (82) calling. Randy tells her his parents are in Austria. Maria says she received a call from Austria about some new law concerning the return of Nazi-looted paintings. There were famous paintings by Gustav Klimt that belonged to her family. Maybe the new law will allow her to get them back? Randy says he remembers his mom showing him the paintings in the Belvedere when he visited Vienna. He checks Austrian news while he is speaking to Maria and tells her that there is indeed an article on the new law, and it says the paintings might get returned. Maria says she wants to come down to talk to Randy about it.

Scene 5

Pam calls to ask when Randy will be coming home. He is meeting with Maria later and still needs to finish securities brief.

Scene 6

Maria comes to Randy's office. She talks about his dear grandmother, who was her close friend. She starts to explain the history of their families.

Part II Vienna 1907-1923

Scene 7

1907 Klimt (40) in his studio with a nude red-haired model in a suggestive pose. Klimt wears a long smock (with nothing on underneath). Adele (25) enters the studio, wearing a diamond choker and art nouveau dress. Klimt sends the model away. Adele takes her place. Klimt works on her portrait. Adele discusses art, politics, literature. She is an intellectual, trying to seduce Klimt with her mind, while he is concerned only with her body. She mentions the latest scandal concert with music by Schoenberg. Klimt asks Adele if she heard that Arnold Schoenberg's wife Mathilde ran off with the young painter Gerstl (suggesting that she might perhaps leave her husband for him). Yes, she says, but Mathilde returned to Schoenberg and Gerstl committed suicide. Klimt begins to cover Adele's portrait with a gold mosaic. She is attractive, but untouchable.

Scene 8

Exhibition at the golden-domed Secession building featuring works by Klimt including the gold portrait of Adele. Adele is with her husband Ferdinand (40). Talk of Klimt's notorious affairs with his models leads some to speculate whether Adele might have succumbed. Also in attendance is a young art student, Adolf Hitler (20). He tries to ingratiate himself with Klimt and his friends but is rebuked. Klimt prefers his wealthy Jewish patrons to this uncouth man.

Scene 9

1911. Ferdinand and Adele's summer estate castle outside Prague. Klimt is their guest. Ferdinand cares only about hunting and business. Adele wants to discuss art, literature and politics. Klimt is there to make sketches for another portrait of Adele. This one she is standing in a white dress, with oriental figures behind her. It is a stark contrast to the staid hunting scenes in the paintings that adorn the walls of the castle.

Scene 10

Gustav and Therese Bloch-Bauer and their children (3 boys and a little girl) visit the castle. The kids beg uncle Ferdinand to build a swimming pool, but Adele will have none of it. She is not interested in children (a result of several failed attempts to have her own).

Scene 11
Klimt paints in the garden, an apple tree. Adele visits him and they secretly embrace.

Scene 12

1918 Klimt has recently died. Dinner party in Ferdinand and Adele's new home. Ferdinand talks business. Adele talks culture and politics, the recent end of World War I, and the rise of the socialists, including one of the guests, her friend Karl Renner who is about to become chancellor of the new Republic. They show off their Klimt room with six magnificent paintings. One of them, a landscape, was recently purchased from Klimt's estate. Amalie Zuckerkandl, a guest,

says Klimt also was working on her portrait when he died. Ferdinand's brother Gustav, a lawyer, talks of the fighting over Klimt's estate by Klimt's numerous mistresses and illegitimate children. Adele gets emotional and leaves. Renner, goes out to console her.

Scene 13

1925 Adele dies of meningitis. Gustav finds in her desk her will and also love letters (from Klimt?/Renner?), which he burns without letting Ferdinand see them. Gustav tells Ferdinand that in her will Adele has asked him to give the Klimt paintings to the Austrian National Gallery. Ferdinand, grief-stricken, says he dutiful promises to fulfill his wife's last wishes.

Part III Escape from Vienna 1938-1942

Scene 14

Wedding of Maria Bloch-Bauer (21) to Fritz Altmann (32). Maria gets a diamond necklace from her uncle Ferdinand that once belonged to Adele.

Scene 15

March 1938. Chamber music at the home of Gustav and Therese Bloch-Bauer. Maria and Fritz tell of their recent honeymoon in Italy. Gustav turns on the radio to hear the Chancellor of Austria declare that he is stepping down and handing the country to Hitler. Ferdinand says he will leave the country that evening and bids farewell.

Scene 16

Hitler parades into Vienna, passes the Secession museum and spits at it. Mayhem. Rioters loot Jewish shops. Old Jewish men and women are forced to scrub the sidewalks.

Scene 17

Gestapo enters Ferdinand's home and find it uninhabited. They begin to ransack the place, but are stopped when one of them reminds the others that Hitler himself wants some of the artworks on the walls. Not the Klimt paintings, those "Jewish" pictures are degenerate. But some of the old Austrian master paintings and the porcelain collection.

Scene 18

Gestapo agent Felix Landau comes to Maria and Fritz's home to arrest Fritz. They will not say where they are taking him. They demand Maria's jewelry and she hands them her diamond necklace. It will make a nice present for Mrs. Göring, says one of the guards.

Scene 19

Fritz in Dachau. One of the inmates, a Jewish comedian named Grünbaum, entertains the prisoners and guards, until a higher ranking officer comes in and ends the frivolity by beating Grünbaum until he is bloody and unconscious.

Scene 20

Fritz returns home to Maria. She tells him that his older brother Bernhard, who had fled to England, had arranged for his release by giving up his cashmere sweater factories and paying the Nazis money. She tells him that Bernhard has also arranged for their escape.

Scene 21

Maria and Fritz tell the Gestapo guard who is holding Fritz under house arrest that they are going to a dentist appointment. Instead they take a car to the airport where they board a small plane. The doors close and the plane starts. But then the plane is flagged down before take-off and it stops. The doors are opened up. Maria and Fritz fear the worst. But it is only a delay because of the weather. After a while they take off to north Germany.

Scene 22

Maria and Fritz are led over the border to Holland where they are met by a young priest who takes them past the border police and reunites them with Bernhard, who takes them to Liverpool.

Scene 23

As war breaks out, Maria and Fritz board a boat to New York. Maria tells Fritz she is pregnant. Like one of Bernhard's cashmere sweaters, her child will be manufactured in Europe and imported into the United States.

Scene 24

Ferdinand is in Zurich where a friend of his comes to visit him in his hotel. He will be there only a short time, the friend says, "until the insanity passes." Ferdinand is not so optimistic. All the ships are full and it is impossible to get to his family in Canada. I have lost everything, he says. Not even a souvenir. Not even the two portraits of my wife. "I hope only to live long enough to see justice come, he says, then I will gladly lay my hammer down."

Scene 25

Hitler visits Ferdinand's castle outside Prague where his henchman Reinhard Heydrich is now living. Workers are building a swimming pool outside. Heydrich tells Hitler of his plans for a "final solution" to the Jewish problem, which he hopes to set in motion later that month at a meeting in Wannsee.

Part IV the Court Case

Scene 26

Randy talks to his boss about Maria's case and asks permission to take it on. The boss is skeptical. What can he do to help? He isn't an Austrian lawyer? Randy says he wants to do it. Maria and her husband were close friends of my grandparents. I can't turn her away. The boss grudgingly agrees to let him help Maria, so long as there is no litigation.

Scene 27

Randy at home tells his wife Pam that he has started working on a new case about paintings looted by the Nazis. He tells her he has to go to Vienna. Pam is not pleased about being left home with the baby, but supports him.

Scene 28

Randy goes to Vienna and meets Hubertus Czernin. Czernin shows him documents he has found about the Klimt paintings and tells him the story of what happened to them during and after the war. A Nazi lawyer named Dr. Erich Führer liquidated Ferdinand's estate, sold three of the paintings to the Austrian Gallery, one to the Museum of the City of Vienna and kept one for himself. One painting that Ferdinand had already given the museum in 1936 was given back to Führer and then sold to an illegitimate son of Klimt, the Nazi film director Gustav Ucicky (who made his money on a propaganda film called "Returning Home" about the Nazi invasion of Poland). Ferdinand had a seventh painting by Klimt, a portrait of his friend Amalie Zuckerkandl (who was murdered at Auschwitz) and that painting ended up with an art dealer who later gave it to the Austrian Gallery. After the war the Austrian government would not let Maria's family get the paintings back because they said they were willed to the museum by Adele. Randy says that Maria gave him a letter that was sent to her brother after the war that suggested that Adele's will was not actually binding. He needs to get a copy of the will.

Scene 29

Hubertus and Randy go to the archives and retrieve a copy of Adele's will and other estate documents. Randy reads it and says, This doesn't look to me like it was a binding request by Adele. Here Maria's father Gustav says Adele's wishes aren't binding on Ferdinand. The paintings belonged to him, not her. She only asked him to give them to the museum when he died. But we know he didn't do that because the paintings were all stolen by the Nazis.

Scene 30

Randy tries to meet with an Austrian official to discuss return of the paintings. He is told by the bureaucratic official that the decision of what paintings to return under Austrian law is an internal matter for the Austrian, and that a government committee will make its decision in due course. Randy asks if he can speak to the committee, and is told that he cannot. The committee will not listen to "outside parties."

Scene 31

Randy goes to a Holocaust monument in Vienna commemorating the 65,000 Austrian Jews killed in the Holocaust. On a computer he looks up the name of victims. Amalie Zuckerkandl. Deported. Killed in Auschwitz. Ferdinand's sister Hermine. Deported. Died in Theresienstadt. Then Randy's great-grandfather Siegmund Zeisl. Deported. Killed in Treblinka. He cries.

Scene 32

Los Angeles. Randy informs Maria that the Austrian committee has refused to return the Klimt paintings to her. The reason is Adele's will. The Minister even said that she believed the paintings were not stolen from Ferdinand. Randy says that he thinks the decision is wrong and that Maria should fight it. But how? Randy says he wants to find a way. They cannot get away again with stealing these paintings.

Scene 33

Randy's boss tells him to stop wasting time on the case. Randy says he cannot. It means too much to him. Boss warns him that he needs to concentrate on "real" work.

Scene 34

Randy's wife Pam wonders whether he should give up the case. What more can be done? Randy is undeterred, obsessed.

Scene 35

Randy tells Maria he has found a way to go on with the case. He had asked the Minister to allow them to do an arbitration, but the Minister had written back that if he didn't like her decision, his only remedy was to go to court. So that is what they should do. Randy has found an Austrian lawyer to handle the case. Maria trusts Randy (your grandmother was such a dear friend to me) and says that he should give it a try.

Scene 36

Randy tells Pam that there has been a set-back in Austria. The Austrian court said that if Maria wants to file her complaint she has to pay all of her life savings. The Austrians have appealed to make the costs even higher. It just won't be possible to sue in Austria. Pam is pregnant. She suggests it may be time to give up on the case. Randy says no. He tells her that he thinks he has found a way to file the case in Los Angeles? Pam asks, will your firm let you do that? No, he says. They think it is hopeless. I would have to leave the firm and start up my own law office. But you don't have any clients, she says? I have Maria, he responds. But what will we live on? I'll find other clients to pay me and our parents will help out. Pam realizes that Randy has made up his mind and cannot be dissuaded. She grudgingly supports his decision. Remember we're about to have another baby, she says.

Scene 37

Randy sets up his new office. He has no secretary. Just a small office that he sublets from a friend. He tells the friend that today he is going to file a lawsuit against the Republic of Austria. The friend laughs.

Scene 38

Randy goes down to federal court himself to file the complaint with the clerk. One of the required papers is missing, but she allows him to fill it out by hand and then accepts it for filing.

Scene 39

Hearing before district court judge. Austria is represented by large team of corporate lawyers, and a representative from Austria, Dr. Toman. Randy is alone with Maria. Austria's main lawyer Scott Cooper tells the judge that the case has to be dismissed. The judge says she disagrees. The case can go forward. Maria and Randy are elated. Austria's team is stunned. They vow to appeal.

Scene 40

Randy tells Pam about his victory in court. There will be appeals, he says, but if we can get past that we can try the case. Randy is so self-absorbed that he does not notice that Pam is not quite so happy that the case will continue. When will he have time for her and the kids?

Scene 41

Randy discusses with Maria an upcoming mediation. Should we try to settle? Randy explains that the case is still a real long-shot. Austria has good arguments on appeal. The district judge really stuck her neck out for us. If there is a decent offer, we should take it. Maria agrees. I have always said they could keep the two portraits of my aunt if they would pay something for them and then return the landscapes. That would be a fair settlement.

Scene 42

Mediation with Austria's lawyers. They say that Austria will not make any offers to settle the case. They do not believe that the US courts have jurisdiction and see no reason to alter the decision that was made by the Minister. Randy is very disappointed.

Scene 43

Randy calls Maria to tell her the news that they have won unanimously on appeal. They can go ahead with the case. Of course, Austria could still try to appeal to the Supreme Court, but they do not take many cases and it seems very unlikely.

Part V Conclusion

Scene 44

Randy and Pam having dinner with the two kids (now 5 and 3). Randy tells her that his firm is doing better. He now has a partner and is making a decent living. Not nearly what he made at the big firm, but enough for them not to have to go into debt. He tells her that the US government has joined Austria's side of the case and asked the Supreme Court to reverse the decision. They don't like the precedent we have set that allows all of our current allies like Japan or Poland to be sued for things that happened more than 50 years ago. The prospects are pretty bleak if the Supreme Court agrees to hear the case. They almost always reverse decisions. Our only hope is if they refuse to hear the case.

Scene 45

Randy tells Maria the news that the Supreme Court has in fact decided to hear Austria's appeal. Both are very discouraged. Randy says that his goal now is just to tell the story to as many people as possible. There will be lots of attention on the case now. At the very least, people should know what happened to you and your family and the history behind these paintings.

Scene 46

Maria meets with a big firm lawyer. He tells her Randy is too green to handle a case in front of the Supreme Court. She should hire him and his firm instead. No, she says, Randy has taken us this far. I will stick with him.

Scene 47

Randy leaves Pam and the kids at home to go to Washington DC to argue the case. Pam is pregnant again.

Scene 48

Randy is in Washington on the steps of the Supreme Court and gets a call from Pam on his cel phone. She is in the hospital with pre-term labor. She and the baby are ok, but she wishes he were home with her. She is crying. Randy tries to console her, unsuccessfully. Randy says he has to go into the court. Pam hangs up on him. He tries to call back but she does not answer.

Scene 49

Inside the Supreme Court. The Justices ask pointed questions of Austria's lawyers "Why shouldn't we allow this case to proceed?" Austria's lawyer is belligerent. US courts have no right to judge the acts of a sovereign nation. The US government lawyer gets up to argue. A justice asks, why does the US government care? This case would set a terrible precedent. How would we feel if our country could be sued all over the world for things that occurred decades

ago? Now it is Randy's turn. He starts to speak and is immediately asked a long, convoluted question by Justice Souter. Randy fumbles for an answer and then says "I'm sorry, I don't think I understood the question your Honor." The audience gasps, but the other justices all smile as if to say "don't worry, he does that all the time" or "Thank god you asked because we didn't understand it either." Souter is kind and rephrases the question. Randy answers and the rest of the argument goes like a dream. When it is finished, the courtroom clears and outside Randy is congratulated by Maria and her family. It looks to everyone like they might even have a chance of winning. But a journalist tells Randy that he thinks the case is lost. Trust me, he says, I've been covering the court for 40 years, you lost. Well, Randy says, at least give me a call when you find out the find out the decision.

Scene 50

Pam gives birth to a baby boy with Randy at her side. Don't leave me again, she says. He promises not to.

Scene 51

Randy is helping Pam make breakfast for the kids (now 6, 4 and 6 weeks). The phone rings. It is the journalist from Washington DC. Randy asks for quiet. He listens and then is stunned. We won! He hugs Pam and the kids. What does it mean, Pam asks? Did you get the paintings back? No, that's still far off, but it means we can continue with the case, he says. He does not notice her disappointment.

Scene 52

Randy and Maria attend a mediation at the office of Austria's lawyers. The mediator is an Austrian history professor. Randy tells Maria not to expect anything to happen. Austria has refused to discuss any settlement so far. The mediator says "I get the sense that everyone wants this over with." Maria is 89 years old, Randy says, of course we want this over with. The mediator suggests to everyone that the case be decided by arbitration in Austria, so that it can finished in a matter of months rather than years. Randy says he needs to discuss this with Maria in private.

Scene 53

Randy is elated. Maria, this is terrific. We can have the arbitration and get the case decided by your 90th birthday. Maria is puzzled. Why would we ever want to go back to Austria? We have this wonderful judge here in Los Angeles. Randy explains, if we go forward here there will be endless appeals and procedural issues. The case won't get decided in your lifetime. We have to take this chance. Skeptical, Maria nevertheless agrees to follow his advice.

Scene 55

Randy leaves Pam and the kids again to fly to Vienna. He assures Pam that it will now be all over and win or lose, he will be able to spend more time with her and the kids.

Scene 56

Randy meets with Czernin, who is very sick. The arbitration is tomorrow. Czernin is very worried. He thinks it was a big mistake coming back to Austria. Everything is so political, you cannot expect a fair decision. Randy says he has to trust in the law. The law is on his side.

Scene 57

Arbitration in Vienna. Randy argues to the arbitrators that Adele's will was only a wish. Ferdinand owned the paintings and he was never obligated to give them to the museum. They were stolen from him during the war and should have been returned. The arbitrators seem skeptical. Randy gives an impassioned plea for justice and fairness to the victims of the Nazis.

Scene 58

Randy with Pam. Randy is distracted. She knows he is thinking about the anticipated decision. Randy, you have to let it go. You have to prepare yourself. I know, he says. We will probably lose. My mind understands that. But my heart can't let go.

Scene 59

Randy is up late on his computer. An e-mail arrives. The decision. They have won. He cries, then runs up to his wife and wakes her up with the news. Really? She never expected him to win. He laughs. They embrace.

Scene 60

Opening of the exhibit at LACMA. Maria is reunited with the paintings, with her children, grandchildren and great-grandchild all there. Czernin is there, still very ill, but he also gets to enjoy the moment as Maria tells the throng of reporters how grateful she is that justice has finally been done.

End

For Hubertus Czernin (1956-2006)

Attorney's Perseverance Yields a Legal Masterpiece

Randol Schoenberg spent 7½ years pursuing Austria's return of art looted by the Nazis.

By ANNE-MARIE O'CONNOR
Times Staff Writer

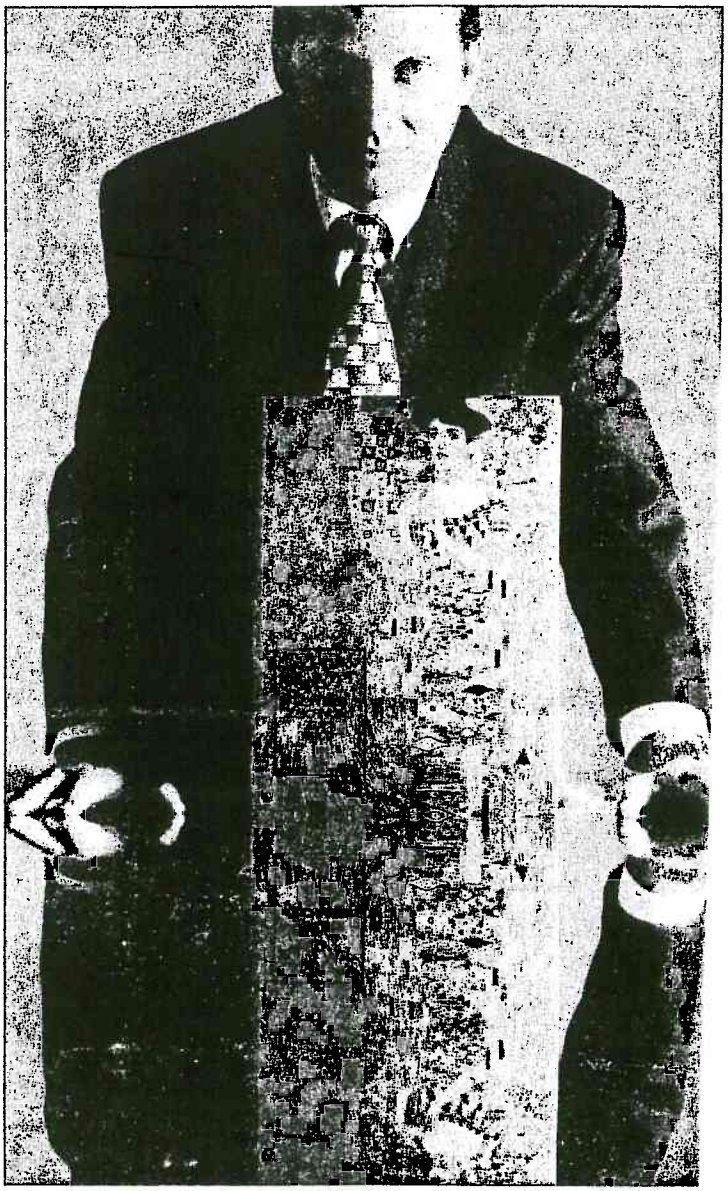
Los Angeles attorney Randol Schoenberg was just a boy when he first saw Vienna, the hometown of his grandfather Arnold, the composer. At the national art museum in baroque Belvedere Castle, his mother stood in a roomful of paintings by Gustav Klimt and pointed to the shimmering portrait of a sultry, enigmatic beauty suspended in gold.

Schoenberg never forgot the portrait of Adele Bloch-Bauer, which was seized by the Nazis in 1938 and delivered to the museum with the salutation "Heil Hitler." Bloch-Bauer's niece, Maria Altmann of Cheviot Hills, was a dear family friend, and he grew up listening to her stories of fleeing the Nazis on foot after her husband was sprung from a concentration camp.

"That woman was Maria's aunt," his mother had told him at the museum. "These paintings belong to her family."

Schoenberg, 39, has spent the last 7½ years arguing indefatigably that the art should go to Altmann and four co-heirs. In a few weeks, he will return to Vienna to negotiate the recovery of the portrait and four other Klimt paintings worth perhaps more than $200 million, in what could be one of the most valuable Nazi

[*See Art, Page A14*]



BOB CHAMBERLIN *Los Angeles Tin*

DETERMINED: *Randol Schoenberg formed his own law firm pursue the case, which his previous employer saw as unwinnable*

'I had faith that if an impartial panel actually looked at the facts of the case, they would rule in our favor.'

Randol Schoenberg, on agreeing to resolve the case through arbitration

Gamble Pays Off in Long-Running Battle to Reclaim Looted Paintings

[Art. from Page A1]
art restitutions ever.

An Austrian arbitration panel has ordered the government to return the paintings, the dramatic denouement of an arduous legal battle that even Schoenberg's most sympathetic cheerleaders thought he would lose.

"He would never give up," marveled Hubertus Czernin, 50, the Vienna journalist who uncovered the paintings' Nazi paper trail. "Maria is the same type. Her attitude was: 'Those paintings were stolen from my family, and now I will fight.' And Maria couldn't have had a better fighter for that case than Randy."

For Schoenberg — kinetic, restless and intense, with the boundless snap of a Spencer Tracy character — the case is far more than a simple legal wrangle, it's an obsession.

He pulls art tomes out of bookshelves at his cluttered West Los Angeles office and points to paintings and sepia photographs of the people who lived this drama. To him, the paintings are a link to the legendary lost world his family and Altmann's shared in the early 1900s, when Vienna rivaled Paris in music, art and intellectual life.

Schoenberg's paternal grandfather, a contemporary of Klimt and Freud, was known for his atonal works: brooding, deeply psychological compositions that then seemed shockingly experimental. His maternal grandfather, composer Eric Zeisl, was born into this world. Adele Bloch-Bauer presided over intellectual salons where Gustav Mahler and Richard Strauss mingled with artists and social reformers. When the 1907 Klimt portrait made her a celebrity, people whispered that she and Klimt were lovers.

Such stories were the heartbeat of family lore. This deep sense of destiny turned Schoenberg into an understudy of history, a man ready for the right role to come along.

He took up Maria Altmann's case when she called in early 1998. Altmann wanted to talk to his mother about a proposed law in Austria that would allow restitution to Nazi art theft victims. She needed help finding information on the Internet, but Schoenberg found himself volunteering legal advice.

"Maria is the last one left from my grandmother's circle of friends," Schoenberg said. "This is a family very close to us. They're not just casual acquaintances."

Altmann, who will be 90 in February, had known Schoenberg since he was a baby. A widow, she then sold clothes from her home. Now this grand dame of the Austrian exile community and the young upstart lawyer would become confederates in a cause that most people viewed as unpromising, at best.

Tall and elegant, Altmann addresses people she likes as "my darling" and "my love." Schoenberg's public persona could hardly be more different.

Not long after his conversation with Altmann, he flew to Vienna, where "he was the opposite of diplomatic," remembers Austrian journalist Czernin.

"The generation of Jewish victims exiled from Austria never discussed what happened. Their reaction is, 'Let the past be past,'" he said. Later generations "speak openly about the fate of the parents, the mass murder and everything else. Schoenberg talked about the anti-Semitism in Austria in very critical words. I loved it."

The case was a gamble from the start. Austrian courts initially demanded an astronomical $1.8 million deposit as an advance on possible legal costs, which Schoenberg reduced to the still unaffordable $500,000. So he turned to U.S. courts.

It would be years before anyone got around to addressing the issues at the heart of the case. Austria claimed Bloch-Bauer asked for her paintings to go to the national gallery upon her husband's death, in a request before she died of meningitis at 43 in 1925. Schoenberg argued that her request was not a will, that her husband, Ferdinand Bloch-Bauer, actually owned the paintings, and that Adele would never have donated the paintings to the Nazis. Ferdinand escaped to Switzerland and tried to get the art back before he died in 1945, a few months after the war ended. He willed his stolen estate to Altmann and two other now-deceased heirs.

The law firms Schoenberg worked for saw the Bloch-Bauer case as a minefield of legal impossibilities.

"I remember the words of Randol's first boss: 'Maria, I'm very sorry, we cannot continue on the case because the U.S. marshals are not going to take the paintings off the wall'" in Austria, Altmann said.

So Schoenberg started his own law firm, just a few weeks before the birth of his second child, Nathan, in July 2000. That August, he filed the Bloch-Bauer demand in Los Angeles federal courts.

The first two years in private practice, he hardly made any money. His new digs were smaller, with less staff. He and his wife got financial help from their parents, and they saved money on baby-sitters by staying home at night.

Their children have heard about the Klimt affair their whole lives.

"My daddy won a big case," announced Dora, a 7-year-old with long hair and bangs, as her father washed dinner dishes in their Brentwood house near the San Diego Freeway.

"Daddy, when are we going to get the money? All of us!" asked his grinning son, Nathan, 5, spreading his arms wide to suggest largesse. (His third child, Joey, is 20 months old.)

Schoenberg laughed: For years, he and his wife, Pamela, have answered requests for toys by telling the children to ask after they won the case — a good stalling technique since victory seemed dubious.

Austria had limitless resources to drag the case out on technicalities. When U.S. District Judge Florence-Marie Cooper ruled in 2001 that the case could go forward here, the Austrians appealed, arguing U.S. courts lacked jurisdiction.

"They delay, delay, delay, hoping I will die," Altmann sighed then, in her living room, dominated by a reproduction of the Bloch-Bauer portrait.

When the 9th Circuit Court upheld the right to hear the case in U.S. courts, the Austrians asked for a stay, arguing that the Foreign Sovereign Immunities Act protected them.

In October 2003, the Supreme Court agreed to hear the case. A business mogul who had befriended Altmann offered to pay for former Judge Robert Bork to argue before the justices, according to Altmann's son, Peter.

"She was under a lot of pressure to pick someone who had argued before the Supreme Court," he said. "But Randy had the passion and knew this case inside and out. Mom said, 'No, I'm staying with Randy.'"

Aside from his deep knowledge of the case, Schoenberg was armed with their shared sense of outrage. Vienna's flowering came 50 years after the relaxation of restrictions on Jewish urbanization. In just one or two generations, Jewish families had become cultural leaders.

Their rapid rise was snuffed out just as quickly by another ascending Austrian, Adolf Hitler. Composers Zeisl and Schoenberg fled into exile and rebuilt their lives, writing music for U.S. television and films. Zeisl's father chose to stay and died with his wife in a death camp.

The exiles' lives intertwined in Los Angeles. Altmann was a close friend of composer Zeisl's wife. When the Zeisls' daughter, Barbara, got cold feet about her wedding to Randol's father — Ronald Schoenberg, notable later as a Los Angeles judge — one of Altmann's sons talked Barbara through it.

Randol, the oldest of Barbara and Ronald's four children, was born the day before his composer grandfather's birthday, and his name, like his father's, is

an anagram of the letters that spell Arnold.

"I remember pretty early on starting to listen to my grandfather's music," he says. "I have one bias from it: I tend to favor complexity over simplicity."

Schoenberg would need his most cerebral muses for the Supreme Court.

On Feb. 25, 2004, he put on his everyday black suit — the one that fit — and as usual, didn't eat breakfast. As he and Altmann headed to the chambers, "I almost had a gallows humor," he said. "No one thought I could win, so I had nothing to lose."

A turning point came when the attorney representing Austria argued that Vienna believed it was shielded from lawsuits in the U.S. over expropriated art.

"I don't know that we protect expectations of the sort you're talking about," Justice Antonin Scalia replied.

Then came the waiting, which Schoenberg said was "agony."

Finally, in June of that year, the Supreme Court announced its 6-3 ruling in his favor, saying the case could go forward in U.S courts. But then, last May, Schoenberg made another seeming roll of the dice, accepting an offer to let an Austrian panel conduct arbitration that both sides agreed to accept. "When I heard that, I was sure you would lose," an Austrian journalist told him on speakerphone last week.

"I was not confident about a U.S. trial," Schoenberg explained, behind a desk blanketed with papers. "Even if we won, they would appeal," he said — meaning the case could outlive Altmann. "And how would we get the paintings? So far, the arguments had been on technicalities. I had faith that if an impartial panel actually looked at the facts of the case, they would rule in our favor."

But doubts plagued him a week ago Sunday, as he waited for news. A friend had beaten him at chess by taking a pawn. That night, he lost hand after hand at poker with his buddies, leaving $60 on the table, and when he left, "I was very dejected," he said.

He got to bed after midnight, picking up the BlackBerry on his nightstand and checking it one last time. There was a new message from Austria. It was over. He had won.

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The online magazine for the international news business
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An Artful Investigation

More than 60 years after Nazis looted millions of dollars worth of art from wealthy Austrian Jewish families, the work of one persistent journalist has led to the return of the art works to descendants of their rightful owners.

By Richard Willing
Posted November 12, 2006

In September 1997, when editors at the Boston Globe needed help confirming a tip about a possibly stolen Monet, acquired by the Harvard University's Fogg Art Museum, they called on Austrian journalist Hubertus Czernin in Vienna.

Czernin's legwork, in family and government records, ultimately proved that the museum had, in fact, legally acquired the "Portrait of Eugenie Graff," a painting once owned by famed concert pianist Paul Wittgenstein. Despite the debunked lead, Czernin made an intriguing discovery while digging through ownership records of works owned by Austria's public galleries.

In the 1940s, before Austria's culture ministry acquired them, some of the nation's prized art treasures had passed through the hands of high-ranking Nazis. Martin Bormann, Hitler's personal secretary, and Joachim von Ribbentrop, the German foreign minister who was executed as a war criminal, were among the past owners of works that now graced Austria's public art museums. Before March 1938, when Austria was annexed by Nazi Germany, the art had been in the private collections of wealthy Austrian Jews.

"In that moment, I remember thinking 'obviously, there is a big story here,'" said Czernin in an interview last April, eight weeks before he died from a rare cell disease, at age 50.

There was. Before he was done, Czernin had produced a seven-part series in Der Standard, a Vienna daily, and a book called The Forgery?, which forced a review of the provenance of thousands of Austria's art treasures that were acquired during or immediately after World War II. In an ongoing process, launched by his reporting, hundreds of paintings, sculptures and pieces of jewelry and decorative art have been restituted by the Austrian government to dozens of descendants of their rightful owners, mostly Austrian Jews.

Czernin's reporting led to more than the restitution of the art works. In Austria, it began a painful and ongoing conversation about the nation's relationship to its Nazi past. History records indicate that Austria was the first victim of Nazi empire building. But modern Austrians, as Czernin learned as he published his stories, were unaware that many of their countrymen embraced the Nazis and robbed and persecuted their Jewish neighbors.

"We never learned about the Nazi period at school," Czernin said. "So there were many things that people didn't know, or were only a little aware of. Or maybe did not want to know."

When he began work on the story, Czernin was already a veteran disruptor of the status quo. Born in 1956 to an aristocratic Viennese family, Czernin left university without a degree and began reporting for Wochenpresse, a small weekly. In 1984 he began to cover politics for Profil, a mainstream newsweekly comparable to Time, Newsweek or Der Spiegel. In the mid-1980s, Czernin broke stories about former United Nations Secretary General and Austrian president Kurt Waldheim's wartime links to the Nazi student movement. Beginning in 1995, Czernin uncovered charges that Cardinal Hans Hermann Groer, Vienna's Roman Catholic archbishop, had sexual relationships with seminarians, beginning in the 1950s until the early 1990s.

Czernin began freelance work a year later, after Profil fired him for running a cover that featured the head of then-Chancellor Franz Vranitzky over the body of a naked man. The headline, tied to a story about the centrist Vranitzky's forced alliance with a right-wing party, read "The Emperor's New Clothes."

"Vranitzky didn't like it, and we had some conservative shareholders," Czernin said. "I still consider it a good cover."

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An Artful Investigation (cont.)

Czernin's first stories about stolen art came from information that was hidden in plain sight. It was found in ownership, transfer and acquisition records held by Austria's federal monuments commission. It appeared, Czernin said, that most records had been left unexamined since the art works were acquired during the German annexation period and the years that immediately followed the war. Because of that oversight, Czernin discovered, museum catalogues and art history books often gave erroneous or incomplete provenances for works held in the nation's cultural institutions.

"No one had any idea that there was so much looted art," he said. "The writers [of art history] usually just took the word of an earlier writer about where the works had come from. Nobody had really checked."

The stories, published by Der Standard in 1998, moved Austria's parliament to act. An art restitution law was passed that year, which made it easier for families who had lost treasures to learn whether they had been acquired by public museums and to win restitution. Soon after the law's passage, Czernin said, "hundreds of pieces" were returned to their rightful owners.

One story in particular, about the provenance of "Portrait of Adele Bloch-Bauer I" by Gustav Klimt, led to the return earlier this year of the gold encrusted masterpiece to a 90-year-old Los Angeles widow. In June, the widow, Maria Altmann, sold the "Golden Portrait," which pictured her late aunt and had been commissioned by her late uncle to cosmetics heir Ronald Lauder for a price the New York Times estimated as $135 million, likely the most ever paid for a piece of art.

Czernin's research had demonstrated that the Golden Portrait was acquired during the war by a Nazi sympathizer. Its owner, Jewish sugar magnate Ferdinand Bloch-Bauer, had left the portrait behind when he fled Austria shortly after the German annexation.

But the Austrian government balked at handing over the art. At Vienna's Belvedere Castle museum, where the portrait had been a popular attraction for years, officials cited the will of Adele Bloch-Bauer, the portrait's subject. Before she died in 1925, the woman whose slim haunting features had endowed the work with an icy hauteur had bequeathed the painting to the national museum. So it was the museum that had rescued the Golden Portrait from the Nazis in 1941, and was its rightful owner, gallery officials claimed.

Czernin read the will and realized that Mrs. Bloch-Bauer had actually requested that her husband, Ferdinand, leave the painting to the nation upon his death. But when Ferdinand died in poverty in Switzerland in 1945, he didn't honor that request. So, the Golden Portrait and its companion paintings, Czernin concluded, rightfully belonged to the heirs of Ferdinand and Adele Bloch-Bauer.

Czernin's book, The Forgery?, which he published through a company that he set up for himself, was about the Bloch-Bauer will controversy.

In Los Angeles, Maria Altmann took note. A niece of the childless couple, she was their closest living heir. Of course, she knew about the Golden Portrait. After Adele died of meningitis at 42, a grief-stricken Ferdinand displayed the portrait in a room set aside in the couple's Vienna mansion. Each morning, he set a bowl of fresh flowers in front of it.

"We were told [the portrait] was gone, we had no expectation of getting it back," says Altmann.

But after a friend in Vienna alerted her to Czernin's reporting, she acted. She pursued the paintings first in Austrian and then in American courts. In 2004, the U.S. Supreme Court, over Austria's objections, found that Altmann had the right to sue in the U.S. for art works held in Austria. In January 2006, an Austrian arbitration panel awarded the Golden Portrait and three lesser-known Klimts to Altmann and her family. She displayed them, and another Klimt, which was returned later, at the Los Angeles County Museum of Art, before the sale to Lauder.

The five works are on permanent display at the Neue Galerie in New York City.

"Hubertus' work made all this possible," says Altmann, now 90. The widow, who has three sons and a daughter, says of the reporter "now I have one child more."

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An Artful Investigation (cont.)

Czernin came to Los Angeles for the opening of the Klimt exhibit. He was introduced to the crowd, to sustained applause. In Vienna, he accepted an award from B'nai B'rith International for his work in restoring art to its rightful owners. Among the achievements cited is the Library of Theft series by Czernin Verlag, the Vienna publishing house that the reporter founded. The series was designed to catalogue and attempt to trace all art appropriated from private collections during the Nazi period. The Forgery? was the Library of Theft's first volume.

In Austria, not everyone applauded Czernin's work. Museum officials, he said, indicated they considered him a dangerous pest and made him hand-copy documents and obtain multiple permissions to view public records.

At a cocktail party, a 30-something couple referred to him as an "asshole" who had dredged up unhappy memories and cost the nation a portion of its artistic heritage.

"Until the mid-1980s, history [of the Nazi period] was never discussed in a shameful way," Czernin said. The art stories, he explained, challenged the prevailing notion that "if we are the Nazis' first victims we can't have produced" other victims.

Although Czernin suffered an untimely death, other reporters in Vienna are carrying on his work. Thomas Trenkler of Der Standard and Marianne Enigl at Profil remain on the "stolen art" beat. In the tradition of Czernin, both continue to uncover appropriated art in national museums by matching public records with Gestapo documents.

Art historian Sophie Lillie, one of Czernin's protégés, says she has "picked up the torch." As part of his Library of Theft series, Czernin tasked Lillie, a Vienna-born and Columbia University trained art historian, to catalogue art stolen from the Rothschilds, Gutmanns and other prominent families. In 2003, Czernin Verlag published Was Einmal War, Lillie's 1,440-page- account of the whereabouts of about 5,000 pieces of art from 148 looted collections.

But lately the story has become harder to report. Lillie says most of the remaining unaccounted for art appears to be in the hands of private collectors, who are under no legal obligation to give up the works. Paperwork proving the provenance of stolen art is often sketchy or non-existent, she adds, because Nazi-favored auction houses that listed their Jewish owners only as anonymous donors sold most of the pieces.

"Rarely do private collectors publish what they really know, " Lillie says.

Czernin also found the stolen art story increasingly frustrating. Shortly before his death, he was tracking a Klimt landscape that appeared to have moved from Berlin to California, as well as other Klimts he believed had been looted in private collections in the U.S. and Canada. He was hoping for a breakthrough, such as a bitter divorce or a battle over a will, to disclose enough documentary evidence of long-ago theft to support a story. But Czernin was not optimistic.

Even with a new generation of reporters following Czernin's lead, a hope to return all stolen artwork is unlikely at best. Because many of the looted works are now private possessions, it is near impossible to get them back into the hand of the original owners' heirs, Czernin said.

Richard Willing is a social issues reporter for USA Today. He is based in Washington D.C.

Glittering prize

Last month's world-record sale of this Gustav Klimt portrait marked the culmination of its sensational journey from the salons of Vienna to an LA auction room, via the hands of Nazi looters. **Alix Kirsta** traces its story and meets the woman who fought to reclaim her inheritance

An exhibition at the Neue Galerie on Manhattan's Upper East Side that opens next Thursday is already guaranteed to be New York's most talked-about and potentially important art event of the year. The much-publicised 'Bloch-Bauer collection' features only five paintings by Gustav Klimt, but will attract huge crowds. Its centrepiece, an elaborately gold-embellished 1907 portrait of Adele Bloch-Bauer, has long been an icon of 20th-century art, as celebrated and widely reproduced as Klimt's best-known work *The Kiss*. Acquired several weeks ago for $135 million (£73 million) by the museum's founder and president, the cosmetics heir and billionaire Ronald Lauder, it is the world's most expensive painting, and was until recently at the centre of a sensational case about Nazi-looted art. Its journey to New York was the end of 68 years of injustice. Yet among the thousands of visitors expected to crowd into the museum's wood-panelled gallery, how many will be aware of the story that lies behind Klimt's masterpieces?

When an arbitration court in Vienna ruled this January that Vienna's state-owned Belvedere Gallery must return five Klimt paintings to Maria Altmann, now living in California and the last direct relative of their original owner Ferdinand Bloch-Bauer, restitution experts around the world reacted with joy and disbelief. The case of Altmann *vs* the Republic of Austria was a highly publicised and bitter legal battle which intrigued the art world for more than seven years. It was a classic David and Goliath confrontation that many dismissed as unwinnable. But a federal court in California (and ultimately the US Supreme Court) ruled that Altmann could sue the Republic of Austria in the US courts for the return of the paintings, stolen by the Nazis during the Second World War. When the Austrian government claimed immunity as a sovereign nation, its case was turned down. Confronted with a full US trial in November 2005, Austria agreed to arbitration and appointed Austrian arbitrators.

Altmann's victory in January was a bad day for Austria, whose government officials had gone to

At $135m, the most expensive painting in the world

But is it worth all the fuss?

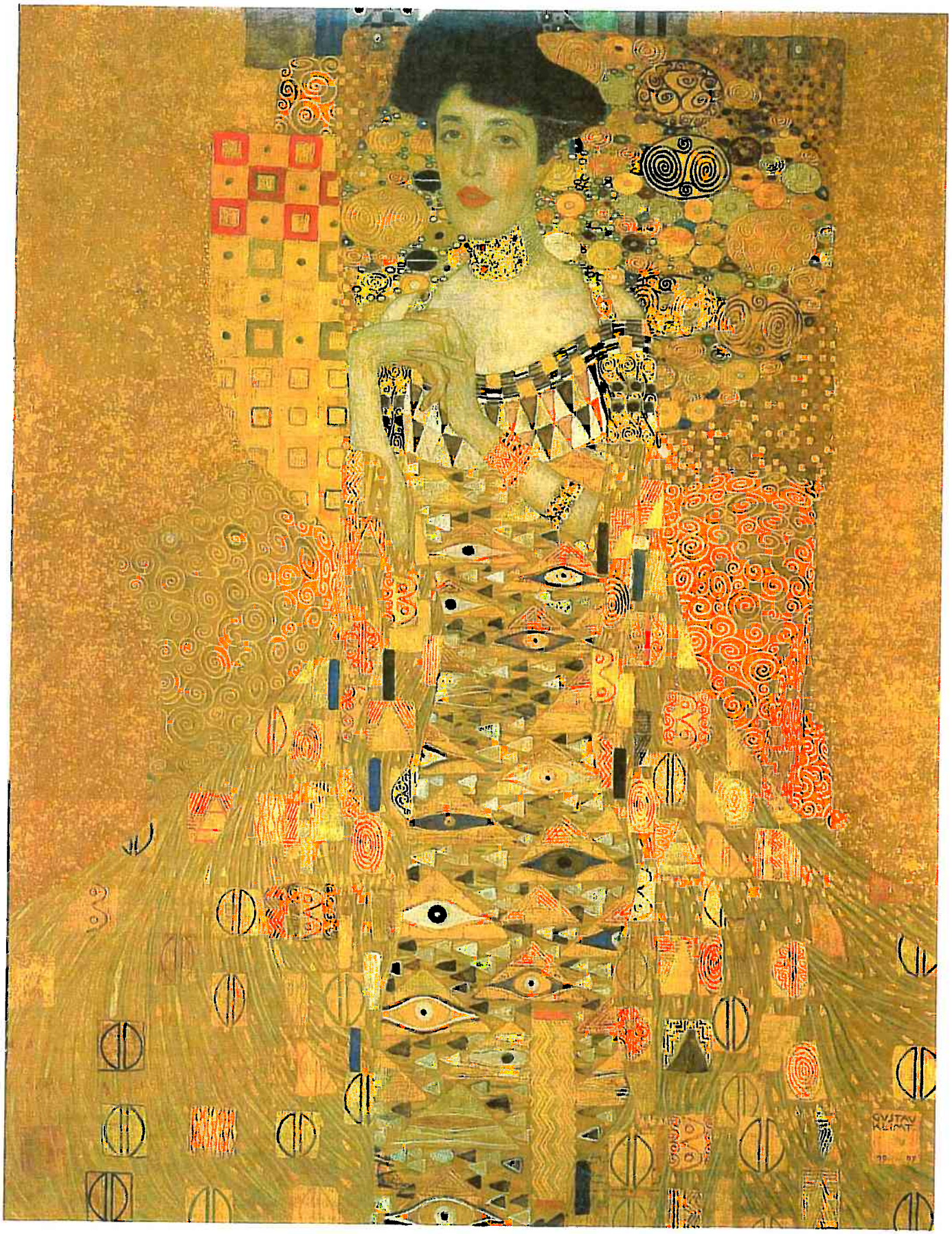
...liani's doomed love
...88m art bonanza

£73m golden portrait by Klimt is a world-beater

I bought back painting, says Linky

ESTATE OF FERDINAND BLOCH-BAUER. COURTESY OF THE NEUE GALERIE, NEW YORK. GETTY IMAGES/MONICA ALMEIDA/THE NEW YORK TIMES

Top Maria Altmann and Randy Schoenberg view the Klimts that have been returned to her family.
Right *Adele Bloch-Bauer I*, 1907, oil, silver and gold on canvas. **Left** the sale took place amid a booming art


GUSTAV KLIMT

astonishing lengths to avoid returning the Bloch-Bauer Klimts, which since the war the Belvedere Gallery had treated as their own. It was the costliest return of looted art by Austria since the introduction of its 1998 Art Restitution Act: the five Klimts together were then estimated to be worth $300 million or more. Losing the Klimts was about more than money; it was a bitter blow to Austria's pride and heritage. Gustav Klimt, within his lifetime the country's most celebrated artist, has remained an Austrian icon; his sensuous, intricate work represents a unique era in Austrian art. Responses to the court's decision were mixed, and controversy over the 'Bloch-Bauer affair' still rages in Vienna's art galleries and cafes.

Although Maria Altmann and her co-heirs (the four children of her late sister and brother) have proved their claim, many art experts are outraged that the Klimts were allowed to leave Vienna, arguing that the government should have struck a deal with the family to keep some or all of them. In January, the director of the Belvedere Gallery, Gerbert Frodl, expressed 'extraordinary regret that the Republic did not purchase the pictures for Austria'. According to Austria's Chancellor Wolfgang Schüssel, Austria just couldn't afford it. 'We are simply unable to buy back the paintings. Further negotiations are pointless,' he recently stated. The culture minister Elisabeth Gehrer's last word on the subject was on February 2. 'Seventy million euros amounts to the whole budget for all museums in Austria. This means we are not financially able to make purchases here.' On the first weekend in February, more than 8,000 visitors crowded into the Belvedere for a final glimpse of the Bloch-Bauer Klimts. The next day they were taken off the walls, crated and shipped to America, where they were exhibited at the Los Angeles County Museum of Art.

Despite her joy at reclaiming the paintings she grew up with in pre-war Vienna, Maria Altmann, now 90, remains philosophical about her victory. A few weeks before the Klimts were auctioned, we met at her house in a quiet, residential area of Los Angeles, a modest but comfortable bungalow in which she has lived for 30 years. Tall, elegant, still strikingly attractive, Altmann admitted that she had always felt her claim was a long shot. 'I never felt there was a good chance I would win,' she explained in a strong Viennese accent. 'And I wouldn't have been desperate if we had lost: there was no life threatened, it was justice and money, and justice came first. I persisted out of a desire that Austria should see there is such a thing as justice. Morally, this is a gain, not a loss for Austria.' She is astonished that she has become a symbol for Holocaust survivors with pending restitution claims. 'I'm not somebody who ever wanted to be a symbol of anything. I don't want attention. But I was pleased and surprised to hear that when they announced the court's verdict on Viennese radio, groups of people in a coffee house started clapping.'

With its traditional furnishings, her home retains an air of old-style Viennese *gemütlichkeit*; on the walls are sketches of Austrian villages and paintings of her relatives; there is a display of 17th- and 18th-century watches and a 20-year-old poster of Klimt's golden *Adele* hangs in the sitting-room. Discovering that I am part-Viennese, Altmann occasionally broke into German, recalling the cavalier attitude of government officials. 'I originally hoped the paintings would remain on public view in Vienna after they were returned to me. When I first made my claim, I was invited to a conference in Vienna where I met the director of the Belvedere. He begged me: "Take the landscapes, we have plenty of them, just don't take the portraits." So I wrote them a letter saying I would see to it that the gold portrait would not leave Vienna, but we would have to talk about it and come to a financial solution. I made them a very generous offer.' That was in 1999. She received no reply. 'I was 83. Don't you think an old lady deserves an answer, purely out of politeness?'

'I PERSISTED OUT OF A DESIRE THAT AUSTRIA SHOULD SEE THERE IS SUCH A THING AS JUSTICE'

Right *Beech Woods (Birch Woods)*, 1903, oil on canvas. **Below right** visitors line up in Vienna's Belvedere Gallery to view the five Bloch-Bauer Klimts for a final time

Despite her newfound prosperity, she doesn't intend to move house or to trade in her ageing Chevrolet for a luxury model. As a hardworking mother of four in the late 1940s, she began selling knitwear from home and then opened a small Beverly Hills boutique which she ran until four years ago. Her money will go to her children and grandchildren and towards supporting Jewish communities in the US, Austria and Israel, and the Los Angeles Opera. But she emphasised that this case was not solely about material possessions. 'It was the truth. Historically, the Austrians have always been utterly charming, at every social level, but they can as easily be disgusting.' What matters to her is that in confronting its tainted past, Austria must also acknowledge the long-forgotten historical and cultural significance of Austrian families such as hers, who were persecuted and murdered. Above all, she wants to re-establish the truth about the Bloch-Bauer legacy. Despite the legal and financial aspects of her victory, a far more significant feature of this case is the richness of its cultural history, and the fact that Altmann, the last witness of a vanished era, has seen a century of her own family's story, with its joys and horrors, come full circle.

In the last days of the fading Hapsburg Empire, the two branches of the Bloch-Bauer family were among Vienna's most cultured and influential citizens. The youngest of five children, Maria was born in 1916. 'My father's brother, Ferdinand Bloch, married my mother's sister, Adele Bauer; two Bauer sisters married two Bloch brothers. When my aunt and mother's brothers both died, the names Bloch and Bauer were amalgamated to preserve the Bauer name. Adele became a "double aunt", by blood and marriage,' Altmann explained.

Ferdinand Bloch-Bauer was the president and

ESTATE OF FERDINAND BLOCH-BAUER PHOTOGRAPH © 2006 MUSEUM ASSOCIATES/LACMA (GETTY IMAGES/LACMA) AP

Adele Bloch-Bauer II, 1912, oil on canvas. Many art historians believe she and Klimt had a 12-year affair

MANY WORKS WERE GIVEN TO HITLER, OTHERS LAY IN A DEPOT EARMARKED FOR A MUSEUM HE PLANNED IN LINZ

co-owner of Austria's largest sugar refinery. He also assembled one of the biggest, most valuable collections of 17th-century porcelain and 19th-century Austrian art. Adele, who inherited a fortune from her father, a banker, was a champion of contemporary 'Jugendstil' artists and the even more radical Secessionist movement, founded in 1898 by Gustav Klimt. The rumour that Klimt and Adele had a 12-year affair has never been proved, although in 1986 an American psychiatrist who met Adele's personal maid and her physician said both had confirmed the relationship. Klimt's art yields tantalising clues: Adele was the only society woman whose portrait he painted twice (the opulent golden portrait, *Adele Bloch-Bauer I*, dubbed 'Austria's *Mona Lisa*', took three years to complete and involved almost 200 preparatory drawings); she is also portrayed semi-nude in his blatantly erotic work *Judith and Holofernes*. On her neck is the same jewel-encrusted choker, a present from Ferdinand, worn in the golden portrait. Art experts also speculate that she may be the woman in *The Kiss*.

Adele and Ferdinand were among Vienna's most prominent art patrons. Largely through the cultural passions of families like the Bloch-Bauers, *fin de siècle* Vienna rivalled Paris as a burgeoning centre of avant-garde art, music, architecture, philosophy and literature. 'My aunt and uncle lived in unimaginable luxury in a mansion where all the art, including the paintings Ferdinand commissioned from Klimt, were displayed,' she recalled. There, Adele held her famous weekly salons; guests included Gustav and Alma Mahler, Richard Strauss, the artists Klimt, Egon Schiele, Oskar Kokoschka and Carl Moll (Alma Mahler's stepfather), the writers Stefan Zweig and Arthur Schnitzler, and the socialist politician Dr Karl Renner. Outside Prague, the Bloch-Bauers owned a large Palladian villa, Schloss Jungfer, also visited by Klimt. This, too, was full of art and antiques.

In 1925 Adele Bloch-Bauer died of meningitis, aged 43. Although Altmann was then only nine, she retains vivid memories of her aunt. 'She was a rather cold, intellectual woman who was very politically aware and became a socialist. She wasn't happy. It was an arranged marriage but she was childless, after two miscarriages and the death of a baby. I remember her as extremely elegant, tall, dark and thin. She always wore a slinky white dress and used a long, gold cigarette holder.' After Adele's death, Ferdinand turned her bedroom into a memorial. 'All the Klimts hung there and there were always freshly cut flowers. Our family went over every week for Sunday lunch, and for Easter and Christmas.' Maria's father, a lawyer, roamed art galleries advising Ferdinand on new acquisitions, and was a gifted amateur cellist. His friends the Rothschild brothers gave him their Stradivarius cello, 'because they knew it would be played by musicians. Every night we had chamber music in the house. Life in Vienna was beautiful.'

In December 1937 Maria married an aspiring opera singer, Fritz Altmann, in the last fashionable Jewish wedding before the Germans annexed Austria. Her uncle gave her a diamond necklace and earrings which had belonged to Adele. Then, the following March, Hitler's troops marched into Vienna. 'Church bells were ringing, there were a lot of jubilant people cheering in the streets; they didn't have the air of victims,' she observed wryly.

A week later a man in a dark suit knocked at the door of Altmann's new home while she was alone. Herr Landau was a Gestapo official; he took all her valuables, including her engagement ring and Adele's diamond necklace and earrings. These were later presented to Hitler's deputy, Hermann Goering, as a gift for his wife.

The next day her husband was arrested, imprisoned, and later deported to Dachau. 'He was held hostage there. His brother Bernhard owned a successful cashmere business in Austria, but had moved to Paris. The Nazis told him Fritz would be released if he signed over his knitwear factory to them.' Bernhard Altmann signed, and Fritz returned from Dachau several months later. All Ferdinand Bloch-Bauer's assets, including the sugar refinery, his two homes and his art collection, had already been seized, and he had fled to Switzerland. In October 1938, while under house arrest, guarded by Herr Landau, the Altmanns managed to escape. They settled in Liverpool where Bernhard Altmann opened another knitwear factory, before moving to America in 1940.

By the end of the war the Altmanns were US citizens, and Maria was selling Bernhard's new US-made knitwear to support her family. In 1945 she learnt that Ferdinand had died in Zurich in November, a sad, lonely man. In his will, drawn up several weeks earlier, he named Maria and her elder sister and brother as his heirs. But, as his lawyer and friend Gustav Rinesch discovered, his property had all gone. The Vienna mansion was now the headquarters of the Austrian State Railway; shares from the sugar company held in trust under Ferdinand's name by a Swiss bank had been sold to an investor with Nazi connections; the Bloch-Bauer's Schloss Jungfer near Prague became the chief residence of Reinhard Heydrich, who ruled Czechoslovakia and helped to mastermind the 'Final Solution'. After Heydrich's assassination in 1941, other Germans plundered its treasures and after the war ended the property was sequestered by the new Czech communist government. Bloch-Bauer's art collection had been divided up; many works had been presented to Hitler, Goering and other deputies, others lay in a German depot with thousands of looted artworks earmarked for Hitler's planned museum in Linz.

'We were told later that Hitler had wanted to buy my uncle's porcelain collection but it was too expensive, so it was auctioned,' Altmann said. 'I knew everything was gone. But I was too busy with three small children, struggling to make a living, to

ask where things were. There was little family contact. My sister was in Yugoslavia, where her husband was shot by the communists. My brother Robert was in Canada. In 1948 he got back a few paintings of little value, and some bits of porcelain.' Gustav Rinesch, their lawyer, reported that the heirs had no claim to the Klimts, because they had been donated to the Austrian gallery, allegedly under the terms of Adele's will. 'We didn't see her will so assumed it was so,' Altmann said.

It wasn't until the late 1990s that the ugly, twisted saga of Vienna's acquisition of the Klimts began to unfold. In 1998, at an international conference in Washington on Nazi-looted property, Austria joined many other countries in signing an agreement to examine the provenance of its museum collections. Under its new Art Restitution Act, it undertook to return any stolen works to their owners. Also that year, the country's federal archives were opened to the public for the first time. In Vienna Hubertus Czernin, a 42-year-old campaigning author and publisher, unearthed once-confidential records revealing how the Bloch-Bauer Klimts became the property of the Belvedere Gallery. 'When I read those documents and others sent by my niece, who found them in old crates after my sister's death in 1998, I saw the paintings had been stolen not once, but three times: first by the Nazis and twice by the Austrians,' Altmann said. She knew it was time to act.

Czernin had published a series of articles in Austria exposing the scandal and similar cases, including the fate of the looted Rothschild collection. The crucial evidence he supplied was a copy of Adele Bloch-Bauer's will, made in 1923, two years before her death. Since the war, Belvedere officials had insisted that Adele had bequeathed the two Klimt portraits of herself and three landscapes to the gallery. In 1948 Gustav Rinesch, the heirs' lawyer, had asked to see the will but was repeatedly fobbed off with excuses that it was mislaid. Ignoring the injustices suffered by Holocaust survivors was nothing new. By barring the export of works of national heritage, the Austrian government was able to blackmail many refugees living abroad into surrendering valuable property. A claimant could get export permits for works of art only by letting the state retain its choice of many of their more valuable items. Therefore, before Rinesch could begin to reclaim some minor remnants of Ferdinand's art collection, he had to 'donate' the Klimts to the Belvedere. He was faced with threats and false assertions that the gallery had a right to the pictures under Adele's will.

As Altmann discovered, the 'bequest' was a fantasy. Adele's will was not legally binding: leaving all her property to Ferdinand, she requested only that he leave the two portraits and three landscapes to the gallery after his death. But the Klimts had been commissioned and paid for by Ferdinand and were therefore his property. As he stated during probate proceedings, he would honour Adele's request, even though it was not legally binding. He probably had every intenton of doing so. In 1936 he donated a Klimt landscape, *Schloss Kammer am Attersee*, to the gallery. But any suggestion that after the Anschluss Ferdinand would have donated the Klimts to the Belvedere is absurd. In exile, he wrote to Oskar Kokoschka (who once painted his portrait), saying, 'I hope with all my heart to be able to recover the portraits of my darling Adele.' Altmann has no doubt that he wanted his relatives to inherit the works. 'My uncle certainly would

A Bloch-Bauer Klimt landscape *Houses in Unterach on Lake Atter*, 1916, oil on canvas

never have donated anything to Austria after the way he had been treated.'

A paper-trail indicates that all Bloch-Bauer's seven Klimt paintings passed through the hands of Dr Erich Fuehrer, a Nazi lawyer appointed by the Gestapo to liquidate Ferdinand's property. Through him they eventually reached the gallery. In October 1941, Fuehrer gave the golden portrait of Adele and Klimt's *Apple Tree* to the Belvedere with a note signed 'Heil Hitler' in exchange for another landscape previously donated by Ferdinand. In November 1942 he sold Klimt's *Beech Woods* to the City of Vienna Museum, and in March 1943 Klimt's 1912 portrait of Adele was bought from him by the Belvedere. That year there was a major exhibition of all Klimt's work in Vienna, in which Adele's golden portrait was Aryanised: its new title was *Woman in Gold*.

What most disturbed Altmann was a 1948 letter from Dr Garzarolli, the new director of the Belvedere, to his predecessor which reveals he knew that 'even during the Nazi era an incontestable declaration of gift in favour of the State was never obtained from Ferdinand Bloch-Bauer.' The letter warns that 'the situation is growing into a sea-snake' and ends: 'I hope you can get me out of this not undangerous situation.' Given his exile since 1938, the idea that Ferdinand would have ever sanctioned such a gift is preposterous. And since he died in November 1945, how could they have hoped to get his signature in 1948?

In late 1998 Maria Altmann asked a young lawyer, Randol 'Randy' Schoenberg, the 32-year-old son of one of her oldest friends, to represent her. Under Austria's Art Restitution Act it seemed an unanswerable claim, legally as well as morally, but in June 1999 the claim was turned down. Austria's culture minister Elisabeth Gehrer stated publicly that the Klimts were not stolen. To Altmann, it was a slap in the face. She had met Gehrer for lunch in Vienna in 1998 the previous year, and told her Adele's will was not binding. 'She [Gehrer] reassured me she now knew this, and that I shouldn't worry.' Altmann's lawyer was also incensed. For Schoenberg, taking the case through the US courts was a huge gamble, but he was convinced the law was in their favour.

What bound Schoenberg to the case for the next seven years, prompting him to resign from a successful law firm and to set up his own practice, is the history he shares with Altmann. The grandson of two exiled Viennese composers, Arnold Schoenberg and Erich Zeisl, Randy Schoenberg is a third-generation member of Hollywood's community of European exiles who arrived in the 1930s. His great-grandparents, the Zeisls, perished in a death camp; his grandfather Erich Zeisl was a close friend of Maria Altmann's husband in Vienna. A reserved man, Schoenberg is a fluent German speaker and grew up sharing his family's outrage over the fate of Central Europe's Jews. 'It is extraordinary to be involved in a case of such magnitude and complexity and be so personally connected to it,' he said. As well as winning Altmann's claim against the Belvedere, he has also recently reclaimed the Bloch-Bauer family mansion and financial compensation for the shares sold by a Swiss bank. Altmann's share amounted to $2 million. The only claim which, to his dismay, he has lost, is for a sixth Klimt which will remain at the Belvedere: owned by Bloch-Bauer but not mentioned in Adele's will, it is the portrait of their friend Amalie Zuckerkandl, who perished with her daughter in Auschwitz. He believes his background has helped him stay the course. 'I think my ties to Austria and knowledge of these restitution issues, and how to tackle the Austrians' negative mentality, helped me to persevere. I don't think the average American lawyer could have done what I did.'

Altmann agreed. 'Without Randy none of this would have been possible.' Her other hero is Czernin. 'He has done far more than anybody to help us.' Altmann admitted to me last month she had no idea where the Klimts will end up. She could not dream of keeping them, owing to the prohibitive insurance and security costs. 'On the morning I heard I had won, my friend Ronald Lauder phoned and said, "Maria, I've been thinking all night and I'm going to buy all five. I have a room in the Neue Galerie that would be perfect."' So far he has bought only the golden portrait, for which apparently five museums and 10 collectors made offers. Altmann is delighted that it has gone to Lauder's museum, devoted exclusively to Austrian and German Expressionist art. 'I wanted it to go to a museum that is a bridge between Europe and the United States.'

The fate of the other Klimts remains to be seen. The Viennese gallery owner John Sailer has launched a highly publicised initiative to raise funds to buy some of the works: he aims to create a cultural foundation based in the old Bloch-Bauer mansion, in honour of the family. The Belvedere is also conducting a campaign to raise awareness on its website, to inform the public about the cultural importance of the Bloch-Bauer collection and to raise support for Austria's attempt to buy the remaining pictures. When I asked Ronald Lauder if the other Klimts might eventually be purchased for the Neue Galerie, he told me, 'Perhaps.'

Back in the US, celebrations among Schoenberg and Altmann's families have been marred by unexpected sadness. One of Maria's greatest champions is no longer there to share her triumph and pass on the latest gossip. Hubertus Czernin died several weeks ago, aged 50, after a long battle with cancer. Maria Altmann arrived in Vienna for a holiday with her two teenage grandsons too late to see him. His monument may be that many Austrians will at last come to terms with half a century of denial of the past.

'Gustav Klimt: Five Paintings from the Collection of Ferdinand and Adele Bloch-Bauer' is at the Neue Galerie Museum for German and Austrian Art, 1048 Fifth Avenue, New York (001 212 628 6200; neuegalerie.org), from July 13 to September 18

GREG BEHRENDT'S REALLY INTO YOU

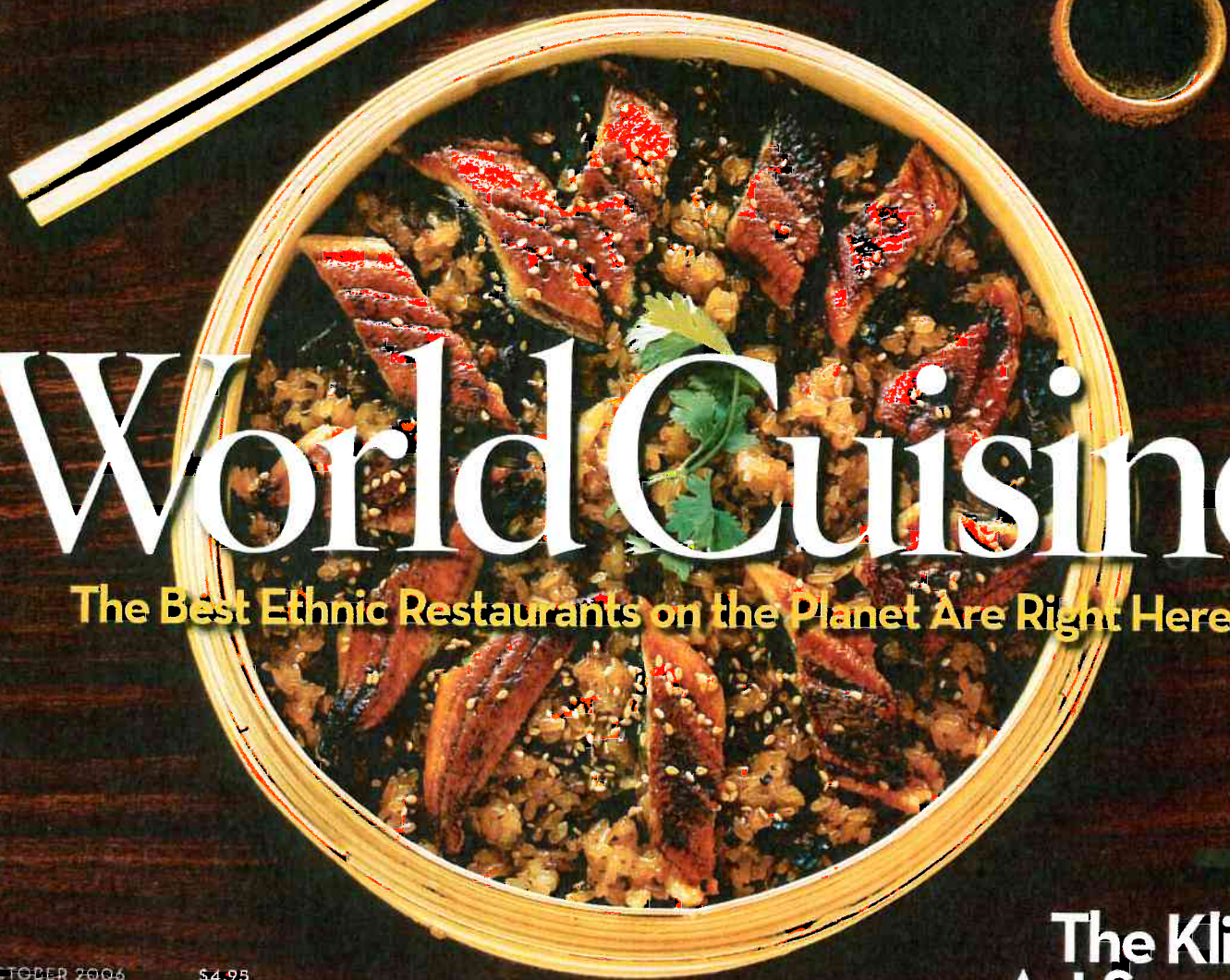
LA HOME: FABULOUS PREFAB

FOREST WHITAKER IN THE RAW

WHAT NOT TO WEAR IN LA

MAGIC CASTLE HOCUS POCUS

los angeles



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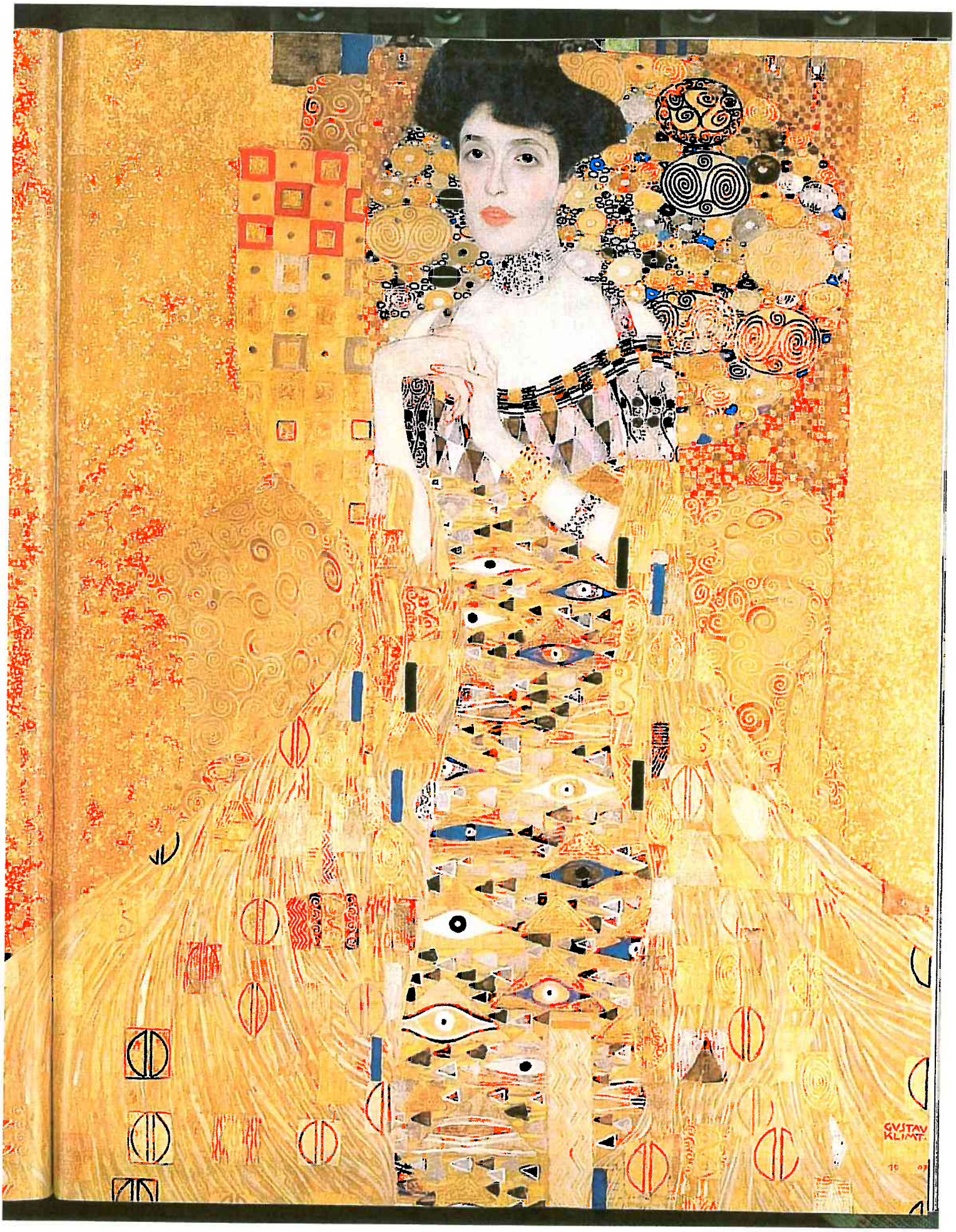
The Klimt Art Scandal

Nazis, Bohemians and a Vindicated Heir

BY JOSH KUN

THE ART OF MEMORY

How an obsessed Brentwood lawyer reunited the most expensive painting in the world with its nonagenarian Los Angeles heir. A tale of Nazis, aristocratic bohemians, and the man called Captain Cautious By Josh Kun


GUSTAV
KLIMT

I'VE COME TO VIENNA

looking for the Jewish past. By accident I've arrived on Fronleichnam, or Corpus Christi Day, a national celebration of the Holy Eucharist. ¶ When Austria expelled its Jews back in 1670, Corpus Christi Day was slated as the deadline for making your escape. Now it's just another day off from work. The churches are abuzz with the hum of worship, and save for the occasional map-juggling tourist wandering the Ringstrasse, the streets are hushed and empty. There are 15,000 Jews left in Vienna, but during this day of blessed Christian feasting, not even they are crowding the sidewalks.

The only thing open on Fronleichnam are the museums, which helps my cause: The Jewish past I'm looking for is tied to five paintings by legendary Austrian artist Gustav Klimt that for nearly half a century hung in Austria's national gallery in the Belvedere Palace. The paintings originally belonged to Ferdinand Bloch-Bauer, a Jewish sugar magnate who was driven out of Vienna in 1938 by the Nazis. They soon found their way—through a series of coerced transfers and forced bargains typical of World War II art theft—onto the walls of the Belvedere.

One of the paintings, *Adele Bloch-Bauer I*, had become a prized possession of the museum. A portrait of Ferdinand's wife, Adele, it is like no other society painting by Klimt—an erotic, incandescent tribute to excess, splendor, and elegance. The gold gown Adele wears flows into a sea of gold leaf that spills out from edge to edge, shimmering and flickering like bountiful, liquid wealth. The skewed, geometric inlay of floating squares, encircled coils, and Egyptian symbols adds to a feeling of sensual otherworldliness.

Klimt made Adele into something far more than the rich patron of the arts that she was, far more than the iron-willed wife of an industrialist who chain-smoked through a long cigarette holder. In *Adele Bloch-Bauer I*, she becomes an entire aesthetic, an entire way of life. It's as if all of the cultural innovation and sexual wonder of turn-of-the-century Vienna—a world with room for the operatic masquerades of Johann Strauss's *Die Fledermaus*, the taboos of Sigmund Freud's dream analysis, and the utopian vision of Theodor Herzl's Zionism—had found its way into her pouting red lips and sunken eyes.

No wonder Austrians often speak of her as their Mona Lisa. Her lingering stare conjures a lost fin de siècle revolution.

She has also been a big moneymaker. There have been Adele posters, magnets, bookmarks, coffee mugs, matchbooks, chocolate bars, and even gold Adele shoes. Klimt's *The Kiss* may be the museum's blockbuster, the stuff of Art History 101, but Adele was the sleeper hit, the critics' darling, the painting that truly said something about you if you liked it.

FAMILY PORTRAITS: (clockwise from left) Maria Altmann at home in L.A. with a portrait of her mother, Teresa Bloch-Bauer; the Vienna *palais*; Adele Bloch-Bauer, Maria Altmann's aunt

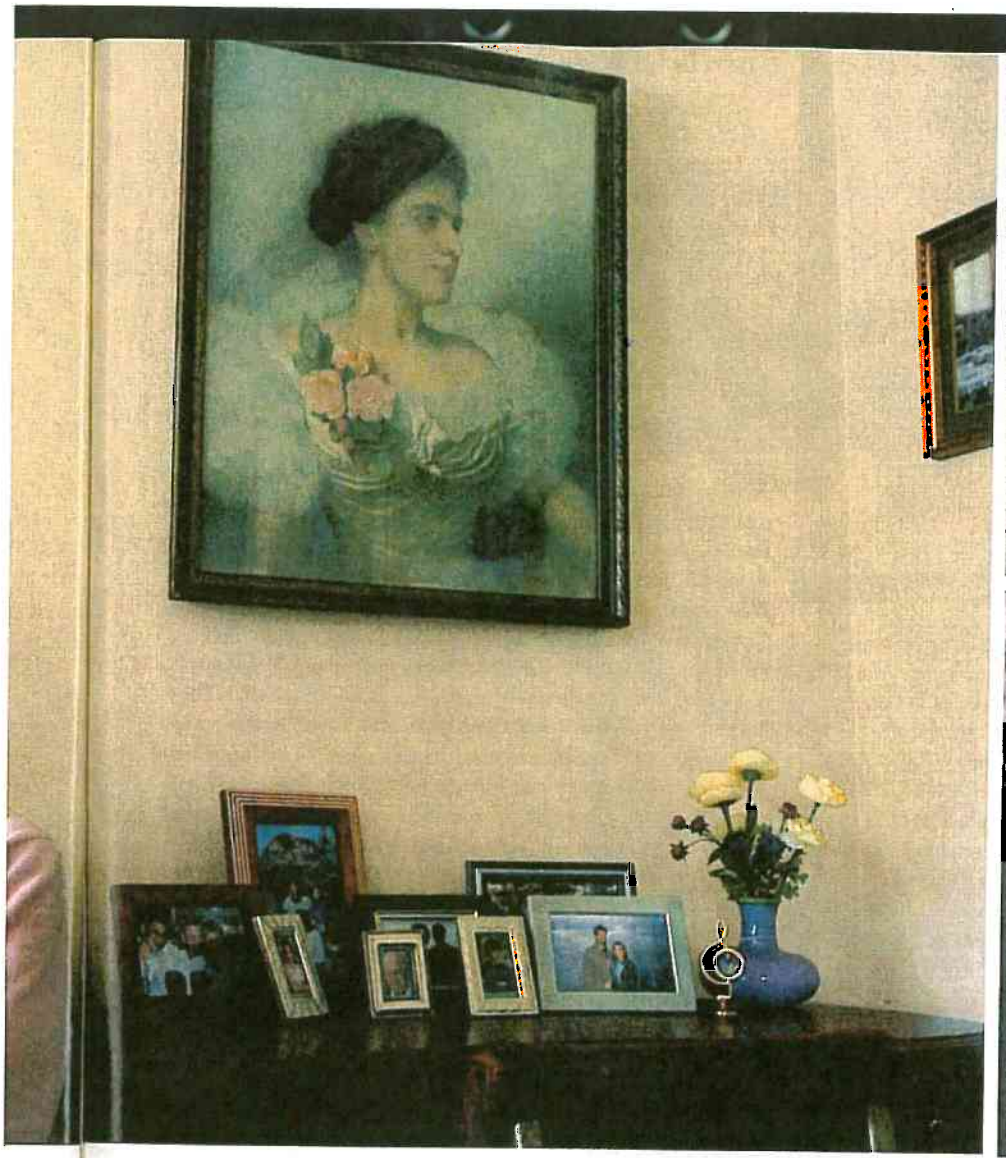
Anyone could put *The Kiss* on their dorm room wall. *Adele Bloch-Bauer I* was for the refined eye.

Which is at least one reason why the portrait's departure from Austria has left such a sting. In March of this year, it was removed from the Belvedere walls, along with four other Klimts that once belonged to Ferdinand: a second portrait of Adele from 1912 and three landscapes, *Apfelbaum I*, *Häuser in Unterach am Attersee*, and the ghostly autumn forest of *Buchenwald*. Their exit was the result of a heated seven-year lawsuit filed by one of Ferdinand's heirs, his niece Maria Altmann, who has been living in Los Angeles since 1942. In January an all-Austrian arbitration panel decided in Altmann's favor, and the paintings left Vienna for a three-month stay on the walls of the Los Angeles County Museum of Art.

When I ask a Belvedere guard what room the Klimts used to be in, he misunderstands me.

"They are not here anymore," he says bitterly. "They've gone to Los Angeles."

PAGES 162-163: *ADELE BLOCH-BAUER I*, 1907, BY GUSTAV KLIMT/ESTATE OF FERDINAND BLOCH-BAUER/PHOTO ©2006 MUSEUM ASSOCIATES/LACMA



PAGES 162-163: *ADELE BLOCH-BAUER I*, 1907, BY GUSTAV KLIMT/ESTATE OF FERDINAND BLOCH-BAUER/PHOTO ©2006 MUSEUM ASSOCIATES/LACMA

THESE PAGES, CLOCKWISE FROM LEFT: ANN JOHANSSON/CORBIS; JOSH KUHN COURTESY ALTMANN FAMILY

T WAS THE YEAR ALEX

Haley first published part of what would become *Roots* and Miss Braxton, a third-grade teacher at Kenter Canyon Elementary School in Brentwood, turned the novel into a class assignment. Each of her students was to go home and put together a family tree. Her favorite student, Randy Schoenberg, came to class with a chart that was, as the 40-year-old now remembers it, "enormous." By the time he was 11, the family tree had grown to 12 feet long.

"I would see if I could remember all of my 16 great-great-grandparents," says Schoenberg, rocking back and forth behind stacks of files and open books that crowd the desk of his Santa Monica office. "I put myself in the center. My siblings never forgave me."

A business and entertainment lawyer since 1991, Schoenberg has represented a number of high-profile clients—Michael Jackson, Kim Basinger, Lloyd's of London. His interest in law came in part from his father, a retired L.A. Superior Court judge, but he has the brainy, historical fixations of a stacks-prowling scholar, a trait no doubt filtered down from his mother, a former German professor at Pomona College.

When Schoenberg speaks, and he speaks fast, he is an encyclopedia of legal and cultural data, rattling off historical asides culled from every aspect of his career, whether it's his days as a math major and classical music DJ at Princeton or his tenure as the head of an Austro-Czech genealogy group. He keeps his personal life more guarded, revealing it only in casual parentheses—he's been married for a decade, has three children, and Brentwood native that he is, enjoys his tennis at the Riviera Country Club.

Long before Schoenberg took Maria Altmann's case, the Austrian past was alive in him. He has the alert, popped eyes and round, puffy face of his grandfather Arnold Schoenberg, the Austrian composer who pioneered early avant-garde music. His other grandfather, Eric Zeisl, was a more traditionally-minded composer. Schoenberg runs Web sites dedicated to each of them. Both are stuffed with oral histories, archival materials, and links to articles and sound files—so exhaustive that they've become the authoritative one-stop sources on the composers' careers.

A friend of Schoenberg's, an Austrian psychoanalyst, recently sent

JUDGE DREAD: Reproduction of Klimt's *Jurisprudence*, 1907

JOE KLAMAR/AFP/GETTY IMAGES

him a scholarly article about Jewish families two generations removed from the Holocaust. "He's noticed that in every family there's one person who becomes the repository of all history, the torchbearer," says Schoenberg. "My parents certainly don't think this way, and neither do my siblings. I guess I'm the torchbearer of our family."

Schoenberg sees the world as his grandfather Arnold did in his 12-tone compositional system, as information just waiting to be organized into sets and rows. Take what happens when I first ask him about his personal connection to the stolen Klimts. I don't get an answer. I get a sprawling mathematical equation that could fill a blackboard: Arnold plus Klimt plus Altmann equals the whole of pre–World War II Austrian cultural history.

"My grandfather knew Klimt," he begins. "Klimt supposedly had a thing for Alma Mahler, and her stepfather was Carl Moll, who becomes a big Nazi, and he knew Klimt and my grandfather very well. Alma writes in her diaries that Klimt flirted with her in her late teens, which is around the same time he meets Adele and does all these drawings of Adele. Alma takes composition lessons with Alexander von Zemlinsky, who is my grandfather's only teacher and later his brother-in-law, because my grandfather married Mathilde Zemlinsky, who was his first wife, not my grandmother. So Mathilde and Alma and Zemlinsky and my grandfather all knew each other well. Alma then knows Adele, and Maria went to school with Alma's daughter Manon, who died very tragically, which was the inspiration for Alban Berg's violin concerto, his last work, which is dedicated to her. And Alban Berg was a pupil of my grandfather. Alma's first husband, Gustav, dies, and she has an affair with Kokoschka. He paints *The Bride of the Wind* for her, then they break up and she marries Walter Gropius, then they get divorced and she marries Franz Werfl. Then they move to Los Angeles and live on Bedford Drive, which is a block and a half away from where the Altmanns first lived on Elm. All of these Vienna 1900 people all tie together."

Their connections intensified once they ended up in Los Angeles, a World War II capital of European exiles. The city's cultural life was transformed by the influx of émigré artistry, from directors (Billy Wilder, Ernst Lubitsch) and architects (Richard Neutra) to writers (Bertolt Brecht, Julius Korngold) and composers (Igor Stravinsky, Erich Wolfgang Korngold). Refugee musicians breathed new life into film scores at MGM and Paramount, and the German Jewish conductor Otto Klemperer took over the Los Angeles Philharmonic, which by 1937 was full of European immigrants.

The Schoenbergs settled in Brentwood, the Zeisls in West Hollywood. Arnold Schoenberg called California paradise, but it was far from that for Zeisl, who once listed Hitler and the sun as two of the things he hated most. Languishing in the studios before taking a teaching job at Los Angeles City College, Zeisl composed his opera about the Treblinka death camp, *Requiem Ebraico*, a year after scoring *Lassie Come Home*.

"The sense I had growing up was that Austria, the real Austria, went into exile here in California," says Schoenberg. "It wasn't as if my grandparents came to America and left Austria behind. They never stopped being Austrians. My parents' house, which is the same house my dad's father lived in, is filled with old furniture and old paintings. They all still lived in that Old World, and they all liked to talk about it. Maria Altmann is the last one left. The way she speaks, you can't hear that anymore in Austria."

So when Maria Altmann phoned Schoenberg in 1998 requesting his legal counsel in her fight to recover the Klimts, the appeal carried an extra weight: It was old Austria on the phone, his entire family tree.

At the time, Altmann was 82 and running a small clothing bou-

"AUSTRIA, THE REAL AUSTRIA, WENT INTO EXILE HERE IN CALIFORNIA," RANDY SCHOENBERG SAYS. "MARIA ALTMANN IS THE LAST ONE LEFT. THE WAY SHE SPEAKS, YOU CAN'T HEAR THAT ANYMORE IN AUSTRIA."

tique in Beverly Hills. She's since retired and now spends most of her time in her unassuming, one-story redwood home in Cheviot Hills, balancing trips to the doctor's office for a bad foot with visits from her grandsons. Altmann is usually accompanied, and fiercely protected, by her eldest son, Chuck, who does his best to shield her from the press. She invites me over when Chuck is busy with another appointment. "He's a German shepherd," she says in her old-fashioned lilt, patting down her wavy brown hair, still unbrushed after a late morning of sleep. "I had to sneak you in."

Altmann's dark and cool living room is an homage to the Europe she was born into—there's a collection of 17th-century pocket watches, scrapbooks brimming with flaking black-and-white family photographs, and up on the wall, a framed replica of *Adele Bloch-Bauer I*.

"I grew up seeing that painting," says Altmann. "It's always been a part of my life."

Altmann was raised across the Ringstrasse from the ponds and English gardens of Vienna's Stadtpark. Her mother—Adele's sister, Teresa Bloch-Bauer—was a refined socialite who had been around money since she was a young girl, mostly thanks to her father, a prominent banker.

JOE KLAMAR/AFP/GETTY IMAGES

FROM TOP: CHRIS PIZELLO/REUTERS/CORBIS; VOLKER CORRELL; HANZ PUNZ/AP/WIDE WORLD PHOTOS; HULTON ARCHIVE/IMAGNO/GETTY IMAGES

Teresa's husband, Gustav Altmann, was a lawyer by trade, but he preferred the life of a dandy—flitting from antiques shops and art galleries to concert halls and the State Opera house. Maria favored the 19th-century grandeur of the Burgtheater, where she listened to Strauss and Mahler and indulged her teen crush on the new lead in the Shakespeare company.

She ultimately fell for an aspiring opera singer, Fritz Altmann, whom she married in December of 1937. "We were the last Jewish wedding in Vienna," she says. "We took our honeymoon in Saint Moritz. My poor husband thought he could make a skier out of me. I was never very sporty."

Sundays she visited her aunt and uncle. By all accounts they were an odd couple. Ferdinand was a far-from-handsome Czechoslovakian industrialist who loved to hunt. Adele was a feisty socialist who commanded a quartet of butlers and maids and read classical German and French literature after breakfast each morning. Theirs was, in Altmann's words, "a marriage of respect," not romance.

"Adele would have loved to be a lawyer or a politician, anything but a housewife," says Altmann. "She had an incredible urge for knowledge. She wasn't somebody who stood there in the kitchen and made scrambled eggs. How she hated the ladies' teas my mother had. She was totally different from the women of those times."

Instead of teas, Adele hosted a heady intellectual salon, which attracted some of the biggest names in Vienna's cultural and political avant-garde: the writer Arthur Schnitzler, leading socialist and president-to-be Karl Renner, and the composers Richard Strauss and Gustav and Alma Mahler. Gustav Klimt, the art world's reigning bad boy, who liked to go naked beneath his painter's smock, was also a regular. Because of Klimt's reputation for sleeping with his models—many of them young Viennese prostitutes happy to spend an afternoon in his bucolic garden studio—there have long been rumors of an affair between Klimt and Adele. She is the only society woman he painted twice (by the time he finished the second portrait, the affair might have been over—sexual energy was replaced by prim formality).

CLOSING STATEMENTS: (from top) Randy Schoenberg and Altmann at LACMA; Schoenberg; the last viewing of the five Klimts at the Austrian National Gallery; Klimt and friend

Ask Altmann about the affair and she'll deny it. Then she'll wink at you.

The first two floors of the Bloch-Bauer *palais* showcased their lavish art collections, much of which Altmann's father helped pick out: antique 18th-century furniture, rare Viennese porcelain (close to 400 settings), numerous 19th-century Austrian paintings by the likes of Ferdinand Georg Waldmuller and Rudolf Von Alt, and of course, the Klimt paintings.

The fierce and radiant woman of *Adele Bloch-Bauer I* was, in part, an ideal. Adele was those things, but she was also sick, born with a slightly deformed finger, punished by chronic headaches, and eventually defeated by meningitis at 43. Two years before her death in 1925, Adele asked Altmann's father to help her draw up her last will and testament. She wrote it in longhand on four stationery sheets embossed with the palais' address.

With regard to the Klimt paintings, she wrote the following: "I kindly ask my husband to bequeath my two portraits and the four landscapes by Gustav Klimt after his death to the Austrian National Gallery in Vienna."

On a first read, Adele's intention is clear. She wanted the paintings to go to the Austrian National Gallery. But read it again. She does not bequeath the paintings to the gallery. She kindly asks her husband, "ich bitte" in the original German, to bequeath them to the gallery. Seventy years later, that slight semantic technicality—a wish that is not a command—will turn Adele's will into the most debated document in the history of Austrian art.

MARIA V. ALTMANN,

an individual, Plaintiff, v. Republic of Austria, a foreign state, and the Austrian Gallery, an agency of the Republic of Austria, Defendants. This is a convoluted tangle of a case. Its documents—thousands strong—seem, at times, like a sequel to *The Third Man*, where raised eyebrows say more than words, intentions are murky, and morals are traded on the black market. There is a David and Goliath element to it, but in case no. 00-08913 FMCAIJx, both sides claim to be David.

The leads belong to an elderly Jewish woman, her » CONTINUED ON PAGE 285

The Art of Memory

CONTINUED FROM PAGE 167 » young Jewish lawyer, and a Central European republic with a dicey past. The supporting cast includes a dense Austria–to–Los Angeles web of Janus-faced museum directors, backroom bureaucrats, millionaire ophthalmologists, assassinated Yugoslavian husbands, fire starter journalists, turncoat presidents, and sloppy Nazi lawyers.

To understand it, a plot is needed. Whether the plot tells the truth is another question entirely.

This is what we know: The Nazis hit Austria in 1938. Hitler rode into the center of Vienna's Heldenplatz to the sound of cheering crowds and the ringing of church bells. Three days later the Nazis went after the Bloch-Bauer family: SS executioner Felix Landau showed up at Altmann's door and demanded all of her jewelry, including the diamond necklace that Ferdinand had given her as a wedding present. Landau gave it to his boss, Hermann Göring, who—as the story goes—draped it around his own wife's neck.

"Everything was luxurious and fabulous," says Altmann. "And then it just collapsed."

The SS took over their apartment, temporarily held Altmann's husband at Dachau, and then made the mistake of letting the Altmanns head out to a phony dental appointment. By nightfall they had crept across the German border into Holland and were soon in Liverpool, where they stayed long enough for Fritz to get a spot singing with the local opera.

In Vienna, the Nazis were pillaging the Bloch-Bauer empire. Ferdinand fled first to Prague and then to Zurich as the Nazis liquidated his estate to pay, as one Nazi official called them, the "back taxes of the Jew Ferdinand Israel Bauer." The Nazis seized the sugar factory, turned his summer home, a castle outside of Prague, into the headquarters of chief Reich security officer Reinhardt Heydrich (who worked with Heinrich Himmler to engineer the Final Solution), and eventually sold the palais to the German Railroad.

Nearly overnight both residences of the Jewish sugar magnate had become key Nazi headquarters—the idea lab of Jewish mass death and the administrative hub of concentration camp transport.

The art left behind at the palais was also uprooted. Ferdinand's trove of 19th-century paintings was scattered throughout various Austrian museums and private collections (some went direct to Hitler and Göring; some were taken for Hitler's planned art museum in Linz), and the porcelain was sold at public auction.

After her death in 1925, Ferdinand had turned Adele's bedroom into a loving shrine, with the Klimts keeping her memory alive next to a vase of freshly cut flowers. When the palais was looted, the shrine was picked clean by Dr. Erich Führer, a lawyer whom Ferdinand, while in exile, was forced to hire in a last-ditch attempt to protect what he could of his estate. The estate never had a chance: Führer was an Austrian Nazi before it was legal to be an Austrian Nazi, and his previous clients included the seven German fascists who assassinated Austrian chancellor Engelbert Dolfuss in 1934.

Führer sent the Klimt paintings on a complicated odyssey that would later make their restitution all the more difficult to achieve. He traded two to the Austrian Gallery (they would eventually trade for a third), sold one to the City Museum of Vienna, kept one for himself, and sold another to Gustav Ucicky, an illegitimate son of Klimt's who worked for the Nazis making propaganda films.

"In Vienna and Bohemia they took away everything from me," Ferdinand wrote to his friend, the painter Oskar Kokoschka. "Not even a souvenir was left for me. Perhaps I will get the 2 portraits of my poor wife (Klimt).... I should find out about that this week! Otherwise I am totally impoverished and probably will have to live very modestly for a few years, if you can call this vegetation living. At my age, alone, without any of my old attendants, it is often terrible."

Ferdinand died in 1945, just months after the war ended. His last will left all of his property, from the palais and the Prague castle to the porcelain and the Klimt paintings, to two nieces and a nephew: Altmann, her sister Luise Gutmann (who had fled to Yugoslavia, where her husband was slain by Yugoslavian Communists), and her brother Robert Bentley, who settled in Vancouver. This is where the controversy lies. Adele's will left the paintings to Ferdinand, asking him to transfer them to the Austrian Gallery on his death. Yet Ferdinand chose not to give them to Austria. He wanted the Klimts to be in the safe hands of family.

To begin the restitution process, Bentley retained the Vienna lawyer Gustav Rinesch, who he was close with in law school. Rinesch was well-known for his wartime representation of Jewish families and was a familiar face at Bloch-Bauer functions. So familiar that he once proposed to Altmann. "He was always around," she says. "We trusted him fully."

Rinesch faced a difficult road in 1948. Recovering Ferdinand's stolen property was a nearly impossible task given Austria's less-than-sympathetic postwar restitution laws. If Jewish families wanted to reclaim what was theirs, they would have to work for it. The official line of Dr. Karl Renner, Adele's onetime friend and Austria's new president, was an indication of what survivors and heirs were up against: "The entire nation should be made not liable for damages to Jews."

"There was a sentiment of not letting these Jewish families build up their previous power within Austria again," says Schoenberg. "It's also a very Austrian way, this veil of neutrality that they have. Whenever Jews wanted, let's say, a little affirmative action in recovering their property, the Austrians say that violates the principle of equality, which was what we were fighting against with the Nazis. 'Why would we want to advantage one group over another?' They're hiding behind the equal protection principle to avoid remedying past discrimination. That's Austria's postwar history, unfortunately."

And it's the wall that Rinesch ran right into. He wrote to the Austrian Gallery asking for the stolen Klimt paintings in its possession. It wrote right back: Not only did the three Klimts belong to the gallery, but so did the two others named in the will. It based its demand on that slippery line of Adele's: "I kindly ask my husband to bequeath my two portraits and the four landscapes by Gustav Klimt after his death to the Austrian National Gallery in Vienna."

If the language of Adele's will was the first major ambiguity of the case, then what happened next was the second: Rinesch agreed to transfer ownership of the remaining two Klimts in exchange for permits that let the heirs export other Austrian paintings from Ferdinand's collection.

This is what we don't know about what happened and why. Did Rinesch understand the difference between a request and a bequest? Did he trade the paintings because he believed they belonged to the gallery? Or did he trade them because the gallery had him against the wall and he wanted to get his

clients at least some of what was rightfully theirs? Both sides point to documents that support their respective interpretations, yet both admit that the facts are opaque. There is no irrefutable evidence that shows what he knew and what he intended.

What is irrefutable is that Rinesch made the trade, and that for the next 50 years, not another thought was given to the restitution of the five Klimts that went on to grace the intimate gallery room in the Belvedere Museum. As far as everyone was concerned—everyone including Maria Altmann—the paintings that had once hung in the palais now belonged to Austria.

THERE ARE THREE WOMEN, long and lithe, each gnarled in a fetal crouch, their naked bodies curled up into themselves to ward off a lake of muddy darkness. The first is sleeping, the second is alert with one eye open, and the third is fully awake, her almond eyes staring straight ahead, as if it's her turn to keep watch. Below them is a shriveled old man, his shoulder blades jutting out like fragile fins. His head hangs down, and his hands are bound beneath his waist by a dark, briny shape—the barnacle-pocked tail of an ancient whale, perhaps, or a sea serpent slithering out of a cloud of ink. The women are either his captors or his protectors. In this world of ambiguous darks and lights, it is too difficult to tell.

Which is probably why the University of Vienna officials who commissioned Gustav Klimt to paint the ceiling of the university's Great Hall were so disappointed. They asked for a grand, redemptive vision of the law, and Klimt gave them *Jurisprudence*, the law as looming shades of gray. The Austro-Hungarian Empire was crumbling, and world war was advancing over the hill. But something even bigger lurked ahead: the end of the law as a given. Only three years into a new century, Klimt had seen the future of justice, and it was a sea serpent in a cloud of ink.

Klimt started *Jurisprudence* in 1903 and completed it in 1907, the same years he spent on *Adele Bloch-Bauer I*. It is as if Klimt needed the one to paint the other. Where *Adele* is assured and luminous, *Jurisprudence* is skeptical and riddled with fear. Where one is blissfully blind to a coming doom, the other sees it all too clearly and can't look away.

That doom finally began to vanish in 1997, when paintings by Klimt's onetime disciple, Egon Schiele, revived debates about looted art. Two Schieles on exhibit at the Museum of Modern Art in New York—on loan from the private collection of Austrian ophthalmologist Rudolf Leopold, which was purchased by the Austrian government in 1994—were alleged to have been stolen by the Nazis and never returned to their original Jewish owners after the war.

The claims surrounding the Schiele paintings triggered a series of investigative articles by Vienna's leading leftist journalist, Hubertus Czernin. He discovered that the Schieles were not the only misappropriated paintings. Czernin was granted unprecedented access to government records and found that many works in the Belvedere Museum, including the Klimts that once hung in the Bloch-Bauer palais, were not donated by their Jewish owners but extorted from them. Czernin's reporting forced Austria's minister of culture and education to draw up a new restitution law: the Federal Statute on the Restitution of Art Objects from the Federal Austrian Museums and Collections.

The law began with the following provision: "The Federal Minister of Finance is hereby authorized to transfer objects of art of the Federal Austrian museums and collections...to the original owners or their legal successors mortis causa/by inheritance without consideration." Specifically mentioned were pieces transferred to the Federal Republic in exchange for export permits, a category that Czernin believed applied directly to the Klimt paintings that Rinesch traded to the Austrian Gallery.

In 1999, Czernin faxed a ream of documents to Schoenberg, who had just been hired by Altmann to represent her against Austria. The case was quickly becoming his primary obsession, and a year later he established his own law firm to better focus on it. Soon he was representing not only Altmann but three of the four remaining Bloch-Bauer heirs who had assigned their claims to her as well: her nephews Frances Gutmann and George Bentley and her relative Trevor Mantle.

The new documents from Czernin gave Schoenberg all the ammunition he needed. They indicated that, contrary to what the Austrian Gallery had previously told the heirs, it had doubts about the rightful ownership of the Klimt paintings. In a 1948 letter to his predecessor, gallery director Karl Garzarolli expressed his concern over the museum's right to the paintings: "I find myself in an extremely difficult situation," he wrote. "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."

He ended the letter as if he were staring at *Jurisprudence*. "The situation is growing into a sea snake."

Of all the documents Czernin uncovered, the most important was a faxed copy of Adele's will, which Altmann had never seen before. "It had become family lore that Adele had given the paintings away," says Schoenberg. "That, of course, was a misunderstanding of the will."

Altmann later acknowledged as much in her deposition. "If I would have known that my uncle was the owner of the paintings," she told the court, "I would have done something about it."

Schoenberg's reasoning went like this: The gallery would never have traded the export permits for the paintings if it believed it had a sure legal claim. Why not simply take what was theirs? To Schoenberg, the documents and the new law presented a new opening.

But when it came time for the Austrian ministry to issue an award under the 1998 law, it continued to cling to its interpretation of Adele's will. It granted only 16 drawings and 19 porcelain settings. The Klimt paintings weren't going anywhere. Altmann was stunned.

"My point through the whole thing was just apply your own law," says Schoenberg, his voice accelerating. "Your own law says that if a painting is donated in exchange for export permits, you will give it back. So our argument was these paintings were donated in exchange for export permits. That's a legal issue, a factual issue. Let's decide it. If you're right, you get to keep them. If we're right, we get to keep them. Yet Austria did not give us a vehicle to decide that. So we had to go through U.S. courts."

Schoenberg's initial 40-page complaint is surprisingly a page-turner, reading at times like the transcript of a war-crimes trial and at other times like a manifesto of Jewish activism. He keeps the case rooted in the specific events of World War II: The Bloch-Bauers were Jewish, Altmann is Jewish, the Holocaust happened, and Austrian anti-Semitism

did not stop when the war did. Losing the case, he all but implied, would be another Nazi victory.

"I got a few digs in," he says with a twitch of a smile. "In the complaint, I definitely wanted to set a tone for the litigation. I wanted someone reading it to be outraged. There are a lot of lawyers who like to hold back their arguments until the right time, and usually that time never comes. I generally like to blow everything right at the beginning."

The strategy worked, and the court saw history through Schoenberg's eyes, ruling in his favor. The Austrian government appealed all the way to the U.S. Supreme Court in 2004, insisting that U.S. law had no jurisdiction over a sovereign foreign state.

"There was actually little pressure on me," he says of his Supreme Court debut. "Nobody expected me to win. I was there just to not look bad. That was the goal."

Yet before he even finished his opening statement, he was interrupted by Justice David Souter.

"He asked me this convoluted question, and I literally had no idea what he had just said," says Schoenberg. "It was completely incomprehensible. Everyone was waiting for me to answer. And I said, 'I'm sorry, I didn't understand what you said,' and all of the justices all smiled like, 'Don't worry, he does this all the time, and thank God you asked because we didn't understand him either.' It was a great icebreaker. From then on, it went like a dream."

Three months later, as he was preparing to take his kids to school, he got the call. He had won and could now proceed with Altmann's lawsuit against the Austrian government. Yet instead of going to trial—which Schoenberg knew could take far longer than his 89-year-old client was prepared for—he accepted the Austrian government's request to have the case reviewed, in Austria, by an arbitration panel. The deliberations lasted three months.

"It was high-stakes poker, basically," he says. "It was all in on these three arbitrators. It was a huge gamble. Which is funny, because I am very risk averse. They used to call me Captain Cautious because of the way I walked."

On January 16, 2006, Captain Cautious gambled again and lost $60 at a neighborhood poker game. He came home disappointed and then climbed into bed. He checked his BlackBerry before turning out the light. The arbitration panel had decided in his favor.

He spoke in German to the Austrian press until the sun came up. Then he called Maria Altmann to let her know she would finally be reunited with her aunt Adele.

During the seven-year saga of *Maria V. Altmann v. Republic of Austria*, there was only one moment when Schoenberg felt overwhelmed. Not the births of two children. Not the long office hours he logged or the flights back and forth to Vienna. Not the Holocaust memorial speech he was asked to give in front of 2,000 school children. Not the banquet talks at Jewish fund-raisers or his roast by the Beverly Hills Bar Association when they named him "Outstanding Attorney for Justice."

Instead it was back in 2000, when he was invited to Washington, D.C., to join in the negotiations for the establishment of Austria's General Settlement Fund. A joint venture between the U.S. and Austrian governments, the fund was set up as a multimillion-dollar restitution purse to award claims to Austrian-Jewish Holocaust victims and their heirs.

Schoenberg was proud to be there, but as the negotiations began, he came to feel that the representatives of the U.S. State Department understood little about the Austrian people he grew up with and whose legal claims he was now representing. The settlements were being approached merely as monetary rewards, not as testaments to a lost world.

At the lunch before the bill's official signing ceremony, he grew upset as he listened to the politicians thank each other without ever mentioning the group of survivors who had been invited to witness the event.

He was there as a prominent lawyer, but it was the grandson who raised his hand and asked to speak.

"I started to talk about my family," he says. "The community that produced Freud and Mahler and Schnitzler and on and on. I knew these names meant nothing to the people I was talking to, and I started crying. The culture was so important to my grandmother, the people, the history, and it had all come down to this, this mediocre—these people, who didn't have any real understanding of what it was they were dealing with. That's when this whole thing started taking its toll. I mean, who was I? I was 34 years old. Was I the only one left who was going to speak about this? Shouldn't there be someone 70 or 80 years old pounding the table and saying you guys don't know what you're talking about? That was the big moment for me. To think that I was representing all of them."

GOTTFRIED TOMAN is holding up a photocopy of Adele Bloch-Bauer's last will and testament. His thin beard is finely manicured, and his skin glistens like it's been freshly moisturized. The heat of the Vienna summer afternoon has penetrated his sparsely decorated office in the 17th-century palace that houses the Austrian state attorney's office, for which Toman serves as the director. Toman was the principal consultant to the education ministry that refused to release the Klimt paintings to the Bloch-Bauer heirs.

Six months have passed since the panel decided in Schoenberg's favor, and Toman remains critical of the outcome. It's clear that Toman is angry, and equally clear that he will never show it publicly. His voice never rises above a diplomat's careful monotone, and he saves his cruelest digs for strategic off-the-record asides. No matter how hot it gets in the room, his yellow necktie stays perfectly knotted.

"Mr. Schoenberg—I think his best move in this case was to make the public believe this was a Holocaust restitution case," he says. "Which is definitely not right. This case deals with the interpretation of the last will and has only a very slim level to do with the history of World War II. To say that if Adele Bloch-Bauer had known that the Nazis would take over in 1938 and destroy her home and plunder her collection—of course that's an argument. But you can't use that to read her last will."

Of the volumes of documents associated with the case, Toman believes two are the most important: the will and a 1948 letter from Rinesch to Garzarolli of the Austrian Gallery. In the letter Rinesch writes that the heirs consider the transfer of all five Klimt paintings to the Austrian Gallery as fulfillment of Adele's last will. For Toman, it is proof that there was no forced deal in 1948 and that even the heirs believed Adele's will to be binding.

"She wanted in the lifetime of her husband that the paintings should remain with him, but then they should be handed over

to the Austrian Gallery," he says. "It's very clear that it is a legacy. Of course you can speculate if it was correct that some paintings were handed over to the Austrian Gallery before Ferdinand Bloch-Bauer passed away, but does that change anything? And if so, why was there never even the slightest request for restitution after World War II? Many other families tried and tried again to get their property. But here, there was a gap between 1948 and 1999."

More than once in our conversation, Toman intimates that the 1998 law did not offer a window on justice for Altmann, but a window on what might politely be called opportunity. He never says it—he's far too guarded—but it's hard not to hear ancient anti-Semitic echoes, as if the only reason Altmann wanted the paintings back was to fill her bank account. That was Hitler's belief all along: Show the Jews culture and all they see is money.

I share my reaction with Ingo Zechner of the Jewish Community of Vienna, the city's main Jewish organization, and he tells me about the responses to the case he observed on a number of Internet forums. "Many people welcomed the restitution, and there was lots of criticism of the Austrian government," he says over an afternoon coffee just off the former imperial main drag. "But as soon as the value of the paintings was announced and they refused to sell them to the Austrian government for 30 million euros, the Internet sites were full of anti-Semitic postings. It doesn't take much here for a situation to change like that."

A similar moment occurred in 1999 when the new restitution law returned property to the heirs of the Rothschild fortune. When they turned around and put it all up for auction, the Austrians went wild with criticism. It's a contradiction that rankles Schoenberg.

"Rich Austrians hawk their property all the time, but Jews can't?" he says. "What do you do when you've inherited ten suits of armor and a collection of old Roman coins and you're living in a small apartment? One of the possibilities is that you call Christie's and have the biggest single collection sale that there's been, and then we can put the money in more valuable things than suits of armor. It's always a matter of putting yourself in the person's shoes. You can't understand the Rothschilds' position if you're an Austrian who thinks they're rich, greedy Jews."

Modern Austria has never been too comfortable with its Jews—even the poor ones. Anti-Semitism was rampant under the Hapsburgs, and while Jews were granted full rights of citizenship in 1867, it was Vienna's turn-of-the-century mayor Karl Lueger who got to draw the lines of Jew hatred. "Wer ein Jud' ist, bestimme ich," he famously proclaimed. "I decide who is a Jew." Even after the Holocaust these sentiments were in play, whether it was the revelation of Kurt Waldheim's Nazi past in the '80s or the subsequent rise of right-wing Freedom Party leader Jörg Haider, the son of Nazis who was never shy about his support of SS vets.

"The Bloch-Bauer case was very important not just for the Jewish community but for how all of Austria sees its past," says Zechner. "It's as if nothing ever happened. That's the point of view of the government and the ministry officials, and that's the problem of Austria dealing with its past. They cannot admit that there has been a major Austrian problem, not just one of foreign occupation between 1938 and 1945, but of being responsible for the looting of property, for the deporting of Jews, for the killing of Jews."

At least one Austrian art expert has suggested that Altmann was victorious only because Austria was about to assume the presidency of the European Union and couldn't afford an international backlash. Yet Toman gives all the credit to Schoenberg and the way he framed the case in the American media. Toman's favorite example is Schoenberg's use of a 1941 letter from the director of the Austrian Gallery that was signed "Heil Hitler." "To the world of Southern California, you have only to say Austria and everyone is focusing on the country of Mr. Haider and Mr. Waldheim, so nobody is really interested anymore in facts," says Toman. "You have to show only a piece of paper that was signed 'Heil Hitler' and it will work perfectly, and that's the way it worked."

After the war Austria clung to what many call "first victim theory"—Austria as the first victim of Nazi power—an attitude that kept its own culpability at bay while feeding the country's image of itself as puny, helpless, and perennially subject to abuse by foreign powers. The idea that Austria might have been a perpetrator of Nazi power didn't enter the public consciousness until 1986, when a set of articles by Czernin forced Waldheim out of the Nazi closet. The two views of history still polarize Austrian political debate.

"The sin of the postwar generation was to paint a simple picture and live with it," says Frederick Baker, a British-Austrian filmmaker who's made four documentaries about Austrian politics. He's sitting at a packed outdoor café above the sprawling, lush green lawns of the Burg gardens. Midnight passed two hours ago, but a DJ is playing silky house music for young Vienna night owls. Baker sees the Bloch-Bauer case as highlighting a divide between a politically antiquated postwar mentality and a new generation that understands the importance of restitution.

"There was a consensus that was broken in 1986 with Waldheim," he says. "He was a symptom of Austria of that time. He didn't see the big picture just like the education minister didn't see the big picture with the Klimts. She wouldn't negotiate. She was, in a sense, trying to put herself forward as a victim. It's suffering—look, we're losing these paintings and we can't stop it because in the end we are too poor and America is rich and we're just a little country. It's victim status all over again."

It was a perception that was only compounded in June, when Adele's portrait was sold to Jewish philanthropist and art collector Ronald Lauder, whose Neue Galerie in New York City specializes in 20th-century German and Austrian art. The portrait's $135 million sale price, to be divided up between Altmann and the three other heirs, was reportedly the highest ever paid for a painting. The remaining four paintings are together estimated at more than $100 million and will be auctioned off at Christie's this fall.

"One of the sad things about all that's happened with these paintings is that it's once again about objects, not people," says Baker. "The culture that was lost is far more important than this fetishization of objects. What is far more appropriate is telling people's life stories. How did they contribute? What did they do? Who were they?"

Back in Cheviot Hills, Altmann is bundled up in a turquoise bathrobe, elevating her bad foot on a kitchen chair. The talk of money doesn't even make her put down her morning toast.

"Once the money comes, I would love to help my grandson go to graduate school," she says with a chuckle. "I'm driving a '92 Ford, which is an embarrassment. But still, I'm not changing anything, not the house, nothing."

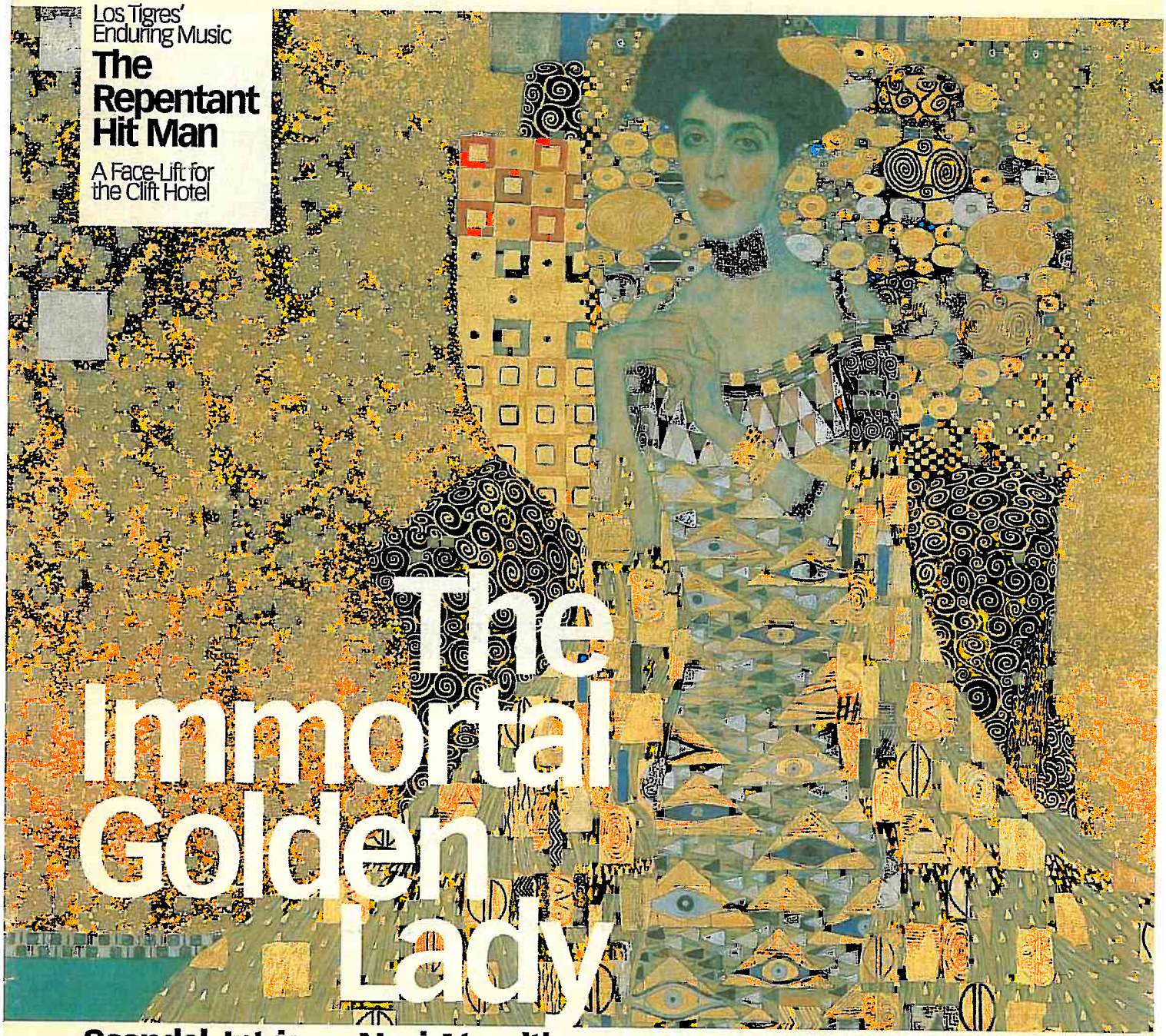
LA

Los Angeles Times Magazine
December 16, 2001

Los Tigres' Enduring Music

The Repentant Hit Man

A Face-Lift for the Clift Hotel



The Immortal Golden Lady

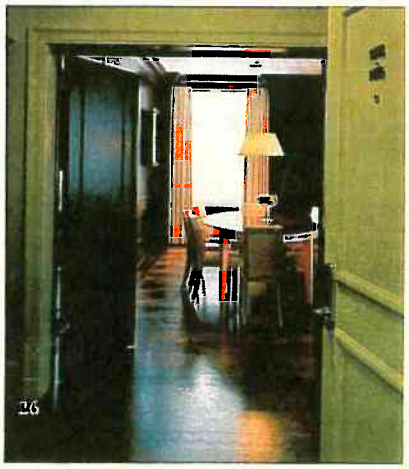
Scandal. Intrigue. Nazi Atrocities.

100 Years After He Started His Work, Gustav Klimt's Portrait of Adele Bloch-Bauer Is More Incendiary Than Ever.

By Anne-Marie O'Connor

features

Next Week in the Los Angeles Times Magazine
The magazine will not be published for the next two weeks because of the Christmas and New Year's holidays. The magazine returns Jan. 6.



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Whose Art Is It Anyway?

Gustav Klimt's Portrait of Adele Bloch-Bauer Hangs in Austria's National Gallery. Now Her Family Wants It Back.

By Anne-Marie O'Connor

A painting, reduced to canvas and cadmium, gesso and wood, is not worth much. It is the genius behind the image that imbues it with value. Its meaning cannot be divorced from history.

You have seen this painting somewhere. The portrait of the sultry woman surrounded by gold is one of the most famous in the world. You may not remember the name of the artist. Perhaps you never knew it. But you remember the woman's face, pale as a diva of the silent screen.

The face keeps resurfacing, on key chains, paperweights, even clogs. People who know nothing about this anonymous woman, or the outrage the artist aroused, are still seduced by her enigmatic smile, by the painter's shimmery language and by the sheer sensuality of art.

A few observers might recognize her as an icon of turn-of-the-century Vienna. A woman who rushed to embrace new ways of experiencing art, music and the human psyche while the rest of the world was still adjusting its eyes and ears.

They recognize Adele Bloch-Bauer, one of the patronesses of the arts, most of them Jewish, whose husbands commissioned portraits by the brilliant artistic heretic Gustav Klimt. Perhaps they recall some of her story.

Didn't people once whisper that Adele and Klimt were lovers? Didn't she die young, before Adolf Hitler ravaged her world? Isn't this painting caught up in the international imbroglio over art looted by the Nazis?

This is the story behind the paint on the canvas. It begins in the tumultuous world of *fin-de-siecle* Vienna and leads to turn-of-the-century Los Angeles, where the value and meaning of this work of art is being debated as fiercely today as the moment it was unveiled.

IT IS A WEEKNIGHT IN WESTWOOD, AND A CORPS OF COMMITTED ART lovers is crowded into a Klimt lecture at the UCLA Hammer Museum. A slide of the "Portrait of Adele Bloch-Bauer" looms above them like a ghost. Yes, she is beautiful, an Austrian art expert tells the audience, but her face betrays her longings and desires far more than was acceptable for a woman of her time.

Her willowy form is trapped behind the gold armor covering the surface of the painting, just as Vienna's hidebound society contained the forces of modernism straining against it a century ago. Adele, the lecturer says, was a princess of the Vienna avant-garde, one of Klimt's most illustrious co-conspirators.

Just a few miles away, in Cheviot Hills, Maria Bloch-Bauer Altmann, Adele's niece, carefully hands me a Viennese coffee brimming with whipped cream. Once a belle of Vienna, Maria is 85 now, and a widow. She is gracious and warm, the kind of woman referred to in another era as a grande dame. And she is suing the Austrian government, and its national art museum, to recover the portrait of her aunt and five other Klimt paintings.

Maria pauses a moment, trying to decide where to start.

"It is a very complicated story," she begins in an elegant Old World accent, sitting down in her sun-dappled living room. "People always asked me, did your aunt have a mad affair with Klimt? My sister thought so. My mother—she was very Victorian—said, 'How dare you say that? It was an intellectual friendship.' "

Maria looks up at a reproduction of Adele's portrait on the wall, regarding her face thoughtfully.

"My darling," she says finally, "Adele was a modern woman living in the world of yesterday." She was one of those people who are put on earth to ask uncomfortable questions, to imagine the unimaginable, to push history forward.

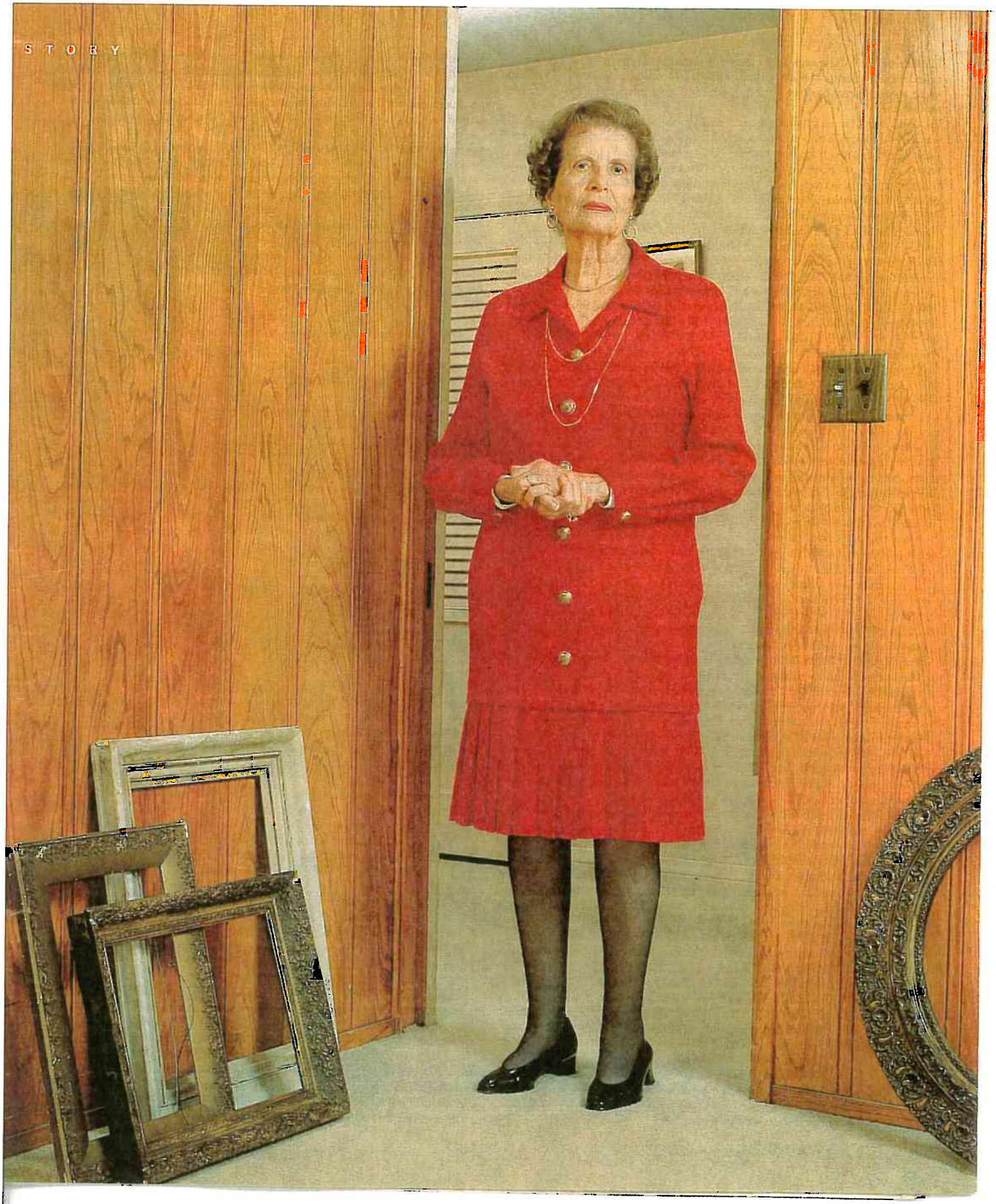
She was born Adele Bauer in August 1881. Her father was Jewish financier Moriz Bauer, general director of the seventh-largest bank in the Austro-Hungarian empire. Restrictions on Jewish settlement in Vienna, a metropolis of nearly 2 million when Adele came of age, had relaxed. A community of a few thousand Jews had swelled to nearly 1 in 10 Viennese. Wealthy Jews were among the city's most prominent citizens and generous philanthropists. A few, like the Rothschilds, were even given titles by the Hapsburg monarchy. They were, in the words of Czech novelist Milan Kundera, the "intellectual cement" of Middle Europe.

Adele grew up in luxury; she was poised and arrogant and seemed perfectly cast in the role she was born to play: privileged society woman. But she was also intellectually precocious. What she really wanted was to study.

It was an unlikely aspiration. There was no high school for girls in Vienna. Respectable women didn't frequent cafes—Vienna's most populist cultural hubs—where the men table-hopped, smoked and argued in German, Czech, Hungarian, Italian, Polish and Russian.

"[Adele] wanted to go to the university. She wanted to work in an

PHOTOGRAPH BY MICHAEL KELLEY



intellectual job," Maria says. "But that wasn't done at the time by women of her so-called social position. So she married, at 17, just to get out of the house. They had great respect for each other, but I don't think there was any love, definitely not on her side."

Adele wed a Czech sugar magnate, Ferdinand Bloch, a man twice her age. It was a good match, if not a particularly romantic one. Ferdinand was a cultured man; one of his best friends was a revered Czech intellectual, Jan Masaryk, who was on his way to becoming his country's first president. Ferdinand was also a wealthy man of a nouveau riche class unburdened by artistocratic convention, though he had acquired some aristocratic trappings—a summer castle near Prague—and, perhaps, some pretensions. A sepia photograph shows Ferdinand in a fashionable Hapsburg pose, in a hunting costume with a rifle and a downed stag.

Adele's betrothal was viewed as a joining of dynastic families, an impression strengthened by the fact that Adele's sister, Therese, had married Ferdinand's brother Gustav. Adele and Therese's four brothers had died—of tuberculosis, cancer, even a duel—so the Bloch brothers agreed to a joint surname.

Adele and Therese, Maria explains, "were as different as night and day." Therese was charming and flirtatious, thrilled to lead the waltz at the annual ball of the concert hall. But "the balls bored Adele to death!" Maria recalls. "She was only interested in intellectual gatherings."

The Bloch-Bauer brothers, too, were opposites. Gustav, a lawyer, was the bon vivant who spent his nights at the opera and his days in cafes. Ferdinand was a workaholic with a passion for hunting, art and politics—and for his beautiful teenage bride.

Ferdinand delighted Adele, shortly after their marriage, by commissioning a portrait of her by Gustav Klimt. It was no small gift. A Klimt commission, at the time, cost a quarter of the price of a well-appointed, furnished country villa. Klimt was the painter of the moment, the bête noire of the Austrian cultural establishment. He bit the hand that fed him by answering a prestigious state art commission with imagery so erotic and deviant that it is startling even today. Yet such high jinks endeared him to Vienna's emerging intellectual class; his paintings of prominent women conferred a mutual cachet akin to a Warhol pop portrait.

The artist's libidinous charms were almost as famous as his irreverence. Vienna femme fatale Alma Mahler credited Klimt with her sensual awakening. His mistresses were legend, and people said he wore nothing at all under his painter's smock.

Klimt made several studies of Adele—starting as early as 1900— then more, until there were hundreds of sketches. Adele and Ferdinand became habitués in Klimt's circle, a coalescing new world peopled by Gustav and Alma Mahler and their friend Arnold Schoenberg, who was conceiving the atonal symphonies that would startle the world in just a few years.

People couldn't help noticing that Adele and Klimt shared a special rapport.

Perhaps it was this friendship that allowed Klimt to capture Adele's restless spirit with his shimmery 1907 portrait. When it was unveiled in Vienna, it was an immediate sensation. A newspaper said the painting elevated Adele to "an idol in a golden shrine." Critics compared its gold leaf surface to Greek Orthodox icons. To others, the metallic crust suggested the hard, glittering surfaces of upper-class society and the fragile humanity underneath. At 26, Adele was an instant celebrity.

The portrait put her in the company of some of the most remarkable women of her time: art patronesses, orchestrators of salons where famous composers mingled with such remarkable women as pioneer female journalist Berta Zuckerkandl, who embraced Klimt as the creator of a modern image of women. Klimt may have been shunned by arts bureaucrats, but this son of a failed gold engraver was now ensconced in an admiring and generous circle of patrons. Klimt assured his reputation in 1908 with another sensual gold painting, "The Kiss," an image of a man embracing a woman who bore a strong likeness to Adele. People saw a likeness too in Klimt's gold portrait of Judith, the biblical femme fatale, whom he cast as a bare-breasted sexual *provocateur*. This Judith wore the same gold collar Adele wore in her portrait.

Some see these as clues. But others believe Klimt and Adele enjoyed nothing more than a deep friendship misunderstood by a society unaccustomed to intellectual bonds between men and women.

Art historians were not the only ones left to sort out the waltz of intimacies.

The indiscretions of the Vienna intelligentsia were open secrets. If Schoenberg's atonal compositions provoked scuffles at 1908 premieres, his marriage raised no less a ruckus. His wife Mathilde was involved with the young painter Richard Gerstl, who took his life when she went back to her husband.

Publicly, though, decorum was as rigid as the gold mosaic on Adele's portrait. Viennese playwright Arthur Schnitzler mapped out the tensions of this social schizophrenia in a story, made into the Stanley Kubrick film "Eyes Wide Shut," of how one man's fears of his wife's infidelities become inseparable from reality.

In this confusing milieu, Sigmund Freud became the confidant for the sexual anxieties of a generation of Vienna women. And Klimt's studio became a refuge for Adele and her friends, who hung around to talk and drink coffee. In a puritanical society hostile to the body, Klimt's world was a haven of sensuality.

MARIA, THE YOUNGEST CHILD OF THERESE AND GUSTAV BLOCH-BAUER, REMEMbers her aunt in a long black dress, a gold cigarette holder dangling defiantly from her hand in the Vienna drawing room where Adele staged her famous salons. Adele would hold forth from one of her gilt Empire chairs, framed by glass cabinets filled with porcelain gilded with the mythical heroes and beasts of ancient Greece and Rome. She told people she was an atheist. To Maria, she was glamorous, aloof—and more than a little intimidating. Less evident to a child like Maria were Adele's disappointments: Her attempts to have children ended with two stillborn babies and a son, Fritz, who lived only three days.

Gustav Klimt, circa 1904, above. The painter's patroness, Adele Bloch-Bauer, in 1910, right.

"She blossomed when she was with people who were learned," Maria says. But "she was not what you would call a happy woman."

Yet Adele had succeeded in becoming an anchor of Vienna's artistic life. Klimt had died by then, after a stroke in 1918, and there were new faces in her salon, such as Richard Strauss and Chancellor Karl Renner, a Social Democrat who became president of Austria after World War II.

If other, unseen impulses still laid claim to Adele's heart, they never strayed far from her ideals. Adele was now a socialist. Maria still remembers how Adele's maid warned a relative to remove a stack of letters from her mistress's bedside. The letters were from a progressive champion of Vienna's poor, one of the people—dismissed as "Jew lackeys"—who helped earn the city the nickname "Red Vienna." Adele was reading the letters while ill on a winter day in 1925. She put them down and drifted off into a feverish coma. She died a few days later, at 43, of meningitis.

Her cerebral brand of existentialism left a lasting impression on Maria, who still has a letter Adele wrote to Maria's brother Robert: "If fate has given me friends who may be counted intellectually and ethically as extraordinary, then I owe these friendships to one of my main qualities: the strongest self-criticism.

"You have to learn to see. If you can appreciate what has quality and what is worthless in art,' you will appreciate it in people," Adele wrote, signing her letter: "Hugs from your Buddha."

After Adele's death, Ferdinand complied with her wishes, detailed in writing in 1923, that he donate money in her name to workers' movements and orphanages. Adele had also asked her husband to donate the Klimts to the Austrian Gallery upon Ferdinand's death—a request that would have lasting repercussions.

Ferdinand never really stopped grieving. He turned Adele's bedroom into a shrine. He instructed his servants to keep fresh-cut flowers in vases by Adele's bed. He hung the gold portrait in the room along with a less-idealized 1912 Klimt painting of an older Adele, her teeth stained by smoking, that some would call evidence of the end of the affair. They were flanked by other Klimts, one a landscape of the gardens of Ferdinand's Czech castle. On Adele's bedside table, Ferdinand left a photograph of the artist, smiling, a kitten in his arms.

For years, Ferdinand would visit the room and gaze at the portrait of the bride he had outlived, and of the golden moment when Vienna rivaled Paris, and Austria boasted the glittering prophets of intellectual and artistic modernism.

RANDOL SCHOENBERG, A LOS ANGELES LAWYER, PACES AROUND HIS WILSHIRE Boulevard law office. Kinetic and intense, he yanks art tomes and history books from his shelves to illustrate his points. Framed by a view of the Santa Monica Mountains, Schoenberg spreads a century of photographs on his desk as though he is introducing the cast of a Russian novel.

As if on cue, a Fedex man shows up with Austria's appeal of a federal judge's decision to allow the case to go forward in U.S. District Court in Los Angeles. Lawyers for the defendants, the Austrian Gallery and the government of Austria, are appealing that decision to the U.S. 9th Circuit Court of Appeals. Maria is demanding the return of six Bloch-Bauer Klimts owned by the Austrian Gallery—which she values them at $150 million—or just compensation. Both sides are scheduled to return to the appeals court in February. The Austrian appeal is as thick as a phone book. Schoenberg flips through it and scoffs.

"It's all about jurisdiction," he says. "How sad."

If cases like this actually can be won or lost on petty-sounding technicalities,

Anne-Marie O'Connor is a Times staff writer.

Klimt's Studio Became a Refuge for Adele and Her Friends.

In a Puritanical Society Hostile to the Body,

Klimt's World Was a Haven of Sensuality.

Schoenberg, 35, doesn't want to hear it. His grandfather, the composer, fled rising Nazi hostility in Berlin in 1933.

While the Austrians have concentrated on trying to get the lawsuit dismissed, saying U.S. courts lack jurisdiction, Schoenberg is focusing on whether the Bloch-Bauers actually willed away the Klimts.

The Austrians say Adele bequeathed the paintings to the national gallery for delivery after Ferdinand's death. Schoenberg says her request had no legal authority, and that the art was seized by the Nazis seven years before Ferdinand's death, violating the terms. The only valid document, Schoenberg argues, is Ferdinand's will written in exile in Switzerland in 1945—and he named Maria and two siblings as his heirs.

At lunch in Los Angeles, the Austrian ambassador to Washington, a portly, amiable diplomat named Peter Moser, says he can see why the Bloch-Bauers are still upset. "You remember the atrocity, the brutality and the humiliation, and it's hard to see it in a strictly legal way," Moser says.

He had no precise details on how the paintings, "by coincidence, ended up in the gallery, where the will said they should."

"It's a legal dispute. It's not a Holocaust-related claim," Moser says. "It should be tried in Austria."

Maria did try to settle the case in Austria. In 1999, an Austrian minister granted the family 16 Klimt drawings of Adele and 19 pieces of Ferdinand's porcelain, but denied the Klimt paintings, saying Adele willed them to the museum.

Maria wanted to file a case on the paintings in Austrian court, but the law required a deposit of $1.8 million based on the value of the Klimts. Schoenberg got it reduced to the equally unaffordable $500,000. Last year, Schoenberg filed the case in U.S. District Court.

Maria sold 11 of the recovered porcelain pieces for $100,000 to pay Schoenberg's former law firm—a lot of money for a retired dress shop owner who still works part time from her home selling clothes to older women.

Today, Maria is wearing pink, a silk scarf over her rose sweater, her warm serenity a contrast to the glittering but cool characterizations of her aunt. She appears from the kitchen with a plate of tiny sausages, a lovely gesture, but so Old World. No one serves sausage in Los Angeles. She's describing her August trip to Vienna. There a guard at the Austrian Gallery tried to stop her from being photographed with the portrait of Adele. "I told him, 'that painting belongs to me,' " Maria says, with a feisty smile. "They delay, delay, delay, hoping I will die. But I will do them the pleasure of staying alive."

Maria may have inherited something from her aunt after all.

IF KLIMT AND SCHOENBERG WERE AUSTRIAN PROPHETS OF THE 20TH CENTURY, so was Adolf Hitler.

Like Trotsky, Hitler came to Vienna in 1907. Born in a small Austrian town near the Bavarian border, Hitler had been studying in Linz, where schoolchildren shouted out "Heil," a signature salutation adopted by anti-Semitic Austrian politicians.

Hitler was dismissed from high school for bad grades. He headed to Vienna and its famous Ringstrasse, where he gazed at the lights and the well-dressed people and vowed to become a member of this charmed circle of high culture parading into the opera.

But when he applied to the Vienna art academy, he failed the drawing exam. He moved into a homeless shelter and immersed himself in Austria's rising anti-Semitic politics, which embraced the swastika symbol, advocated tattooing gypsies and called for segregating the "master race" from Austrian Jews. Such anti-Semitism prompted Gustav Mahler to leave Vienna for a post at the New York Metropolitan Opera in 1907.

Despite such fertile soil, Hitler's destiny failed to take root there. Rejected by the Austrian army for his weak physique, he enlisted in Germany and applied for citizenship. He would return in 1938.

Maria Altmann can't remember hearing an anti-Semitic slur during her sheltered childhood in the 1920s and '30s. Her family lived in a fashionable district of the city. Her sister and three brothers were waited on by a cook, kitchen maid, chambermaid, and butler. Maria was looked after by a beloved governess, Emma, a young Lutheran woman from Poland.

She shows me fragile pages of an old leather book filled with black-and-white photographs. Here is one of Maria Bloch-Bauer, a girl becoming a woman, at the opera, smiling behind the long red velvet curtains of a private balcony. In another, the year of her debutante ball, she is draped in an off-the-shoulder silk organza gown, with the provocative stare of a starlet. Like her mother, Maria was a bit of a flirt.

"I was so spoiled," Maria sighs.

Now her eyes linger on another photograph, of herself in an ivory wedding gown, kneeling before a white marble fireplace with gilded Corinthian detailing. She is surrounded by roses.

In December 1937, Maria married Fritz Altmann, a friend of her brother Leopold. Maria's uncle Ferdinand presented Adele's diamond necklace and earrings as a wedding gift. The couple honeymooned for a month in Paris and St. Moritz, returning to a new apartment in Vienna, where they lived as newlyweds for 10 days.

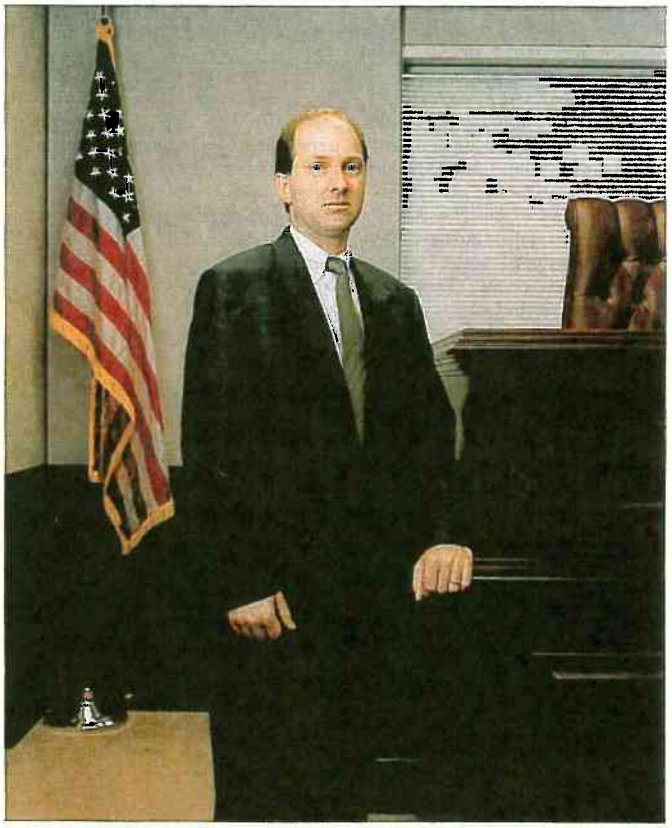
MANY PEOPLE KNOW ABOUT HITLER'S INVASION OF AUSTRIA FROM "THE SOUND of Music," a Disneyesque fable where evil Nazi storm troopers strong arm a noble and unwilling nation. The reality was far less flattering.

When Hitler marched into Austria on March 12, 1938, many Austrians embraced the Nazis, a welcome that encouraged Hitler's decision to declare the Anschluss, or union of Germany and Austria, a day later. The news was shouted up from

"They Say Now Austria Was a Victim of the Nazis," Maria Says.

"Believe Me, There Were No Victims.

The Women Were Throwing Flowers, the Church Bells Were Ringing. They Were Jubilant."



L.A. attorney Randol Schoenberg, grandson of the composer, is representing Adele's relatives in their court fight over the Klimt paintings.

the streets as Maria watched her father play cello in his string quartet.

"They say now Austria was a victim of the Nazis," Maria says, shaking her head scornfully. "Believe me, there were no victims. The women were throwing flowers, the church bells were ringing. They welcomed them with open arms. They were jubilant."

Maria was in her apartment when she noticed some Nazis outside, pushing her new car from the garage. Next a Gestapo officer rang the bell and demanded her jewelry. He took her engagement ring from her finger. Adele's diamond necklace was handed over to Hitler's right-hand man, Hermann Göring, as a gift for his wife. Maria's Uncle Ferdinand was in Czechoslovakia, so no one but the concierge witnessed the Nazis sacking his Vienna *palais*—just across the square from the art academy that rejected Hitler.

Ferdinand Bloch-Bauer's art collection was so enormous and important that Nazi officials, including representatives of what is now called the Austrian Gallery, convened a meeting to divide it up. Hitler himself got a Waldmüller painting of an Austrian prince. Hitler's leading art agent, Hans Posse, "bought" a Rodin owned by Bloch-Bauer at a discount for the Führer Museum Hitler wanted to build in Linz. A Munich bank owner, August Von Fink, acquired other Bloch-Bauer paintings for the Linz museum. Others, by Dutch Master Meindert Hobbema and Hans Holbein the Younger, were passed around. In the end, according to Nazi art theft expert Jonathan Petropoulos, "Hitler acquired more art in the limited amount of time than any other collector in history."

Like most Austrians, Hitler had no eye for avant-garde Austrian artists and was most interested in Ferdinand's Austrian Masters collection. Some Nazis frowned on the "philoSemitic Klimt," but the more sophisticated recognized his significance. The Austrian Gallery snapped up the gold portrait of Adele. A Nazi lawyer, Erich Führer, sent it over with a cover letter signed: "Heil Hitler."

"And then," Maria says, "they took away my husband."

MARIA ALTMANN'S EYES DARKEN AND HER FEATURES TAKE ON THE WATCHfulness of a soldier who hears the sound of approaching artillery.

The Nazis, she says, had already confiscated her brother-in-law's cashmere factory, but they wanted the business's bank accounts, too, so they hustled her husband Fritz off to Dachau as a hostage.

Maria's father was heartbroken. He tried to stop the Nazis from taking his Stradivarius cello, a lifetime loan from the Rothschilds. His elderly Jewish friends began to commit suicide. The family pediatrician took morphine. A well-known writer jumped from a window. Even a Catholic colleague shot himself.

"Young people could get out," Maria says. "For old people, it was catastrophic. They didn't speak languages, they didn't know where to go. They couldn't go on." Maria's father died in July. "It was as if the thread of his life had been cut," she says.

Her uncle Ferdinand fled his summer castle near Prague as the Nazis advanced. It became the new home of Reinhardt Heydrich, the architect of the Final Solution. Ferdinand's Vienna *palais* became a German railway headquarters. The Gestapo moved Maria to an apartment under guard. The Nazis began to humiliate Jews in the streets, ordering them to clean the shoes of Nazis soldiers or scrub the sidewalks.

Maria's brother-in-law managed to get Fritz released from Dachau, and he and Maria were reunited, though they lived under house arrest. One day Maria told their guards that her husband had to go to the dentist, and he and Maria boarded a plane to Cologne. They made their way to a peasant's house on the Dutch border, and on a moonless night, the peasant led them across a brook and under the barbed wire to Holland.

The rest of the Bloch-Bauers scattered like rain.

Maria's brother Leopold was arrested and brought before a Gestapo officer. The Nazi eyed Leopold for a long moment, then asked how he had spent New Year's Eve a few years earlier. Leopold said he had been on a skiing holiday in the Alps when a call went out for help finding a lost skier. Leopold hiked up the mountain and found the man, injured and suffering from exposure, and carried him to safety.

"You are correct," the Gestapo officer said. "That was me."

The officer told Leopold he was Hitler's nephew. You have three days, the officer told Leopold, to leave Austria. After that, "I can't protect you."

Leopold fled.

There were darker fates. They emerge from the shadows of Maria's memory reluctantly, as if the events can be revoked by silence.

Her sister Luise, like Maria a great beauty, had married a Jewish baron and settled near Zagreb. There they lined up with their two children to board the train to the death camps, but at the last minute, a friend alerted a Gestapo officer who had long lusted after Luise.

"I will save your friend," the Gestapo officer said, "but will she be nice to me afterward?"

Luise's family lived under "protective custody." After the war ended in 1945, the next self-appointed heirs to history, Communist partisans, marched into town. The Communists called a tribunal and declared Luise's husband an enemy of the people. They walked him out to the woods on a chilly winter dawn and shot him in the back. Luise tried to escape Yugoslavia with her children, but she was caught and jailed.

Maria pauses, picking up a glass paperweight of her aunt's portrait and rubbing it like a talisman.

"So you see," Maria says, "I haven't lived through *anything*."

Continued on Page 45

Wendy Ashton

Klimt Paintings

Continued from Page 16

Luise did get out of Yugoslavia, with a new husband. Her daughter married an Austrian prince.

Let it never be said that the Bloch-Bauers were conquered.

IN WARTIME VIENNA, ARTISTIC AND intellectual circles were plundered, and some of the remarkable patronesses who would be known as "Klimt's Women" found themselves fighting for their lives. Amalie Zuckerkandl converted to Judaism to marry a distinguished surgeon who was a close friend of Klimt. Klimt had painted Amalie with upswept hair and bare shoulders. She was deported in 1942 with her daughter Nora to die in the Belzec death camp.

Elisabeth Lederer, the daughter of another Klimt subject, Susana Lederer, was a sculptor who had joined a Protestant church and married a Gentile baron. Klimt had also painted Elisabeth, with Chinese dragons swirling in her wake.

A Nazi court divorced Elisabeth, and it became clear that her life was in jeopardy. That's when Klimt's roguish reputation came in handy. Elisabeth somehow obtained a certificate stating that Klimt—and not her Jewish father—was her true biological parent. Her mother and other "witnesses" supported this. Investigators studied family photos and handwriting. An art historian said Elisabeth's sculptures betrayed no "Jewish characteristics" and "in her artistic works, there is no expression of a purely Jewish nature." The conclusion? "Descent from Klimt is not improbable." Elisabeth was saved, although she would die at age 50, in 1944.

As such hells played out in private, the Nazis organized a Klimt exhibit in 1943 in Vienna that is still the largest ever staged. They hid the Jewish identities of the Klimt women, deracinating Adele with a placard reading simply: "Lady in Gold."

Maria's uncle Ferdinand escaped Czechoslovakia for Switzerland, where he moved into a small Zurich hotel. His art collection, which would fetch hundreds of millions of dollars today, was scattered among many greedy hands.

He struggled in vain to recover a few possessions at the end of World War II. He rewrote his will, naming his niece, Maria, her sister and a brother as his heirs. He died nearly penniless a few months after the war ended, in 1945. His ashes were sent to rest beside Adele's.

"He died alone and lonely, a broken man." Maria erupts, her eyes snapping with outrage. "Adele's wishes were a request, not an obligation, to share her love of the Klimts with her beloved Viennese. What love could my uncle have for Austria after they robbed him of everything? He had no intention of giving the Klimts to those people."

"This art was dragged out of the house by people who murdered their friends. Would Adele want the things she treasured left [in Austria] after that?"

Austrian arts officials realized that the Bloch-Bauer "acquisitions" left them in a sensitive position. The postwar director of the Austrian Gallery, Dr. Karl Garzarolli, revealed his concerns in a March 1948 letter reproaching his Nazi-era predecessor, Bruno Grimschitz: "Neither a court-authorized nor a notarized or other personal declaration of Ferdinand Bloch-Bauer exists, which in my opinion you certainly should have obtained. I find myself in an extremely difficult situation. 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."

Government officials revealed none of Garzarolli's concerns when Maria's brothers tried to get some of the art back just after the war. The letter might never have come to light had it had not been for an Austrian investigative journalist, Hubertus Czernin. After Austria passed a restitution law in 1998 for victims of Nazi art thefts, Czernin began to dig into old records at the Austrian Gallery. The records became a book, "The Forgery: the Bloch-Bauer Case and the Work of Gustav Klimt," that traced how paperwork on the paintings had been falsified to hide the thefts.

AT THE UCLA HAMMER MUSEUM, THE Austrian art expert has clicked through slides of most of Klimt's portraits and reached Adele's. He gives little hint of the controversy.

"The portrait suggests Adele Bloch-Bauer's restlessness, and also her denial of society's expectations," the lecturer, Tobias Natter, is saying.

Natter is the director of the Austrian Gallery's modern art collection, but he is as formally attired as a time-traveler from Victorian Vienna. He looks away as I press forward with my notebook to ask him about Adele, and his handlers hustle him off.

Natter has faced this before. He himself resurrected the stories behind the paintings, as the chief curator of the remarkable exhibition "Klimt's Women." It opened in Vienna in September 2000 with a beautiful poster of Klimt's "Lady with Hat and Feather Boa"—a work that heirs immediately came forward to reclaim. "The figure's bedroom eyes no longer seemed to signify an erotic gaze," quipped Leo Lensing in the Times Literary Supplement, "but rather to convey something more akin to anxious anticipation, as if she were waiting to be picked up by her rightful owners."

Adele's gold portrait was at center stage of the exhibit, and in a book that accompanied the show, Natter acknowledged its confiscation by the Nazis and Maria's lawsuit.

Its inclusion drew more barbs. Vienna culture reporter Joachim Riedl compared Austria to a "gangster's moll, parading around after a bloody robbery with jewelry that she insists the victims actually gave her as a present."

When the exhibition moved to Canada, Adele's gold portrait stayed in Vienna. Authorities said it was too fragile to move. But international art experts said Austria was reluctant to risk letting the paintings out of the country in an era when stolen art is being seized from museum walls by courts that are increasingly sympathetic to victims of Nazi theft.

A few months after his Los Angeles lecture, Natter takes a leave from the Austrian Gallery. He's not sure he's going back. When I finally track him down, waiting for a plane in the Vienna airport, he admits he is haunted by the mysteries behind the Klimts. But he does not want to discuss the lawsuit.

The public wrangle seems a strange fate for a work of art so intimate. The portrait of Adele is not a field of lilies or a starry night. Here, in her naked eyes, lies a story that is more diary than novel. A painting comes from a time and place. Those who have heard the lovely, tragic story of the portrait of Adele Bloch-Bauer can never again see her as simply a "Lady in Gold."

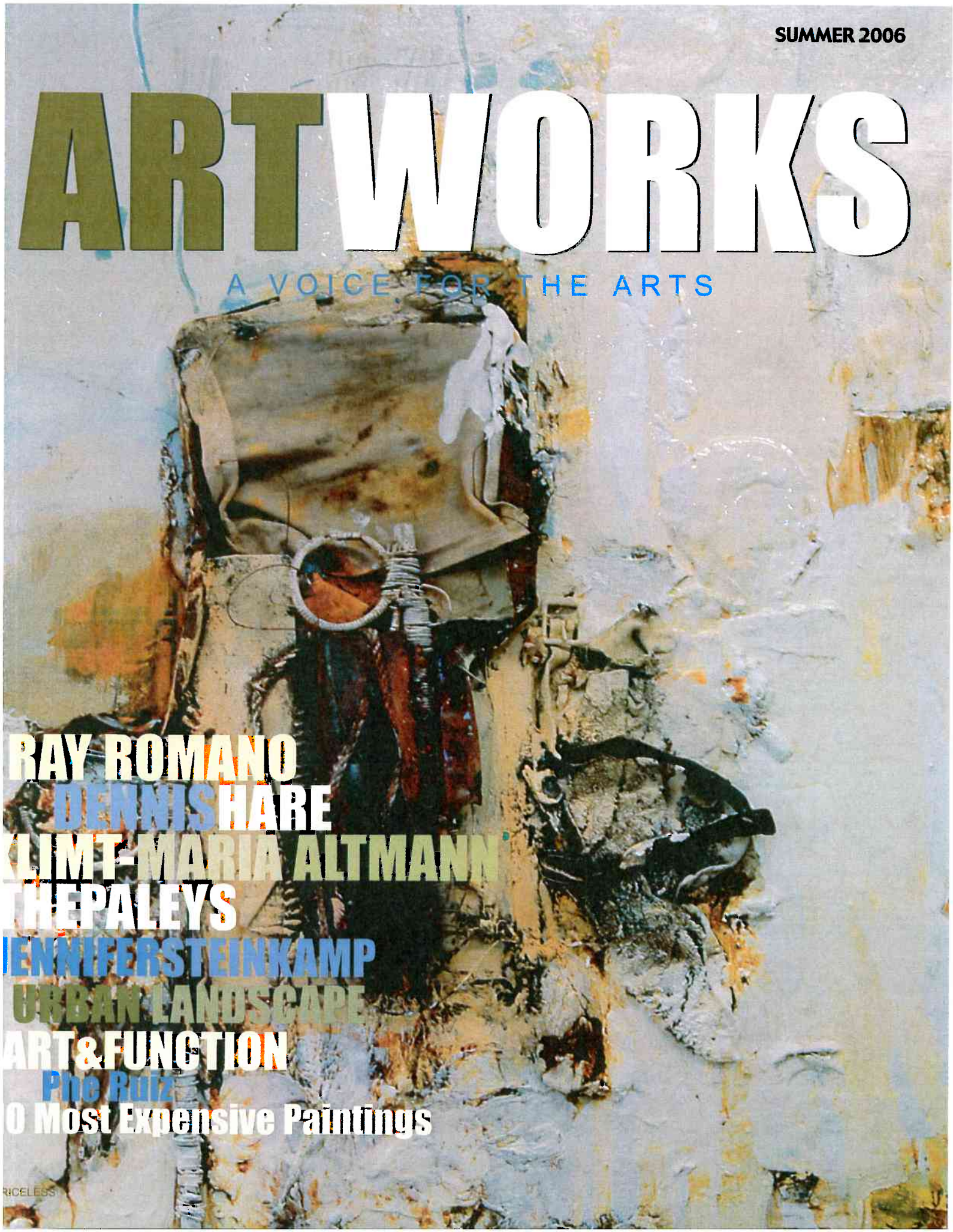
Ultimately, old age and death may be the final arbitrator of this legal battle. But Adele will live on. Her portrait is, perhaps, more incendiary and meaningful today than when it was painted. Frozen in Vienna's golden moment, she has achieved her dream of immortality, more than she ever imagined.

And that is the power of art. ■

SUMMER 2006

ARTWORKS

A VOICE FOR THE ARTS



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DENNIS HARE

LIMT-MARIA ALTMANN

THE PALEYS

JENNIFER STEINKAMP

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PRICELESS

GOLDEN GIRL

A Portrait of Injustice

Written by BEN RAMSEY

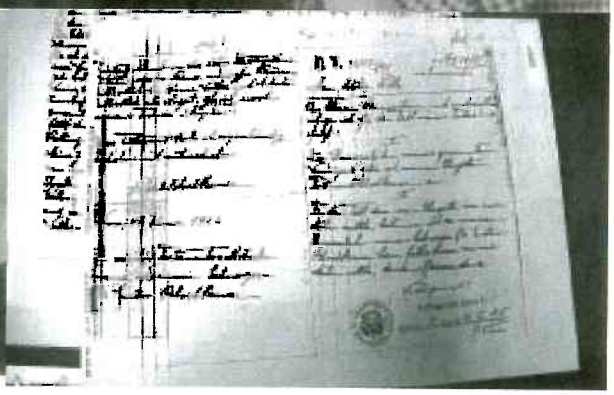
Photography by GINA TARO

The smell of chicken dumpling soup wafts through Maria Altmann's home. A collection of antique timepieces is illuminated behind a glass case in the living room. Old photos of friends and family seem to chronicle a great life. Wisdom exudes off the walls. Outside her redwood bungalow, blooming flowers stretch for attention surrounded by a swimming pool and the ambiance of her Cheviot Hills neighborhood. At the center of this charmed life: a 90-year-old great-grandmother full of elegance, who always carries herself like a lady

Gustav Klimt, *Adele Bloch-Bauer I.*
1907, Oil, silvering and gilding on canvas
140 x 140 cm.

Wearing a neatly tied scarf, French toilet water and a graceful smile, Altmann says, with a thick, prewar Viennese-German accent, "I used to be a very beautiful girl." Seven decades ago, people would have lined up to take her picture. Seven decades – that's also nearly the same amount of time it took her to right the awful wrong that was done to her family. It's the $300 million dollar story of the gold portrait and its masterpiece companions. It's about injustice, anger and now, finally, revenge – the reason why this proud, witty woman is along for the ride at a media circus parading through her home.


76 ARTWORKS



Vienna, Austria - March 1938

Maria Altmann was a beautiful bride of only four months when the Gestapo came knocking. She felt the chill of that blustery, winter day as she opened her apartment door. The man standing there was short and neatly dressed in a business suit. He said his name was Landau and he was sent to collect taxes for the German government. The Nazis had just annexed Austria and started a campaign to loot wealthy Jewish families. When Landau asked to see Altmann's jewelry, she could see ruthlessness in his eyes.

The notorious Nazi ransacked Altmann's place, taking the earrings and necklace she wore at her wedding. He even took the engagement ring off her finger. "I was terrified they'd take my husband," Altmann recounts. "So I said, 'There's more jewelry in the safe.' I gave them everything hoping they would leave Fritz with me." But by the end of that day in 1938, Altmann's diamonds and dignity were gone, and so was her husband. Landau took Fritz Altmann "hostage" and threw him in a concentration camp. The couple, who'd just finished an extended honeymoon, was now in hell.

Fritz spent several months in the dank Dachau prison. The only condition of his release was an awful example of extortion; the Nazis demanded that Fritz's brother, Bernard, sign over his successful cashmere sweater business to them. Bernard, who'd escaped to France, didn't hesitate. Family had always come first.

Fritz was free, but not really. The Germans moved he and Maria to a small apartment in Berlin, placing them under house arrest. Then, one night, under the cover of darkness and a fake doctor's appointment, the Altmanns made their escape. The risk could have been fatal. Even so, they saw no alternative.

With Bernard's help, they trekked the dangerous route into Holland, and eventually, England. The British welcomed them with open arms, helping Bernard build a new sweater factory in Liverpool. Fritz, meantime, was intent on building his marriage back up. "I'll never forget the day he came home and said he'd gotten my engagement ring back from the Nazis," Maria says. "He put it on my finger and I believed it. Of course, he had the ring copied. But I so wanted to believe it."

In reality, the Altmanns never got any of their jewelry back. Landau gave Maria's wedding necklace to Hitler's right-hand man, Hermann Göring. And, like the brutal bastard he was, Göring gave it to his wife as a present. No one knows where it is now.

The immaculate necklace was originally a gift from Maria's uncle, Ferdinand. It had belonged to his wife, Adele, who died in 1925 from meningitis. Maria was nine when her aunt died. "She was very cool, fabulously elegant and an interesting woman," Altmann remembers. Adele Bloch-Bauer was thin, beautiful and no ordinary turn-of-the-century woman. She was the hostess of a famed Viennese salon and surrounded herself with interesting people, partying with intellectuals, artists and musicians. "She should have lived in the world today," Altmann says. "She would have gone to a university and been a politician."

One of Adele's party pals was artist and decorator Gustav Klimt. Klimt started the Austrian Secession Movement, the Viennese version of Art Nouveau, and is best known for his ornate painting, *The Kiss*. He was a master at capturing the intelligence, cultural energy and sexuality of Vienna at that time. Tension oozes out of Klimt's paintings as they try to tempt fate. His art seems to make eternity a reality and death inevitable at the same time. But it was his quest for ecstacy and embrace of glamour that Adele so admired. It's what made them good friends and possibly lovers – it was rumored, but never proven, that they had a long affair.

IMAGES CLOCKWISE: PALAIS, VIENNA, AUSTRIA, OWNED BY FERDINAND BLOCH-BAUER, DINNING ROOM AT PALAIS, FERDINAND AND ADELE, MARIA ON HER WEDDING DAY, MARIA AND SON, MARIA & FRITZ IN CALIFORNIA, COPY OF FERDINAND'S WILL, A YOUNG MARIA, ESCAPE ROUTE FROM AUSTRIA, FRITZ SINGING OPERA, MARIA & FRITZ IN AUSTRIA. CENTER IMAGE: MARIA & FRITZ ALTMANN

GOLDEN GIRL

continued

Ferdinand was head of the Austrian sugar industry. He had tons of money and loved spending it on art. In the early-1900's, he commissioned Klimt to do two portraits of his wife. Klimt, in the best period of his artistic career at the time, was methodical in his approach to this work. Adele posed for him countless times as he sketched feverishly. He did more than 100 preparatory drawings and, in the end, it would take three years to bring his vision of her to life on canvas. By all accounts, Klimt felt this portrait would be a universal celebration of beautiful women.

The elegant and erotic *Adele Bloch-Bauer I*, or "Golden Adele," has been called the Austrian *Mona Lisa*. Like da Vinci's masterpiece, this oil and gold-encrusted painting is romantic in its mystery. It's contemporary and medieval at the same time. Her hair, jewelry and dress paint her as an empress, her serpent-like hands exaggerate her sensuality. The ancient Egyptian eyes of Horus give her body stability, yet she appears to be floating in an abstract sea of gold. Klimt manipulated the surface of the canvas by applying gold-laced paint, creating true three-dimensional relief and a reflective surface. There are all kinds of secrets hidden in the Byzantine mosaic background, including her initials "AB" everywhere. It's clear Klimt not only painted a person here, but attempted to capture her aura. What's not clear is its message. Was Klimt portraying Adele's life of wealth and prestige as liberating or suffocating?

Her carefully constructed, neutral facial expression doesn't give much away. Is she reserved or resigned? Quietly content or ashamedly sad? Adele had lots of layers, and perhaps that's the point. She had the means to do what she wanted but never seemed happy at home. Although she got pregnant three times, it always led to a miscarriage or stillborn. It got more devastating each time. Socially, she was also torn between her role as housewife and her excitement about Europe's social revolution.

Klimt, on the other hand, knew exactly where he fit in. He was a bohemian who pushed the boundaries of Viennese taste. He was captivated by sexuality. He often drew naked women masturbating, sometimes while wearing a hooded cloak with nothing on underneath. In 1918, he died at the age of 55 from a stroke; afterward, several mistresses came forward claiming Klimt had fathered 14 children.

In 1912, five years after he finished "Golden Adele," Klimt painted a life-sized version of Mrs. Bloch-Bauer. The colorful mix of green and lavender demonstrates the shift in Klimt's style. In *Adele Bloch-Bauer II*, Klimt again blends various artistic influences with a similar ambiguity of space as in the original painting. This time, decorative Chinese motifs fill the background. Adele is the only patroness he painted twice and the best example of Klimt's artistic evolvement.

Affair or not, Adele always had her husband's heart. She did her best to do the family thing, too. "Because she couldn't have her own kids, it seemed like she didn't have a lot of time for us," Maria says. "But I always looked up to her." The Bloch-Bauers were a very close bunch by action and by blood. You see, the two Bloch boys married the two Bauer girls. So, Maria's mother was Adele's sister and Maria's father was Ferdinand's brother. Sounds complicated but their love was not. Each Sunday, Ferdiand and Adele invited Maria, her parents and her four older siblings over to their

palais for brunch. It was a huge building on the finest street in Vienna, near the Opera House. Maria still remembers how gorgeous it was. Fine art, tapestries, porcelain and furniture filled the place.

When Adele died, Ferdinand and the family were crushed. He built a memorial room to her at the palais where he kept fresh flowers at all times. Six Klimt paintings hung in the room. The two portraits of his wife were front and center. Four exceptional Klimt landscapes of Austrian towns, a forest and an apple tree completed the shrine. The landscapes are perfectly proportioned and masterly brushstroked. In Adele's will, she asked her husband to donate the Klimt pieces they had collected to Austria's Gallery Belvedere when he died. Ferdinand, who paid for the paintings, had always been a charitable man and said he intended to honor his wife's request. But that was before the Nazis changed everything.

Maria's wedding was likely the last great memory of Ferdinand's life. By the time the Gestapo showed up at Maria and Fritz's apartment, Ferdinand had fled to his summer home, a large castle and estate near Prague, Czechoslovakia. The Nazis, meantime, levied a bogus tax bill on him confiscating his sugar company and his Vienna palais. In early-1939, Eric Führer, a Nazi liquidation lawyer, put Ferdinand's estate up for sale. His famous 400-piece porcelain collection went to the highest bidder. Some 19th century Austrian art went to Hitler while some of the Klimt pieces went to the Austrian Gallery. Führer kept *Adele Bloch-Bauer I* for his own personal collection.

As the Nazis divided up Ferdinand's art collection, it also continued its annexation of Europe. When Sudentland became part of Greater Germany, Ferdinand was forced to move again. Friends helped him get to Zurich, Switzerland. At the same time, Nazi Commander Reinhard Heydrich moved into Bloch-Bauer's Prague castle where he planned to finish mapping out his "Final Solution." The plan was to exterminate the entire Jewish population of Europe and the Soviet Union - an estimated 11,000,000 people.

But one day in 1942, after leaving Ferdinand's castle, Heydrich was ambushed and assassinated. Hitler demanded revenge. He ordered the execution of the Czech agents who took down Heydrich and called for the destruction of the small mining town of Lidice on false charges that it had helped the assassins. On June 10, all 172 men and boys in the village were executed, the women and children were sent to concentration camps and each building housing them was burned to the ground.

Four months later, Ferdinand Bloch-Bauer wrote in his second-to-last will: "In an illegal manner, a tax penalty of one million Reichsmarks was imposed and my entire estate in Vienna was confiscated and sold off." When the war ended in 1945, Ferdinand was almost penniless. He died in November of that year having never recovered any of his property. Bloch-Bauer's last will revoked all others and left his entire estate to his brother's kids: Maria, Robert and Luise. His intention was to keep the Klimt pieces in the family.

Just before Ferdinand died, he sent a letter to Maria and Fritz telling them to make a good life for themselves in America. And that's exactly what the Altmanns were doing. They arrived in Fall River, Massachusetts, in 1940. Their first son was born a short time later on U.S. soil. "All four of our children were born American," a fact Maria states with pride. "America has been so good to us." In 1942, they made their way to Los Angeles and became U.S. citizens by 1945. The moves came at a time when her extended family was in shambles. Some died in concentration camps, others lost everything.

In 1912, five years after he finished "Golden Adele," Klimt painted a life-sized version of Mrs. Bloch-Bauer. The colourful mix of green and lavender demonstrates the shift in Klimt's style. In Adele Bloch-Bauer II, Klimt again blends various artistic influences with a similar ambiguity of space as in the original painting.

The Bloch-Bauers were spread out across the globe. Although Ferdinand left all his fortunes to Maria and her siblings, he had control of none of it when he died. So, the kids had nothing to show for it. Anti-Semitism and hostility still existed in parts of Europe and it made recovering the stolen property nearly impossible. The post-war Austrian government put up all kinds of legal hurdles to keep Jews from recovering their looted artwork.

By now, the Bloch-Bauer Klimts, including "Golden Adele," were hanging in Austria's Galerie Belvedere. Records were changed to show the art was donated. The government and museum cited Adele's will as the legal tender to ownership. The facts were twisted and now the heirs' hands were tied. All they could do was watch as pieces from his extensive porcelain collection went up for auction on the open market. Owners and buyers couldn't be sued under "bona fide" purchaser rules.

Maria and Fritz moved on. They were getting well-acquainted with American life. The eldest Altmann son played with Lena Horn's son, ironically, on Horn Street in Los Angeles. "Humphrey Bogart lived across the street," Maria says. "We could hear him and his wife yelling all the way to our house. They were always drunk." Fritz took a job with Lockheed Martin designing aerospace technology. Maria ran a women's clothing boutique. They had three sons and a daughter and were a close-knit bunch. Mom and Dad talked openly to the kids about how the war

changed their family – telling stories about people the youngsters only knew by name.

The children went to school in Los Angeles, enjoyed the sun and the beach and grew into fine people. Maria and Fritz were never bitter; they chose to enjoy life instead. Fritz was a nice-looking gentleman, a hard worker and great father. He loved opera and was a fine singer in his own right. He lived a full life before passing away in 1994. Maria became the lone Bloch-Bauer heir left after her sister, Luise, died a few years later.

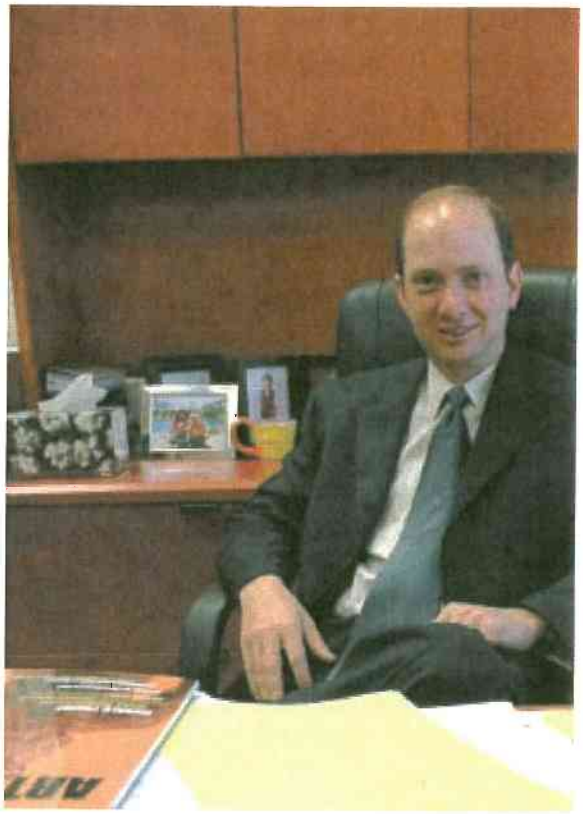
For half a century, *Adele Bloch-Bauer I* hung in Vienna. It was on the cover of the museum's guide book and had become part of the county's cultural identity. But in the mid-1980's questions began to surface about the origin of much of Austria's art. The tight-lipped government and tightly-sealed records began to crack under enormous pressure. In 1998, Austria passed new laws opening up its archives to the public and a feisty Viennese reporter was about to blow the lid off the looted art controversy.

Hubertus Czernin, a respected writer, started digging. He found that victims of the Holocaust were still being victimized by Austria's greedy government. He also uncovered a letter written by Eric Führer, that same Nazi liquidation lawyer, dated 1941. In it, Führer officially transferred *Adele Bloch-Bauer I* to the Austrian Museum. It was signed "Heil Hitler."

The records showed Ferdinand did donate one Klimt landscape to the museum, but Czernin believed the others belonged to the Bloch-Bauer heirs. Thousands of additional pieces in Austria's art collection also came into question. A separate panel investigating the claims confirmed Czernin's research and the government backpedaled fast. Just a few months after the facts were revealed, Austria's president signed a new restitution bill into law.

Czernin sent a copy of his findings to Maria Altmann's attorney, E. Randol Schoenberg. It was the first time Altmann learned that the Austrian Museum had lied to her brother's attorney about Adele's will and that she had been swindled out of her inheritance. Maria was angry – and so too would the Austrian public be when newspapers reported the Klimt paintings would have to be returned. Feeling political heat, the government reneged. While hundreds of artworks were returned to their rightful pre-war owners, the Klimt paintings stayed put. Altmann wouldn't stand for it.

At the time, Schoenberg was mainly doing mundane contract cases in Los Angeles. But this injustice really chafed him. It became his passion to get these paintings back. "I remember going to the Austrian museum as a kid," Schoenberg says. "I remember my mom saying Adele Bloch-Bauer, that painting up there, she's a relative of my friend, Maria Altmann." Other pieces that hung in the museum had Schoenberg family connections. Similar to the Altmanns, all four of Schoenberg's grandparents, including famed composer Arnold Schoenberg, escaped Nazi Germany and moved to California.



In June 1999, an Austrian government committee agreed to return a smattering of the Bloch-Bauer collection – some Klimt drawings and porcelain settings – to its heirs. But the committee formally blocked the transfer of the five Klimt paintings Altmann felt entitled to. Schoenberg suggested an independent arbitrator sort it all out, but Austria refused. So at the age of 84, Maria Altmann filed suit. Filing a lawsuit in Austria, however, is an expensive proposition. Schoenberg unsuccessfully tried to get the court fees waived. If Altmann was going to make her case in an Austrian court of law, it would cost her as much as a million dollars, a figure she simply could not afford. Austria had won round one, but Schoenberg wasn't done fighting.

In August 2000, he sued the Austrian government in the United States under a little-used clause in the Foreign Sovereign Immunities Act. Austria tried to block the suit at every level of the judicial system. But in 2004, this very important case made it all the way to the U.S. Supreme Court. The justices would not rule on who should get the paintings, only if Altmann's claims could be heard in an American courtroom. It was a long shot but the chance of a lifetime for this L.A. lawyer.

Schoenberg is a slender guy who doesn't look like he could hurt anyone. But he's got the mental toughness of ten men. "Randy has fabulous endurance and knowledge," Altmann says of her attorney. It's any litigator's dream to argue in front of the nation's highest court, and Schoenberg was in for the ultimate David vs. Goliath legal battle. Not only was the entire country of Austria against him, other countries wrote briefs asking the justices to rule against Maria Altmann. Many nations felt a decision in her favor could put scrutiny on their own museums in the future.

Schoenberg went for the gold in that courtroom and most observers thought he did a good job.

In August 2000, he sued the Austrian government in the United States under a little-used clause in the Foreign Sovereign Immunities Act. Austria tried to block the suit at every level of the judicial system. But in 2004, this very important case made it all the way to the U.S. Supreme Court.

A local Washington reporter wasn't so sure. The journalist told Schoenberg he'd been watching the justices' reactions for decades and was certain he'd lose. Schoenberg was back at his L.A. office when that same reporter called one June day. "I guess I was wrong," he said. "You won." The Supreme Court ruled in favor of Maria Altmann. Her case would finally be heard in an open courtroom.

But rather than trodding through an expensive and lengthy trial and appeals process, Schoenberg decided to gamble. He convinced Altmann and the Austrian government to argue the case in front of an arbitration panel in Europe, winner take all. Schoenberg was up against Austria's best attorneys and even presented his case in German. This past January, the arbitration panel made up of two Austrian professors and one Austrian lawyer, unanimously sided with Maria Altmann. After 68 years, the five Klimt paintings, now worth an estimated $300 million, were finally coming home. "Professionally, it's been the greatest case of my career and a tremendous honor to represent Maria," Schoenberg says. "It's incredibly fulfilling to see the paintings come to the United States, taking the same path its owners took."

On March 20, a separate arbitration panel awarded Altmann a stake in her uncle's $6 million palais – the same place that once housed the Klimt paintings and the center of Maria's family memories. Despite the long ordeal, Altmann says she has no bad feelings towards Austria and its people. "I want to thank (the panel) for their courage and honesty," Altmann says. "I was very angry with what happened. But now that we have resolved it, I try to see the good side of it."

It was tough for the more than 8,000 visitors that crowded Austria's Gallery Belvedere to find any good in the resolution that final weekend. Many had sad faces as they waited in the freezing cold to get a final glimpse of the beloved Klimt pieces. Many in the art community called on the Austrian government to buy the paintings from Maria Altmann. But the government turned down the plea and the pieces were shipped to Los Angeles. Dr. Verena Traeger, art historian, museum curator and a lecturer at the University of Vienna, says, "The loss of these paintings to an art-appreciating public in Austria is nothing short of a tragedy. Their undisputed art historical value and their obvious material value should not be confused."

Traeger feels that the eighth wealthiest country in the world could have afforded the paintings. She feels the government, whose recent investments include millions to raise the speed limit on a few kilometres of roadway and out-dated anti-aircraft defense, let its people down. "That the government failed to respect the importance of our Jewish cultural 'inheritance' by not purchasing these paintings, is somewhat disquieting. The whole topic has become somewhat polemic. In short – utter confusion and cultural shock." Traeger and her colleagues established an independent interdisciplinary platform of

IMAGES: Maria Altmann's attorney, E Randol Schoenberg in his Los Angeles office. Painting at top: *Houses In Unterach Am Attersee*, at right: *Apple-Tree I*.

Austrian art historians, conservators and representatives of culture. They want the Austrian people to be fully aware of the historical importance of these paintings and put pressure on the government to preserve the country's artistic identity.

Altmann and the four heirs of her deceased siblings will ultimately decide the fate of the Klimt paintings. Maria wants them to remain in the public eye and, at least for now, wants Americans to get acquainted with the much-revered but seldom seen Austrian artist. She loaned the five paintings to the Los Angeles County Museum of Art. They will be on display there through the end of June. "This is a tremendous, historic moment for us to premiere the Klimt paintings in the U.S. We are deeply grateful to the Altmann family," says LACMA Senior Curator Stephanie Barron. "*Adele Bloch-Bauer I* is an icon of 20th century art. To me, it represents the magic and splendor of turn-of-the-century Vienna – the nexus of art and culture, theatre, literature. It all comes together for me in this painting."

For Altmann, the painting simply represents family. She's happy to have it and the others home. "To see them here is a dream come true," Altmann said during their unveiling at the museum on April 4. "Los Angeles has been my hometown for so long, so to have them here is beyond words. I'm going to come here very often and bring friends to see them."

On the downside, the paintings also brought with them "the curse of the cane," as Maria calls it. "My uncle Ferdinand always needed a cane to get around back then. I've never had any problem until now." Maria has recently developed a mild case of arthritis that has hobbled her a bit. Couple that with all the museum and media attention, and Altmann is flat-out tired. But she's the only one in her bloodline to take this journey full circle. While reliving some of these experiences has been painful, it truly has helped her put her life in perspective.

Maria has six grandkids now and just nine months ago she became a great-grandmother. "He's the cutest little thing. He just laughs and laughs. I've never seen anything like it. He's so happy. He doesn't know about any of the wrongs that go on in life. He has no clue about the Nazis or Iraq. He just laughs all day." It's an image Altmann will always treasure, knowing the preservation of what's sacred to a family is what matters most in this world.

Earlier this year, an Austrian advisory panel handling claims for art looted by the Nazis recommended that 6,292 works of art be returned to their original owners. Maria Altmann and the Bloch-Bauer heirs still have a case pending involving a pair of figurines by Belgian symbolist sculptor George Minne.

In response to ARTWORKS Magazine's article on the return of the Klimt paintings to Maria Altmann, Dr. Verena Traeger, art historian & museum curator, working with the independent Proklimtbuilder Platform, wrote the following:

To begin with, I can only let a simple fact speak for itself. Once the arbitrator's decision had been made public and the Austrian government had also publicly declined an interest in purchasing the paintings for the people of Austria, things moved very quickly – a decision was made immediately to take the paintings down and put them into museum storage ready for collection by the owners.

The government's decision not to buy the paintings was represented solely on a financial basis (not uncontroversial considering that Austria is the eighth wealthiest country in the world!). The purported lack of funds becomes ridiculous when one considers that our finance minister announced a record high in tax revenue.

That these paintings belonged to and, in part, were commissioned by the famous Viennese Jewish art patrons, Ferdinand and Adele Bloch-Bauer, is not only relevant for their past and present fate, but of pressing significance for Austrian cultural identity. The paintings, especially the two portraits of Adele Bloch-Bauer, were a constant visible reminder in Vienna that Jewish art patronage was not only important but essential to Austrian cultural development before its abrupt end due to the Nazi regime. It also served to remind us of what we had lost.

That perhaps some are only too happy to lose that reminder is a matter no truly decent citizen in this country would like to meditate upon, but that the government failed to respect the importance of our Jewish cultural 'inheritance' by not purchasing these paintings, is somewhat disquieting.

This is why a number of colleagues and I decided to establish an independent interdisciplinary platform of Austrian art historians, conservators and representatives of culture. We felt it our duty to emphasize that other issues were more important than the already exaggerated financial aspect. We also felt it was time that the government realized that these paintings and the controversy around them were not just going to vanish.

For more information: www.proklimtbilder.at

LITIGATION 2006

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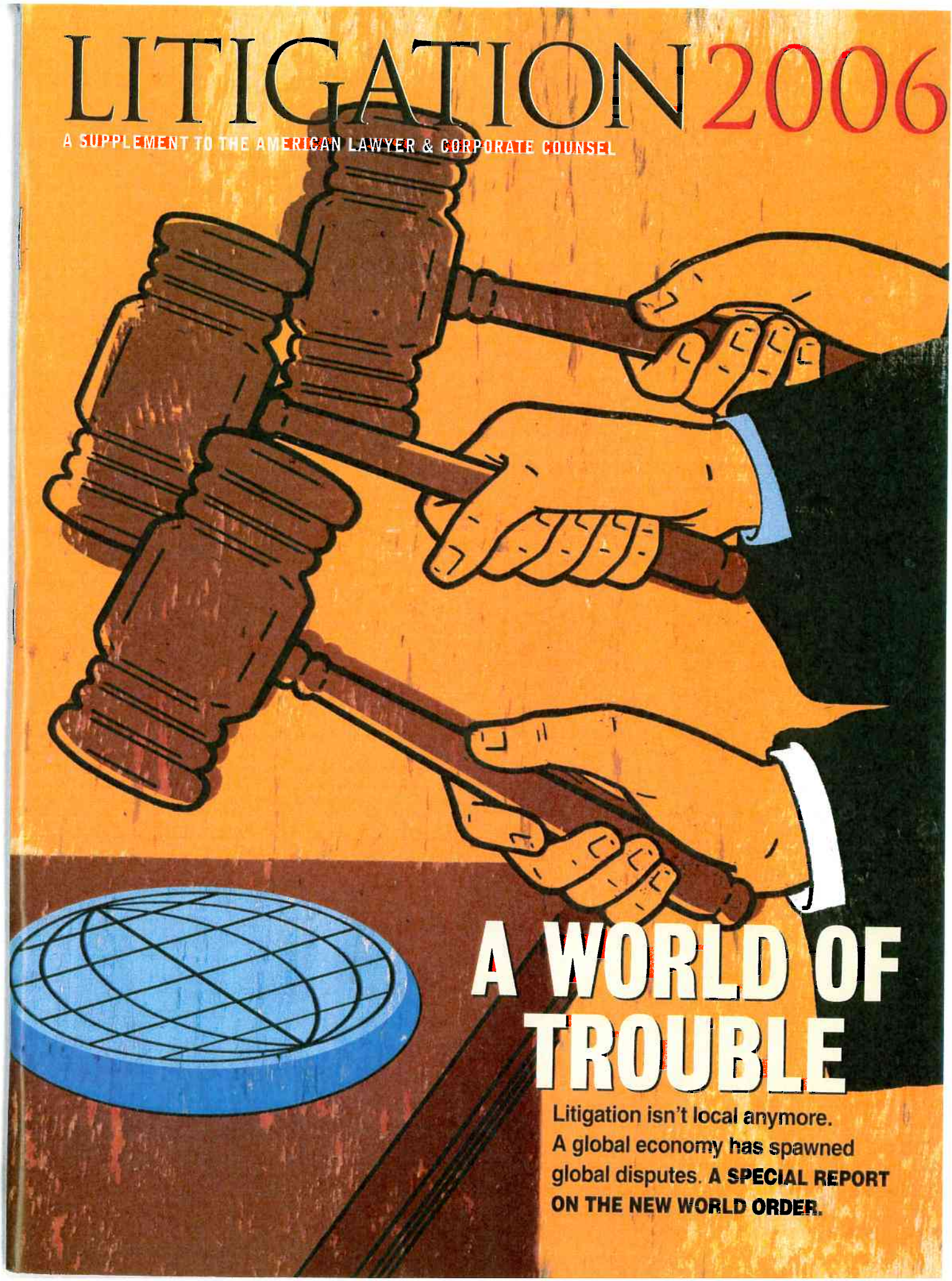

A WORLD OF TROUBLE

Litigation isn't local anymore. A global economy has spawned global disputes. **A SPECIAL REPORT ON THE NEW WORLD ORDER.**

The Case of the Stolen Klimts

How the grandson of refugees from Nazi Austria used the courts of two countries to recover five masterpieces

Adele Bloch-Bauer, at least as Gustav Klimt painted her the first time, in 1907, was a narrow-faced, long-necked woman with hooded brown eyes. In the painting, her braceleted arms twist awkwardly, and she stares directly out, lips parted and unsmiling. By all accounts a woman of powerful intellect, Bloch-Bauer is an arresting subject. But what makes Klimt's portrait of her unforgettable is the swirling, intricately patterned gold of Bloch-Bauer's dress and of the chair she sits in. Klimt created a mosaic of shapes and colors to surround Bloch-Bauer, who was rumored to be his lover. Each golden square, circle, and rectangle demands attention. Together they form a field of mesmerizing complexity.

It is an appropriate metaphor for the litigation history of this painting, which as of June 2006 became the most valuable in the world. In 1998, when the case began, *Adele Bloch-Bauer I* was one of the showpieces of Austria's national museum in Vienna, an iconic example of the work of the country's greatest modern painter. Eight years later—after dogged work by a onetime Fried, Frank, Harris, Shriver & Jacobson associate named E. Randol Schoenberg, several crossings of the Atlantic Ocean, and a trip to the U.S. Supreme Court—the case concluded with the sale of the painting to a New York City museum founded by cosmetics heir Ronald Lauder for a reported $135 million.

For Schoenberg and his clients, the heirs of Adele Bloch-Bauer and her husband, Ferdinand, the fight over *Adele I* and four other Klimt masterpieces was a matter of justice and restitution: They maintained that in the 50 years after Nazis stole the paintings from the Bloch-Bauer family during World War II, Austria deliberately blocked their return to the family, even when the dispute reached Austrian courts. For Austria the case was a domestic inheritance dispute that, once it was transplanted to the United States, swelled grotesquely into a test of sovereign immunity in American courts. Perspective shifted when venue changed, and along with it, the balance of power in the case. *Adele I* and its companion Klimts became glittering tokens of the risks—for both sides—of litigating far away from home.

ADELE BLOCH-BAUER: AN ARTS PATRON PAINTED TWICE BY GUSTAV KLIMT.

PHOTO COURTESY OF MARIA ALTMANN

At the turn of the twentieth century, Adele and Ferdinand Bloch-Bauer lived at the height of Viennese society. Ferdinand was a sugar magnate; Adele, a self-taught intellectual and arts patron. Assimilated Jews who celebrated Christmas and Easter, the Bloch-Bauers were friends of the city's brightest lights: Richard Strauss, Alma Mahler, Oskar Kokoschka—and Gustav Klimt, who painted two portraits of Adele at Ferdinand's commission.

In 1925 Adele Bloch-Bauer died suddenly of meningitis at the age of 43. Her will, written in 1923, made Ferdinand her sole heir. In the document, Adele addressed the question of the Bloch-Bauers' Klimt paintings directly: "My two portraits and the four landscapes by Gustav Klimt, I ask my husband to give them to the Oster-reichische Galerie [Austrian Gallery] after his death." When Adele's will was probated, her executor and brother-in-law, Gustav

BY ALISON FRANKEL
PHOTOGRAPH BY JOHN ABBOTT

E. RANDOL SCHOENBERG SPENT EIGHT YEARS FIGHTING FOR THE RETURN OF KLIMT'S *ADELE BLOCH-BAUER I* TO ITS RIGHTFUL OWNERS

Rule of Law
MEXICO

In his 2000 inaugural address, Mexican president Vicente Fox promised to make human rights reform a priority for his administration, including addressing problems in the country's criminal justice system. But six years later, at the end of Fox's term, human rights observers say the push for reform has lost momentum. Mexico's judiciary, which is beginning to show more independence, might be the country's best hope for improving human rights.

Corruption has long been endemic in Mexico's criminal justice system. The U.S. State Department's 2005 report on Mexico's human rights practices says that police corruption is rampant, with officers involved in kidnapping, extortion, and drug trafficking. Robert Varenik, director of programs at the Open Society Institute's Justice Initiative, worked with Mexico City Human Rights Commission data to study human rights violations committed by police officers. He found nearly 7,000 credible complaints against police during the period of 1997–2003.

Another problem involves pretrial detention. Judges have no discretion to release suspects on bail, so arrested suspects—even if they are not considered dangerous—are detained until trial, a period of imprisonment that can last from a few months to several years.

A third concern involves the use of torture—including beatings, electric shock, simulated executions, suffocation with plastic bags, and deprivation of food and water—in criminal investigations. Though technically illegal, torture still occurs in the Mexican justice system, in part because prosecutors can use coerced statements as evidence at trial. In one 2003 case, Human Rights Watch reports, seven officers in the state of Jalisco beat a suspect, partially suffocated him, and applied electrical shocks to his body until he confessed to robbing a beauty parlor.

Fox tried to address these issues. On his first day in office, he signed an agreement to work with the Office of

POUL HANS LANGE

Bloch-Bauer, noted that the Klimt paintings were not Adele's property but Ferdinand's. Ferdinand was generous with the paintings; in 1934 he lent four Klimts to an international exhibition called "Austria in London," and he permitted *Adele I* to be part of Austria's pavilion at the World's Fair in Paris in 1937. In 1936 Ferdinand donated one of the Klimt landscape paintings to the national gallery. But that was the only one of the Klimts that he gave away. Ferdinand had filed a declaration in 1926 in which he stated that he intended to fulfill his wife's wishes, but he never expressed in writing a pledge to donate the other paintings specified in Adele's will.

When the Nazis invaded Austria in 1938, Ferdinand fled, ending up in a Swiss hotel where he lived from 1939 until his death in 1945. Everything Ferdinand owned had by then been seized by the Nazis on trumped-up tax charges. His mansion on Vienna's Elisabethstrasse was sold to the Deutsche Bahn, the national railroad; his porcelain collection was liquidated; his sugar factory and castle in Prague were appropriated. The Bloch-Bauer art collection made a feast for art-hungry Nazis. Records suggest that Hitler himself requested certain paintings.

In 1941 Ferdinand's nominal agent in Austria, a Nazi party member, traded two of the Bloch-Bauers' Klimt paintings, including *Adele I*, to the director of the national gallery in exchange for the Klimt landscape that Ferdinand had given the gallery in 1936. (The landscape was sold to a Nazi filmmaker.) The agent later sold the second Klimt portrait of Adele to the Austrian Gallery, and another Klimt landscape to the city museum. He kept a sixth painting, also a landscape, for himself.

After the war Ferdinand engaged a Viennese lawyer named Gustav Rinesch to recover his looted belongings. Rinesch, who continued the effort after Ferdinand's death, had some success in locating and claiming a portion of the Bloch-Bauer collections on behalf of Ferdinand's heirs, a son and two daughters of his brother Gustav. But the Austrian Gallery was intractable. Museum officials told Rinesch that Adele had willed the Bloch-Bauer Klimts to the national gallery, which had merely lent them back to Ferdinand after her death. By the time Rinesch saw Adele's will in 1948, it was too late to challenge the museum; Ferdinand's heirs, who had all escaped from Europe, were forced to relinquish rights to the Klimt paintings held by the Austria Gallery in exchange for export licenses for lesser works. Over the next decades, through trade, purchase, and bequest, the gallery acquired three more of the Bloch-Bauer Klimts, leaving the national museum with six of Adele and Ferdinand's beloved Klimt paintings.

And there matters stood until the 1990s, when Austria's minister of education and culture, responding to the U.S. seizure of two Egon Schiele paintings believed to have been plundered by the Nazis, opened previously restricted museum archives. An Austrian journalist named Hubertus Czernin wrote a series of articles exposing the scandalous acquisition methods of Austria's museums during and after the Nazi era, and the culture minister created a commission of museum archivists to study the records. After the commission found evidence confirming that Austrian museums had profited from Nazi looting, Austria passed a new art restitution law in 1998.

One of Ferdinand Bloch-Bauer's nieces, Maria Altmann, was then living in Los Angeles, where she and her husband had settled in the 1940s after escaping from Europe. In Los Angeles the Altmanns had befriended Eric Zeisl, a refugee Austrian composer, and his wife. When Altmann realized that she might have claims under the new Austrian restitution law—which voided coercive postwar deals like the ones in which the Bloch-Bauer heirs had waived rights to the Klimt paintings—she contacted the Zeisls' daughter, who was married to a Los Angeles municipal court judge. That was how the Zeisls' grandson, E. Randol Schoenberg, be-

came Maria Altmann's lawyer in the fight to recover her family's Klimts.

For Schoenberg, it was the case of a lifetime, though it didn't always seem that way. Schoenberg is the grandson of not just Eric Zeisl, but also Arnold Schoenberg, the renowned Austrian composer. He grew up hearing stories about the glory of prewar Austria, learned to speak fluent German, and visited Austria every other year. Schoenberg was an associate in Fried, Frank's Los Angeles office at the time Altmann asked him to represent her. He agreed to take the case on contingency if it ever resulted in litigation. (The siblings with whom Altmann originally shared Ferdinand Bloch-Bauer's estate had died. They each had two heirs, which meant that in 1998 the estate belonged to Altmann and four of her nieces and nephews.)

At first Schoenberg did not expect to go to court. Under Austria's 1998 restitution law, a commission working under the culture ministry would determine restitution claims. In 1999 the commission began evaluating the Bloch-Bauer's case. While Schoenberg waited for the official determination, he contacted Czernin, the Austrian journalist, who sent the lawyer copies of postwar correspondence between Rinesch and museum officials. "When he sent us the documents in January 1999, I said, 'There really is something here,' " says Schoenberg, a slight man with prominent blue eyes, thin blond hair, and no shortage of confidence. Schoenberg also retained Andreas Lintl of Lintl•Kornfeind•Thalhammer, an Austrian expert in probate and estate law, to research Adele's will. Lintl's opinion confirmed what Gustav Bloch-Bauer had concluded in 1926: Adele did not own the Klimt paintings, so her will did not bind Ferdinand to donate them to the Austrian Gallery.

But Austrian researchers, who prepared a preliminary report for the commission evaluating the Bloch-Bauer claim in March 1999, concluded otherwise. Anticipating an adverse ruling from the commission, Schoenberg hired a Viennese lawyer, Stefan Gulner of Rechtsanwaltskanzlei Dr. Stefan Gulner. In June the commission returned a ruling on the Bloch-Bauer claims. As Schoenberg had feared, it determined that 16 Klimt drawings and 19 porcelain settings should be returned to the family, but the Klimt paintings should not; they had been willed to Austria by Adele. When Schoenberg requested arbitration to determine the legality of the will, he was informed that his clients' only recourse was to go to court in Austria.

That turned out to be no recourse at all. As Schoenberg and Gulner contemplated a suit to recover the paintings in Austrian courts, their problems were manifold: questions about the Bloch-Bauer heirs' right of action under the 1998 restitution law; statute of limitations concerns; and, most insurmountably, filing fees. Austrian law, says Gulner, requires that plaintiffs post 1.2 percent of the amount of money at issue—more than $2 million in this case. Gulner's application to reduce the amount cut the fee to about $500,000, but that was still more than Altmann and the other heirs could afford.

So Schoenberg began to consider suing in the U.S., researching the Foreign Sovereign Immunities Act (FSIA) to determine whether Altmann could claim jurisdiction in Los Angeles. Passed by Congress in 1976 to codify

THE BLOCH-BAUER HEIRS HAD TO RELINQUISH THEIR RIGHTS TO THE KLIMTS IN EXCHANGE FOR EXPORT LICENSES FOR OTHER WORKS.

Mexico continued...

the United Nations High Commissioner for Human Rights to review the country's human rights conditions. He also introduced reform initiatives meant to halt pretrial detention and torture, including amendments to the constitution that would establish a presumption of innocence for criminal defendants and a law requiring that only confessions made in court before a judge could be used as evidence at trial.

But Fox's proposals languished in Congress. The subject of human rights all but disappeared during the 2006 presidential campaign. Candidates Manuel Lopez Obrador and Felipe Calderon (whom courts declared in September was the winner of the disputed election) focused on reducing crime and improving the economy.

The key to reform may lie with Mexico's Supreme Court of Justice, according to Daniel Wilkinson, a senior researcher at Human Rights Watch. Before Fox's election in 2000, the Institutional Revolutionary Party (PRI) dominated federal and state politics for 71 years, during which the court functioned almost as an arm of the executive branch of government. But more recently, the Supreme Court's 11 judges, who are elected by the Senate based on the president's nominations, have issued rulings aimed at increasing accountability for human rights abuses committed during PRI's rule. In 2003 the Court removed a statute of limitations that had protected former government officials from being prosecuted for their involvement in decades-old missing person cases (the so-called disappeared). And a year ago, the Court overturned a lower court decision preventing an indictment of former president Luis Echeverría Álvarez for his alleged role in the 1968 and 1971 massacres of student protesters and other antigovernment activists.

The judiciary's newfound independence has emboldened prosecutors to investigate the types of cases they avoided in the past, says Wilkinson. But while the special prosecutor's office has arrested a few high-level officials for alleged involvement in kidnapping, no one has been convicted, notes Tamara Taraciuk Broner, Mexico researcher for Human Rights Watch. "Prosecutors still have to use the dysfunctional system," says Wilkinson. "But there's a feeling in Mexico that real change could come through jurisprudence."

—Catherine Wigginton

U.S. Department of State policy, FSIA generally provides sovereign nations immunity from claims in U.S. courts—with certain exceptions. Schoenberg was sure he could prove that Austria's acquisition of the Bloch-Bauer Klimt paintings fell under FSIA's expropriations exception, which holds that foreign sovereigns can be sued in the U.S. if they have seized property in violation of international law. He knew Austria would fight hard on jurisdiction, particularly because the Nazi era predated FSIA by more than three decades, but decided he had nothing to lose by attempting the suit. "What could it hurt?" he says. "It was our only chance. We had tried to sue in Austria and couldn't proceed." In August 2000 Schoenberg filed a complaint against the Republic of Austria in federal district court in Los Angeles.

"I WASN'T SURE IF WE WOULD HAVE FAIR TREATMENT IN YOUR COURTS," SAYS AUSTRIA'S GOTTFRIED TOMAN.

Gottfried Toman, director of Austria's office of state attorneys, says Austria had one guiding principle through the years of litigation that followed Schoenberg's filing of Altmann's suit: Get the litigation back to Austria. "It was a very Austrian case," he says. "The only relation to the U.S. is that Maria Altmann is living there. Everything else is in Austria. So our main thrust was always that the case belonged in Austria." Toman, who had some familiarity with the American legal system, was concerned that it favored Altmann. "She has no risk of fees, she can make a deposition in her hometown, she will have sympathetic juries," he says. "I didn't want to see my country in foreign courts."

After a beauty contest, Austria hired Scott Cooper, an international litigation partner in the Los Angeles office of Proskauer Rose. Cooper quickly drafted a motion to dismiss Altmann's complaint, focusing on such jurisdictional questions as *forum non conveniens* and the immunity the United States usually conferred on foreign countries.

The judge in Los Angeles, Florence Marie Cooper (no relation to the Proskauer partner), was unpersuaded. In May 2001 she ruled that although the case concerned events of the 1940s and Congress didn't pass FSIA until 1976, the act applied retroactively. Altmann's claim fell under the expropriation exception, Judge Cooper found, so Altmann's suit could proceed. Judge Cooper's ruling was exactly what Toman had feared. "We had an uncertain feeling about giving decisions to a district judge whose understanding of a foreign country might only be seen from the perspective of the plaintiff," he says. "I wasn't sure if we would have fair treatment in your courts."

Austria appealed to the Ninth Circuit, arguing against the retroactive application of FSIA as well as Judge Cooper's finding that Austria's filing fees and statute of limitations laws made Austria an inconvenient forum for Altmann's case. The appeals court used slightly different reasoning than Judge Cooper, but its conclusion was the same: Altmann's case presented an exception to the presumption of immunity for foreign sovereigns and could proceed in the U.S.

The matter was increasingly troublesome for Austria, not only because the country was loath to lose the paintings, but also for the principle Toman considered to be at stake: Austria's right to decide an Austrian dispute. After the Ninth Circuit declined to hear the case en banc, say Toman and Proskauer partner Cooper, they determined that Austria had to push its appeal to the U.S. Supreme Court. "Austria was very much of the view that the U.S. should not exercise jurisdiction over a uniquely Austrian matter," says Cooper. "They felt very, very strongly that Austria was equipped to deal with this case and had the right to deal with it."

In October 2003 the U.S. Supreme Court granted Austria's petition for a writ of certiorari. The U.S. Department of Justice, which had unsuccessfully petitioned the Ninth Circuit for a rehearing, joined the Supreme Court case as an amicus in support of Austria, arguing that expropriation claims against foreign countries that predated FSIA should be addressed through diplomacy or litigated in foreign courts.

With the governments of the United States and Austria allied against him, Randy Schoenberg was considerably overmatched. He didn't even have big-firm resources to back him; he had left Fried, Frank in 2000, in part to devote time to the Altmann case. "It was a leap of faith," he says. "I have to thank my wife—we had a tough year or so." He practiced for two years on his own, then joined Donald Burris in a two-lawyer Beverly Hills firm called Burris & Schoenberg. Schoenberg was attracting small matters through contacts in Los Angeles and referrals, but as the Altmann case managed to survive each of Austria's challenges, he began to believe that he might someday collect on the contingency fee contract that entitled him to a share of the proceeds of recovery of the Klimt paintings. "My wife would constantly say, when my children asked for something, 'As soon as Daddy wins the case,' " Schoenberg says.

When the Supreme Court granted certiorari, Schoenberg considered bringing in a Court specialist. The Commission for Art Recovery, an affiliate of the World Jewish Congress that is chaired by Ronald Lauder, offered to hire former Solicitor General Robert Bork. Altmann met with some other candidates. But in the end, she asked Schoenberg to argue the case himself. No one knew the facts as well or had more experience on the jurisdictional questions. Schoenberg sought advice from his former professor Erwin Chemerinsky, then of the University of Southern California Law

School. "I very strongly advised him to present the argument narrowly," says Chemerinsky. That was already Schoenberg's instinct. "I never wanted to pitch the case as a poor old lady who wants her property back," he says.

Schoenberg homed in on an issue that had been a focus of both the trial court and Ninth Circuit rulings: the retroactive applicability of FSIA to conduct that preceded its passage. His strategy was to reassure the justices that even if the court extended retroactive jurisdiction over foreign sovereigns, "the floodgates wouldn't open," Schoenberg says. There were still too many obstacles for plaintiffs to overcome, from statute of limitations restrictions to the act of state doctrine, which discourages courts from exercising jurisdiction over foreign sovereigns when it interferes with the executive branch's foreign policy powers.

When Schoenberg arrived in Washington, D.C., for the Supreme Court arguments in February 2004, he says, "It was like gallows humor. I felt like I had nothing to lose, because there wasn't anyone in the world who thought I would win." But as soon as he endured Justice David Souter's first question—it was complex, and Schoenberg had to ask him to explain it—Schoenberg felt like he was simply engaged in a very esoteric conversation with the justices. "I gave my best possible performance at the best possible time," he says.

Austria, says Gottfried Toman, was surprised and disturbed by the Supreme Court's June 2004 decision in *Republic of Austria* v. *Altmann*. The court ruled, 6 to 3, that the expropriation exception of the Foreign Sovereign Immunities Act did apply retroactively, which meant that Altmann's suit could proceed in Los Angeles. Toman had expected the emotional power of the Holocaust history of the case to influence the lower courts, but he says he believed the Supreme Court would consider the foreign policy implications of FSIA retroactivity—particularly because the U.S. government was arguing against it along with Austria. "What gives American courts the right to deal this way with other countries?" Toman says. "It was a bit of a surprise."

The Supreme Court remanded the case to Judge Cooper in Los Angeles, who once again denied Austria's motion to dismiss. She set a trial date for 2005. "The possibility existed that we'd end up litigating the case in the U.S.," Scott Cooper says.

Then Randy Schoenberg took his biggest risk. Finally poised to try Altmann's case in her home court, Schoenberg reminded himself of some contrarian facts. Austria had showed no weakening of resolve. If Altmann prevailed at trial, Schoenberg knew the Republic would continue litigating until every possible avenue of appeal was closed. The case might not end for ten years—and Maria Altmann was a frail nonagenarian. Moreover, even if Altmann's victory survived appeals, he wasn't sure Austria would give up the paintings. "The judgment might

not be enforced," Schoenberg says.

So he considered an alternative. California federal courts require pretrial mediation, which in the Altmann case took place at Proskauer's offices in March 2005, under the auspices of an Austrian historian. The mediator suggested binding arbitration in Austria. Both sides would benefit. Austria would return to its home jurisdiction, as Toman had wanted all along. Altmann, meanwhile, would get a quick resolution that Austria would have to accept.

Altmann was skeptical. "She loved the fact that we were winning in the U.S.," says Schoenberg. The Austrian lawyer who'd worked with Schoenberg, Stefan Gulner, was also dubious. "In the U.S., I know we win. In Austria: not so sure."

But Schoenberg, who'd obtained favorable opinions on Adele's will from two highly respected Austrian experts, believed that he could win the arbitration. Under the rules he and Austria counsel Cooper negotiated, he would select one arbitrator, Austria another, and they would decide the third. Toman selected the dean of the University of Vienna law school. Schoenberg decided to pick a practicing lawyer, Andreas Nodl of Spohn Richter & Partner. "He has a good heart and a good mind," Schoenberg says, noting that, as a working attorney, Nodl was accustomed to arguing persuasively. The third arbitrator was another professor, which left Gulner worried. "Two of the arbitrators were working for universities that get money from the Minister of Education and Art—the opposite party of us. I think, maybe it's not good."

"IT'S AN AMAZING FEELING WHEN YOU WIN, ESPECIALLY WHEN YOU DON'T EXPECT IT," SAYS RANDOL SCHOENBERG.

The one-day hearing took place in September 2005 in Vienna. Toman argued for Austria, which contended that Adele had owned the Klimt paintings at the time of her death and had willed them to the Austrian Gallery. (Proskauer partner Cooper exited the case when it returned to Austria.) Schoenberg argued for Altmann and the other heirs, in German. "They didn't want to discuss the law with me," Schoenberg says. "They just wanted the facts."

On January 16, 2006, the day the arbitrators' ruling came in, Schoenberg had just returned home from a late-night poker game. "I'd gotten killed," he laughs. "Then the message came on my BlackBerry. It's an amazing feeling when you win, especially when you don't expect it." As he had hoped, Nodl had persuaded the other two arbitrators that when Adele asked Ferdinand, in her

will, to donate the Klimt paintings to the Austrian Gallery after his death, she was expressing, in the words of the ruling, "a legally nonbinding wish." The arbitrators concluded that under Austrian law, Ferdinand—not Adele—owned the paintings at the time of Adele's death, so Adele didn't have the power to dictate their fate. Austria's ownership claim had failed. Toman's only consolation was that the case had, at least, been decided in Austria by Austrians.

After the arbitrators' ruling matters moved along quickly. Austria transferred the title to five Klimt paintings in March 2006. (The sixth painting, which had been donated to the Austria Gallery by Ferdinand in 1936, remained in Austria.) In April the works went on display in Los Angeles, where Schoenberg and Maria Altmann were feted for their hard-won victory. Altmann and the four other Bloch-Bauer heirs hired Steven Thomas of Irell & Manella to oversee the sale of the Klimts; in June, New York's Neue Galerie Museum for German and Austrian Art purchased *Adele I* for a reported $135 million. In July the portrait went on display at the museum, surrounded by the other four recovered Bloch-Bauer Klimts, on loan from the Bloch-Bauer heirs.

As Schoenberg had predicted, the Supreme Court's ruling in the Altmann case has not produced a flood of claims against foreign sovereigns. It has not proved to be a widely influential case, say three FSIA experts. And in an unforeseen development, at least one pending Holocaust restitution case, against the French national railroad, was dismissed by the Second Circuit in the wake of *Altmann*. The railroad, whose alleged conduct did not fall under any of the exceptions to the foreign sovereign immunity act, received retroactive immunity under the Altmann ruling. "In a strange way, the victory of one Holocaust survivor spelled the end for another Holocaust case," says Cardozo Law School professor Richard Weisberg, one of the plaintiffs' lawyers in the railway case.

But Schoenberg's only clients were Maria Altmann and the other Bloch-Bauer heirs. In all, he has helped the Bloch-Bauer descendants recover not only the Klimt paintings, but also restitution from Austria of the mansion on Elisabethstrasse and $21.8 million from the fund that repays Holocaust victims money once deposited in Swiss banks—the largest award granted by that tribunal. After the lean years when he first left Fried, Frank, Schoenberg has reaped millions in contingency fees from his representation of the Bloch-Bauer heirs. (He declines to comment on his fees, but court documents indicate that Schoenberg received 25 percent of the Swiss bank award; and that he and Gulner will share 40 percent of the Klimt recovery.) "I'm so lucky that I was able to work on a case that was so personal, such a perfect fit for who I am," Schoenberg says. "It was the perfect case for me, and I was the perfect lawyer for the case."

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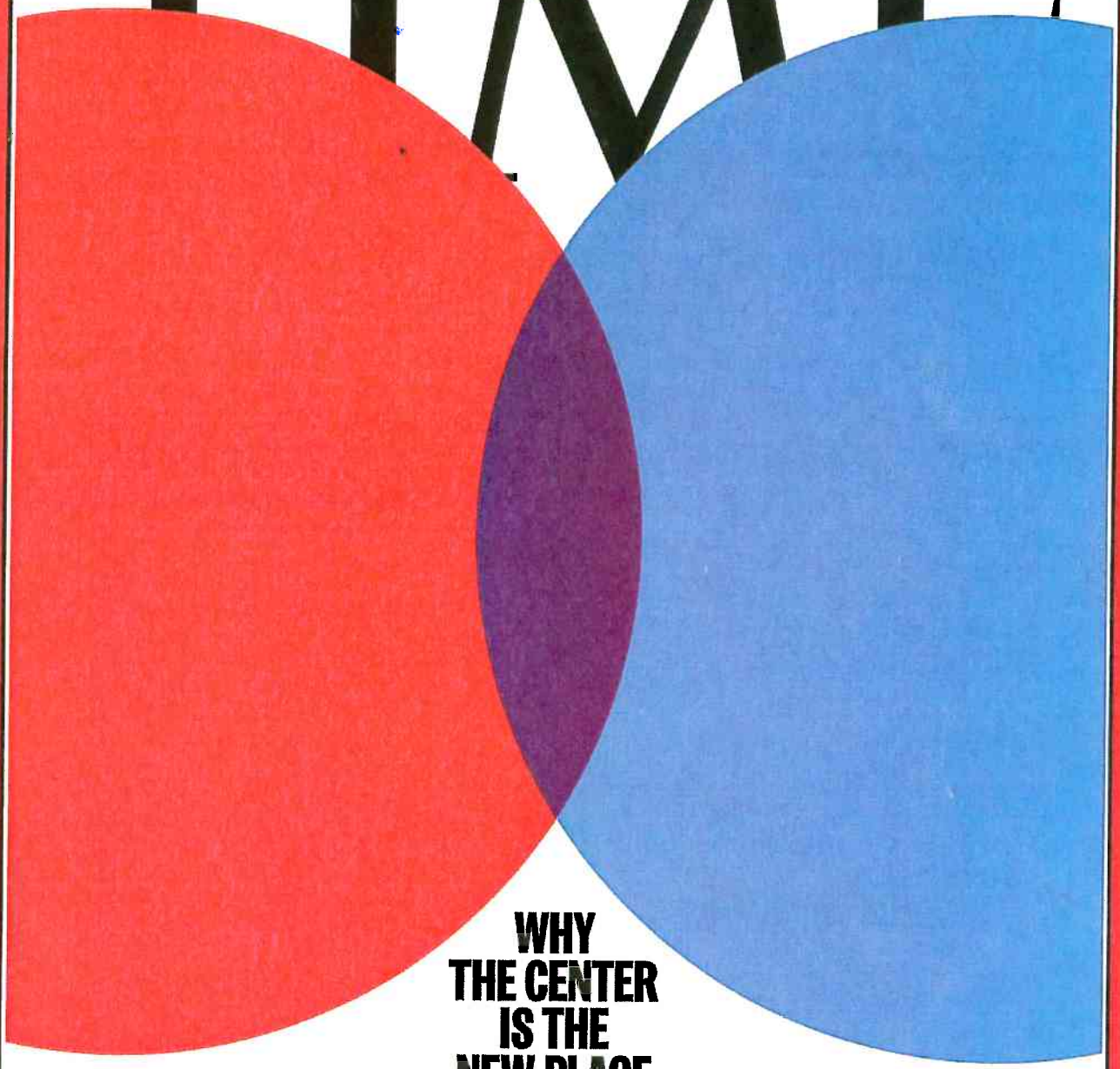

WHY THE CENTER IS THE NEW PLACE TO BE

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BUSINESS

Portrait of a Bull Market

What the latest record-setting prices for modern art say about the health of the U.S. economy

By JEANNE MCDOWELL

COLLECTING ART USED TO BE A rich man's sport, played by those whose bank accounts matched their passion for Picassos and Rembrandts. But times have changed. Now it's a *spectacularly* rich man's sport, as evidenced by the bidding frenzy that took place last week at Christie's in New York City, where $491 million worth of Impressionist and modern art changed hands—the priciest art auction in history. Gustav Klimt's *Portrait of Adele Bloch-Bauer II* sold for $87.9 million, obliterating the presale estimate of $40 million to $60 million. Three other Klimts—part of a collection stolen by the Nazis during World War II and recently returned to the owner's heirs—fetched a combined $104 million. An anonymous moneybags phoned in a $40.3 million winning bid for Paul Gauguin's *Man with an Ax*—a record for that artist. "We were flabbergasted by the prices," says New York art dealer Dominique Levy. "The bidding was coming from everywhere. It was an electric evening."

The action at Christie's and at Sotheby's the night before, where sales of Impressionist and modern art totaled $238 million, seemed to confirm that the market has reached another bubble phase. It's reminiscent of the bubble that inflated in the '80s, when dealmakers such as Australia's Alan Bond and yen jillionaires like Ryoei Saito chased Van Goghs to the stratosphere. (Saito paid $82.5 million for *Portrait of Dr. Gachet.*) Dotcom entrepreneurs with Internet funny money bought Impressionists and Pop Art. Today a new generation of hedge-fund billionaires and Chinese and Russian kleptocrats is part of an ocean of capital flowing into galleries and auction houses. "There seem to be no limits to what people will pay, and in every kind of art," says art-tax specialist Ralph Lerner, whose clients include some of the country's biggest collectors.

There are limits, of course, to any market; they just don't announce themselves until the damage starts. Art bubbles can presage stock market busts, as happened in 1987 and 2000. Several weeks ago, entertainment mogul David Geffen sold two postwar paintings by Jasper Johns and Willem de Kooning for a combined

GUSTAV KLIMT

Portrait of Adele Bloch-Bauer II

$87.9 million

COURTESY OF CHRISTIE'S IMAGES LTD. 2006

FAR LEFT: MIKE SEGAR—REUTERS; FAR RIGHT: BRADYN DAVID—SIPA

This portrait of the wife of one of Klimt's most generous patrons was the goal of gotta-have-it bidders at Christie's, in person and on the phone. She was the only woman the Austrian artist painted twice; the other portrait sold recently for $135 million. *Adele I*, completed in 1907, is from Klimt's golden period. In 1938 the Nazis seized the art. Family heirs recovered it last March

$143.5 million. Geffen also sold a Jackson Pollock last week for $140 million, making it the single biggest art sale ever. It topped the previous record breaker—cosmetics magnate Ronald Lauder's purchase of Klimt's *Portrait of Adele Bloch-Bauer I* in June for $135 million. Although Geffen is rumored to be liquidating some art to make a bid for the Los Angeles *Times*, it's just as possible that the man senses a market peak when he sees one.

The only glum faces in the art world belong to museum directors, who because of a new tax law may have a harder time obtaining these treasures. Tucked into the Pension Protection Act, which President Bush signed into law in August, the law imposes stricter limits on the popularly used method by which art collectors donate their works to museums. In the past, collectors would often hand over partial ownership of a painting—usually from 10% to 20%—and take a tax deduction for an equivalent percentage of the appraised value. The write-off on subsequent donations could rise each time the painting's value grew. Donors got a tax break, and museums got the art to exhibit for a period of time each year. Many such paintings were ultimately bequeathed to the museums.

At a time when museums are generally priced out of auctions for top works of art, that donation method, known as fractional giving, has been responsible for a substantial portion of the 80% of pieces that come through private donors. "It's a win-win situation," says Stephen Clark, deputy general counsel for the Museum of Modern Art in New York City, where roughly 650 works of art have been acquired via fractional giving, with about 650 more on the way—including Henri Matisse's *Plum Blossoms*. "It encourages art collectors to give because they get a tax benefit, but it also encourages donors to be prudent stewards of important art."

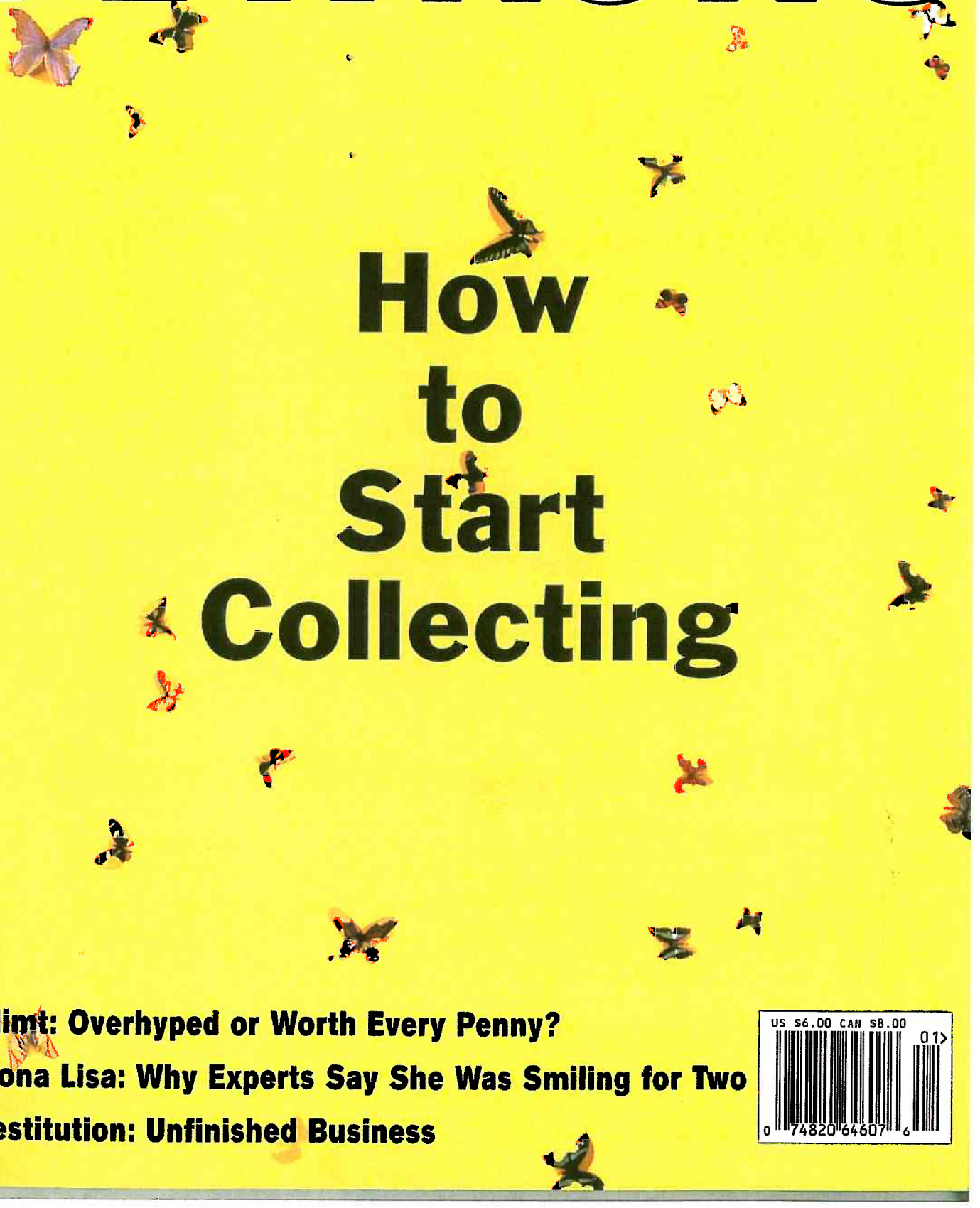
Already the new tax law is disrupting the traffic between donors and museums. That's in part because it requires a museum to take possession of a piece of donated art within 10 years, not merely for a specific number of days each year, as under the present arrangement. And now donors' write-offs are limited to a painting's market value at the time the original gift was given, not its appreciated value. That may end up being a significant disincentive for giving. While the law's intent is to prevent donors from reaping tax breaks on art that isn't often seen by the public, museum directors say this rarely occurs. "I'd like to see the government produce some evidence," says James Cuno, director of the Art Institute of Chicago, which has about 200 fractional gifts in process. "The artworks usually end up in the museums, where for centuries they will be enjoyed by the public."

Museum officials, who are lobbying to have the tax provision withdrawn, say they're already getting the cold shoulder from potential donors. "There have been donors in negotiations who pull back immediately," says James K. Ballinger, director of the Phoenix Art Museum, which obtained two Georgia O'Keeffe paintings through fractional giving. Lerner says he's advising clients to hold off on donations and has pulled the plug on a $20 million painting. "I don't go through a long explanation. I just tell the client, 'You can't do this any longer,'" he says. "They say, 'Fine.'"

Art is not only about investment, however, and at the center of each staggeringly expensive acquisition is a collector who is usually rapturous about a painting. "It's not like buying and selling shoes," says Los Angeles–based art adviser Patricia Ciaffa Peyser, who handles a number of high-profile collectors. "There's a sense of wonder and immortality about art that's precious to everyone. It transcends business." But as the art bubble continues to expand as a barometer of the overall health of the economy, even the most passionate collectors and the people who advise them are trying to figure out how long it can last and when it's going to burst. ■

ARTnews

JANUARY 2007



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Ronald Lauder, left, with Steve Thomas, the lawyer who coordinated Lauder's purchase of *Portrait of Adele Bloch-Bauer I*, 1907.

Guy Bennett, center, fields the call with the winning bid for *Adele Bloch-Bauer II*, 1912. It sold for $87.9 million to an anonymous buyer.

GOLD RUSH

Until a few decades ago, Gustav Klimt was relatively ignored by the art establishment. Now his paintings are among the most expensive ever sold. How did the Viennese painter's prices rise so high so fast?

BY EILEEN KINSELLA

LEFT: COURTESY NEUE GALERIE, NEW YORK; RIGHT: MIKE SEGAR/REUTERS

***Birch Forest*, 1903, was one of five paintings restituted to the Bloch-Bauer heirs last year. At Christie's auction last November, it sold for $40.3 million—well over its $20 million/$30 million estimate.**

Klimt's *Apple Tree I*, ca. 1912, sold for $33 million, breaking the artist's previous auction record of $29.1 million.

WHEN RONALD LAUDER, THE COSMETICS heir, art collector, Neue Galerie cofounder, and chairman emeritus of the Museum of Modern Art, shelled out a reported $135 million for Gustav Klimt's *Portrait of Adele Bloch-Bauer I* (1907) last June, many observers were shocked not only by the amount paid—one of the highest known prices for a single painting to date—but also by the name of the artist it was paid for.

How, they wondered, did a work by Klimt, who was largely ignored by the art establishment just a few decades ago, suddenly vault more than four times to a previous auction record of $29.1 million? How did he surpass even Picasso, whose $104.2 million Blue Period *Boy with a Pipe* (1905)—still a much discussed market milestone two years after the fact—officially holds the slot for the most expensive painting sold at public auction?

The answer involves a mix of factors, including the painting's extraordinary provenance and recent history, Lauder's passion for and pursuit of this particular work, and the soaring demand for German and Austrian Expressionism, along with the explosive growth of the broader art market.

The gold-ground portrait of Adele Bloch-Bauer—the wife of Austrian sugar magnate Ferdinand Bloch-Bauer, who fled Austria during World War II—is considered one of Klimt's best works. The elaborate portrait of a seated Adele, executed over the course of three years, features a dazzling array of gold patterns and layered shapes, with the fabric of her gown seeming to meld with the furniture and walls surrounding her. Much has been written about Adele's sensual expression and Klimt's erotic depiction of her, and speculation about an affair between Klimt and his subject has only increased the public's fascination with the painting.

After a nearly eight-year battle between the Austrian government and the Bloch-Bauer heirs—led by the couple's niece Maria Altmann and her attorney E. Randol Schoenberg—the painting was one of five restituted to them earlier this year from the Austrian Gallery Belvedere in Vienna. The Nazis had seized the paintings in 1938, along with much of the contents of the Bloch-Bauers' home. The museum claimed ownership of the work based on Adele's 1923 will, but additional information related to the case was made public in 1998 when the Austrian government passed a law that opened archives. Ferdinand, who died in Switzerland in 1945, left his estate to Altmann and two of her siblings. Last January, after the U.S. Supreme Court ruled that Altmann could sue Austria in a U.S. court, a three-judge panel in Austria unanimously ruled in favor of a claim brought by Altmann and the other Bloch-Bauer heirs.

The excitement clearly boosted Klimt's market and translated into further astounding prices when the four remaining works were sold at Christie's Impressionist and modern sale in New York last November. *Adele Bloch-Bauer II*, a 1912 portrait with more somber tones, widely viewed by experts as reflecting that the affair between artist and sitter was over by that time—"the bloom is off the rose," says one source—commanded $87.9 million. It was far above Christie's $40 million/$60 million presale estimate and nearly three times Klimt's previous auction record. In addition to being one of the most expensive artists ever, Klimt now holds the distinction of being the second most expensive artist at auction after Picasso.

The remaining Klimt works sold over estimate: *Birch Forest* (1903) fetched $40.3 million; *Apple Tree I* (ca. 1912) sold for $33 million; and *Houses at Unterach on the Attersee*

Eileen Kinsella is editor of the ARTnewsletter.

(ca. 1916) realized $31.4 million. Collectively the five restituted works reaped more than $327 million.

Lauder calls *Adele I* the Neue Galerie's "Mona Lisa" and a "once-in-a-lifetime acquisition." Lauder, who is on the *ARTnews* list of the world's top ten art collectors, says he first saw Klimt's work at the age of 14 in Austria. After traveling with his family in France, he went on his own to Vienna specifically to see the Klimts in the Belvedere. It was "like finding the holy grail," he told *ARTnews* in a telephone interview. "I was actually blown away by it. I had never seen such powerful images as *The Kiss* and *Adele I*."

He adds, "I was into Art Nouveau, turn-of-the-century art, but this was the time of Monet; everyone was talking about French Impressionism." Shortly after seeing *Adele I* for the first time, he purchased his first Egon Schiele work, a 1908–9 drawing of a woman with striped stockings (now in the Leopold Collection in Vienna), and a 1910 Klimt drawing that is still in his collection. "There was this excitement of discovery," he recalls. "Nobody I knew knew of Klimt and Schiele."

Maria Altmann with *Portrait of Adele Bloch-Bauer I*, 1907, at the Los Angeles County Museum of Art, where the five Klimts the Austrian government returned to her family were on view last spring.

Lauder first met Schoenberg and Altmann in the 1990s and kept in touch with them over the next few years about proceedings regarding various restitution cases and disputed artworks.

Steve Thomas, a partner at the Los Angeles–based law firm Irell & Manella who was brought in as an adviser to the heirs following the restitution decision last January, says Lauder had immediately "telegraphed" his interest in *Adele I* with phone calls to Altmann in January and to Schoenberg several weeks later.

Soon after, Lauder called Thomas and "immediately introduced himself as someone who was very interested" in *Adele I*, says Thomas. "Ronald's view of the transaction was to get in early, express the interest, and make it clear: 'Don't do anything with it until you've talked to me.'"

Lauder recounts that soon after he knew the paintings had left Austria, he met with Thomas, and they agreed on a price for *Adele I*. Asked how they arrived at the price, or whether he had any hesitations, Lauder responded firmly: "No. It was just a question of how much it would take to buy the painting without having to go to auction. It took about three seconds."

Although Thomas describes Lauder as "tireless, dedicated, and passionate in his efforts to address the family's goals and in the pursuit of the painting on behalf of Neue Galerie," he laughs when asked if the deal took a matter of minutes. "I call him on it every time," he says. Thomas tells how, at the opening of the Neue Galerie's exhibition of *Adele I*, Lauder told a reporter that the deal took 20 seconds. Recounts Thomas: "I said, 'Ronald, what are you doing?' and he responded, 'Well, how long do you think it took? Two minutes? Three minutes?'"

Thomas declined to specify how long the deal took, saying only that "there were several weeks of discussions." After he was initially contacted by Lauder, "serious discussions" did not start until a couple of weeks later, after Altmann and the other heirs had time to consider their options. Thomas declined to discuss details of the negotiations for the reported $135 million price, although he specifies: "The family did not put a price on the painting." He also declined to say how the price was determined.

Thomas says that approximately seven to ten serious international collectors and three to five museums (both abroad and in the United States) had shown interest in the Klimt works, although he declined to identify the potential buyers. None of the competing collectors was Austrian. Asked whether the heirs initially intended to sell the works as a group, Thomas says that they received some serious offers for all five paintings. These offers, he notes, were from private collectors or investor groups that did not intend to provide for permanent public display of the works.

One source familiar with the transaction, who declined to be identified, describes the negotiations as an "unpleasant experience for a lot of people" in terms of mixed messages about competing bids. "They always knew they were selling it to Lauder, but they were strategizing with everyone to keep pressure on him to make sure he came up with a knockout bid. My sense is that they were acting as though they were entertaining offers but were shrewdly representing them to him so that Lauder never felt a letup of the pressure. I guess it is [the attorney's and heirs'] right to keep as many people in the game and keep up as much pressure as possible. But deals were done long before people knew about them."

Lauder insists he didn't feel any pressure or worry about competition: "I didn't even think of that."

Thomas replies, "There was competition; he knows there was competition."

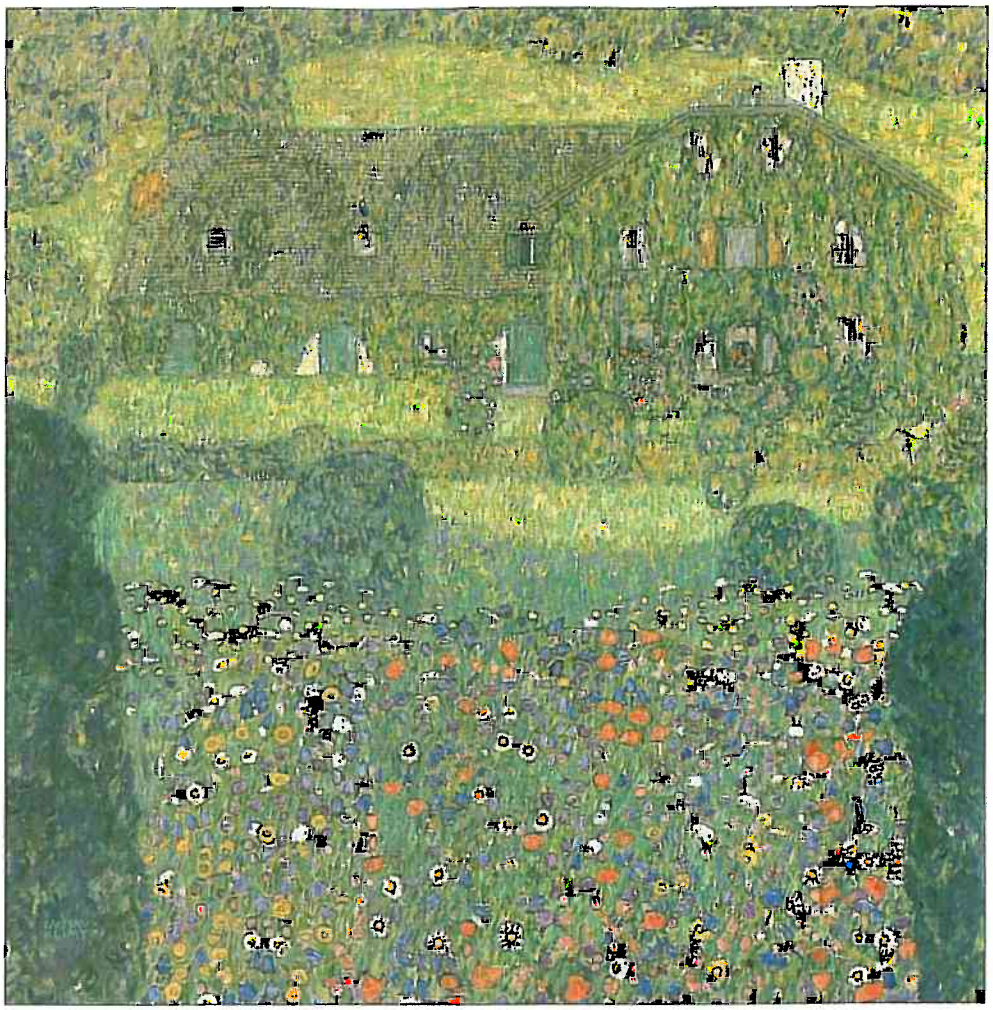
But, says Thomas, "There was no posturing or game playing. The deal got done because there was no hidden agenda. It happened because it met all of the heirs' requirements and satisfied Lauder's desire to show the work at the Neue Galerie. He knew he was under very tight time pressure." Thomas adds, "We never used him as a stalking horse; we didn't come back and say, 'This person offered this; you need to up your offer.'"

Both Sotheby's and Christie's competed for consignment of the remaining works. The heirs ultimately chose Christie's because of Maria Altmann's friendship with Stephen Lash, chairman of Christie's Americas. When Christie's was chosen to advise the Bloch-Bauer heirs on the sale of the four remaining Klimts in early August, the auctioneer did not indicate whether the paintings would be sold at auction or privately. "Clients got a lot of mixed messages from Christie's as they were trying to assess the level of interest and where they might stand with the guarantees," according to the source. "I think they really played everybody."

Guy Bennett, Christie's head of Impressionist and modern art, says that the performance of the Klimts at auction speaks for itself. "Certainly from where I was standing, the market responded in an incredibly positive manner," says Bennett, who handled the winning bid for *Adele II* via telephone.

While two other phone bidders went head-to-head as the

CHRIS PIZZELLO/REUTERS



***Country House on the Attersee*, 1914, was until November the most expensive Klimt ever sold; in 2003 it went for a record-breaking $29.1 million at Sotheby's.**

price rose through the $50 million to $60 million level, Bennett's bidder entered the competition at $74 million—suggesting that he or she wanted it no matter how high the price went—and eventually won the work with a final bid around $78 million before premium.

The Los Angeles County Museum of Art, which exhibited the five Klimts on their return from Austria, was known to be an interested bidder. Director and CEO Michael Govan said in a statement to *ARTnews* last June: "I'm sad [*Adele I*] won't be staying in Los Angeles, but I am pleased it will be on view in an American museum." A museum spokesperson said she had no other information about the museum's bid. According to published reports, however, Govan had been making daily calls for months and was interested in acquiring all five of the Klimt works.

Adele I is now on view as part of the permanent collection of the Neue Galerie on Manhattan's Upper East Side, where it has been drawing record crowds since its debut last July. (The four other Klimts were shown alongside it for two months last summer.) But the jury is still out on whether Klimt is a $135 million artist. Depending on which expert you consult, the gold portrait is either worth every penny or an overhyped—and overpriced—picture.

Simon de Pury, chairman of the auction house Phillips, de Pury & Company, says *Adele I* is the "ultimate masterpiece of one of the great modern masters of the early 20th century," adding that he "was not surprised by the price. There are very few works of that caliber, and if and when something of that quality comes on the market, anything is possible. In hindsight, it will not be seen as something crazy. It is a brilliant coup."

In a *New Yorker* column last July, art critic Peter Schjeldahl wrote: "Is she worth the money? Not yet. Lauder's outlay predicts a level of cost that must either soon become common or be relegated in history as a bid too far. And the identity of the artist gives pause . . . until a few years ago, the artist ranked as a second-tier modern master."

Whatever Klimt's position in the "pantheon of art history or whatever the pecking order about his reputation, Klimt's work is a perfect, nostalgic reflection of a great moment in cultural

CHRIS PIZZELLO/REUTERS

SOTHEBY'S

***Hope II*, 1907–8,**
acquired by the Museum of Modern Art in 1978 with the help of Ronald Lauder.

history—Vienna at the turn of the century," says Robert Rosenblum, a professor of art history at New York University's Institute of Fine Arts and curator of 20th-century art at the Guggenheim Museum in New York. Rosenblum declined to comment on the reported price of *Adele I*, noting that he generally does not follow sale prices. "This has nothing to do with whether he is a great, indispensable artist. He's not van Gogh, Munch, or Picasso, but he has the ability to capture in his art an entire society. For a lot of people, it's time travel." He adds: "I myself love Klimt up to a point, but it's like going to a Viennese bakery."

According to *Los Angeles Times* art critic Christopher Knight, "the master narrative of 20th-century modernism goes through Paris; it's a Parisian story, and Germany and Austria are always tangential." But, he notes, "there has been some change in that kind of thinking in the last 20 years or so."

Before the Christie's sale, Knight said that the $300 million figure for the five Klimts—which had been floated in various press reports—"established an inflated benchmark." Commenting on the results of the auction, Knight says that "the whole brouhaha over the sale of *Adele I* did nothing but enhance the market value of the remaining works."

Jane Kallir, director of Galerie St. Etienne in New York, told *ARTnews*, "I was in no way, shape, or form surprised" at the reported price of *Adele I*. "We are in an era in which premium prices are being paid for trophy objects."

Gérard Goodrow, director of the Art Cologne fair, echoes the view that *Adele I* is in a class by itself. "It's a mistake to view this as a sort of *Iron Chef* battle between Klimt and Picasso," he comments. "This is not Klimt versus Picasso. This is Klimt versus *those* Picassos."

Klimt, who died in 1918, did not have a solo show in the United States until 1959 at Galerie St. Etienne. In an *ARTnews* review, one critic stated: "The American public has become aware of him only recently. . . . This neglect seems undeserved." But the critic also notes: "Klimt's best works are his landscapes. As a portraitist, Klimt was less successful."

The artist's work had long been featured in group shows at St. Etienne, says Kallir, but his counterparts Schiele and Oskar

Kokoschka were better known in the United States, because significant works were more readily available. "It was because of the scarcity of Klimt's paintings on the American market that he didn't become known sooner in the U.S.," she says.

"There is no question that works on paper by Schiele are more plentiful," says David Norman, head of the Impressionist and modern art department at Sotheby's. Further, "there has been a very notable increase" in the number of sales and the level of prices for Schiele's work in recent years, he says, noting that the artist's oil paintings rarely come up at auction.

The $22.4 million record for a Schiele work was established at Christie's last November for the 1915 oil *Single Houses (Houses with Mountains)*. The painting was one of three Schiele works from the Neue Galerie's collection that Lauder sold to help finance the purchase of *Adele I*. Together they made $39.2 million.

Meanwhile, Norman points out, sales of Kokoschka oils have also been infrequent, with the record price of $2.97 million established more than 15 years ago. "So little has come on the market in recent years," he says. "You need the right combination of rarity and supply to really maintain and move a market."

At first, Klimt and Schiele got the cold shoulder from American museums and collectors. Otto Kallir, Jane's grandfather, who founded St. Etienne in New York in 1939, was a key figure in changing that. In 1956 he donated Klimt's *The Pear Tree* (1903) to Harvard University's Fogg Art Museum; it was the first work by the artist to enter a U.S. institution (and was later transferred to the school's Busch-Reisinger Museum, which is devoted to art from German-speaking countries). In 1957 he sold MoMA its first Klimt, *The Park*, executed in 1910 or earlier. And in 1960 the Carnegie Museum of Art in Pittsburgh bought Klimt's painting *Orchard (Garden Landscape)*, executed before 1916, also from Kallir. The museum acquisitions coupled with the 1959 solo show at St. Etienne marked a turning point, says Jane Kallir. In 1965 the Guggenheim Museum mounted a dual show of Klimt and Schiele. In a March 1965 review in the *Washington Post*, critic Anthony West blasted the show as an attempt to "float two Viennese second-raters" and deemed Klimt's late paintings *Danae* and *Leda* "dottily erotic." Along with the 1907-8 painting *The Kiss*, West wrote, the works "show the essence of the vulgar fraud that his 'art' truly was."

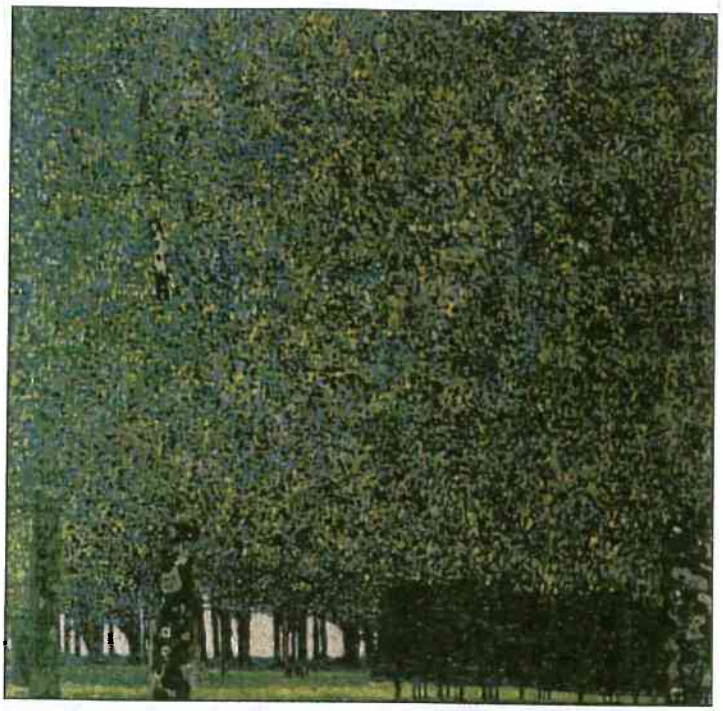
Afterward, prices for Klimt's and Schiele's works began to rise, boosted by a group of focused collectors, many from Europe. By the late 1970s, Klimt landscapes were selling for prices ranging from $400,000 to $600,000, and some of his Secessionist works were fetching from $500,000 to $1 million.

In 1978 MoMA, hoping to trade up to a better Klimt, arranged to sell *The Park* to New York dealer Serge Sabarsky for $500,000. (A longtime associate of Ronald Lauder, Sabarsky was cofounder of the Neue Galerie; he died in 1996.)

MoMA had its sights on Klimt's 1907–8 painting *Hope II*, which the museum and its outside advisers considered more historically important. Lauder stepped in to cover the $300,000 difference between the price of *The Park* and that of *Hope II*. Eventually the museum—some of whose trustees felt torn over having to choose—raised the funds to retain both Klimts.

Prices for Klimt and German Expressionist works continued to rise with the art market throughout the 1980s. In 1984 Klimt's *Life Is a Struggle* (1903)—said to be one of the few paintings that had left Austria at that point—sold to Galerie St. Etienne for $981,646 at Sotheby's, then an auction record for the artist. In 1987 at Sotheby's London, *Kammer Castle on the Attersee II* (ca. 1909) soared to $5.28 million, with the winning bid coming from Marlborough Fine Art. Less than two years later, the record price for a Klimt painting doubled again when the Aichi prefectural government museum in Japan paid $11.4 million for *Life Is a Struggle*. Prior to Christie's November sale, the record for Klimt stood at $29.1 million, achieved at Sotheby's in 2003 for *Country House on the Attersee* (1914).

Nicholas Maclean, a New York dealer and former co-head of Christie's Impressionist and modern art department, says of *Adele I*, "We've never seen a Secession picture take a price like this, but it's driven by a number of things. Great pictures find themselves in a different price bracket—in some cases they can be worth 1,000 percent more than a good work by the same artist." He adds: "What would van Gogh's *Dr. Gachet* get if it came up at auction today?"



***The Park*, executed in 1910 or earlier, was the first Klimt painting to enter MoMA's collection when the museum bought it in 1957.**

In 1997 the record for Klimt hit £14.5 million ($23.5 million) at Christie's London. At the time, amid speculation that Lauder was the buyer of *Kammer Castle on the Attersee II*, he issued a statement to the *ARTnewsletter* through his curator, Elizabeth Kujawski: "This is an artificial market created by one person who has bought the last three Klimts at auction. In all cases the values of the paintings were only half of what they sold for. The average price of a Klimt should be $6 million to $7 million."

Asked about this recently, Lauder said that he had been concerned that two collectors fighting for Klimt's work were driving prices to irrational heights. Of the price he reportedly paid for *Adele I*, he says, "I didn't even think of that. I knew there was nobody who wanted the painting more than me." ■

The Klimt Austria Kept

BY SOPHIE LILLIE

FOUR MONTHS AFTER RULING THAT FIVE paintings by Gustav Klimt should be restituted to the heirs of Ferdinand Bloch-Bauer, an arbitration panel ruled against the return of a sixth painting by Klimt, rejecting two groups of competing claimants for the work.

The panel decided last May that the unfinished portrait of Amalie Zuckerkandl (1917–18) voluntarily changed hands after the Nazi occupation of Austria and that its subsequent sale did not represent a case of illegal gain by the Nazis.

The claimants were the heirs of Bloch-Bauer and those of Zuckerkandl, who perished in the Belzec concentration camp in 1942. Attorneys for both groups filed complaints in Vienna's civil court against the judgment. Vienna attorney Alfred J. Noll, representing the Zuckerkandl heirs, filed in July against what he called an "untrue, almost vulgar" and "cynical" misjudgment. Noll alleged an invalid interpretation of Austrian restitution law, false consideration of evidence, insufficient procedure, and bias, as well as a violation of the fundamental principles of the Austrian legal system and the European Convention on Human Rights. Stefan Gulner, the Vienna attorney acting for the Bloch-Bauer heirs, filed a second complaint in August.

There is agreement between the parties on many historic facts, if not on their interpretation. Indeed, the dilemma originated in the once intimate friendship between the families.

Victor Zuckerkandl, a wealthy industrialist, was the founder of the famous Sanatorium Westend in Purkersdorf, an early Modernist masterpiece built by Josef Hoffmann in 1904. A patron of the Wiener Werkstätte and the Secession, Zuckerkandl was an avid art collector who owned 12 major Klimts. In 1912 the artist painted Victor's wife, Paula; Klimt's portrait of Amalie, the wife of Victor's brother Otto, was unfinished when the artist died in 1918.

According to an article recently published by Austrian restitution scholar Ruth Pleyer, Amalie sold her portrait at least twice during the 1920s to her friend Ferdinand Bloch-Bauer. He bought the painting from Amalie, Pleyer says, only to return it, as a means of supporting her after her divorce from Otto in 1919.

Bloch-Bauer is first recorded as the painting's owner in 1928, two years after the death of his wife, Adele. Throughout the 1930s, the painting hung in his bedroom. Bloch-Bauer fled to Switzerland in 1938; in 1939 the painting was listed among property inventoried by the Nazis at his home.

The Zuckerkandl side contends that Bloch-Bauer successfully negotiated the painting's release in 1940 and its return to

Austria will not restitute Klimt's unfinished portrait of Amalie Zuckerkandl, 1917–18. She perished in a Nazi concentration camp.

ÖSTERREICHISCHE GALERIE BELVEDERE, VIENNA

Amalie. According to the Bloch-Bauers, this transaction was involuntary and a direct result of the advent of Nazism.

Both families suffered enormous losses. In 1938 daunting tax charges expedited the Aryanization of Sanatorium Westend by the Austrian Control Bank; its former co-owners—Amalie's children (Victor Jr., Nora, and Hermine) and her sister-in-law, Amalie Redlich—were left with nothing. Nora and her husband, Paul Stiasny (the sanatorium's director), were evicted from their home on the Purkersdorf grounds; Amalie Redlich and her daughter were deported in 1941.

Hermine struggled to survive undercover. In 1942 she procured false papers declaring her of "mixed" rather than "Jewish" descent, for which she paid 7,000 reichsmarks—a sum roughly equivalent to the annual pension her husband, the artist Wilhelm Müller-Hofmann, received following his dismissal by the Nazis from his post at Vienna's Academy of Applied Arts. Hermine's only financial resort was Klimt's portrait of her mother, which she sold for 1,600 reichsmarks—about one-sixth of its actual worth—to Vita Künstler, the managing director of Vienna's Neue Galerie, whose owner, Otto Kallir, had fled to the United States.

Amalie Zuckerkandl and Nora Stiasny were deported that same year and are believed to have been murdered at Belzec. Paul Stiasny and their son, Otto, died at Auschwitz.

More than four decades later, in 1988, Künstler bequeathed Amalie's portrait to the Austrian Gallery Belvedere. According to Jane Kallir, Otto's granddaughter and his successor as director at Galerie St. Etienne in New York, Künstler hoped that donating rather than selling the painting would resolve the moral dilemma of its problematic history.

Public scrutiny of the painting's provenance followed Austria's adoption of the Art Restitution Act in 1998. Inquiries also brought to light the donation's secondary effect as a quid pro quo for an export license Künstler had received two years earlier, which enabled her to sell Egon Schiele's *Winter Trees* (1912) to Ronald Lauder, then serving as the U.S. ambassador to Austria.

In 1999 (two years before the Belvedere's full acquisition of the painting following Künstler's death, at age 101, in 2001), the Bloch-Bauer heirs filed for the restitution of Amalie's portrait. Its inclusion in *Maria Altmann v. Republic of Austria* ultimately led to its submittal to arbitration in response to a U.S. Supreme Court ruling.

While acknowledging Hermine Müller-Hofmann as a Nazi victim, the arbitration opinion rejected the notion of a forced sale, contending that Künstler had "helped" Müller-Hofmann and paid her a "fair price." Müller-Hofmann's reluctance to buy back the painting from Künstler after the war, the arbitrators concluded, indicated her implicit approval.

Commenting on the verdict to *ARTnews*, Noll said that the arbitrators "defended a political decision at the cost of inventing circumstances." Noll pointed to an expert opinion by Georg Graf, a law professor at the University of Salzburg and a permanent member of the Austrian Commission of Historians, published in 2003. Graf argued that Austrian law unequivocally demands restitution in all cases of forced sales, irrespective of the price paid, and makes it incumbent on the purchaser, not the victim, to prove that such a sale was unrelated to the advent of Nazism.

Indeed, the arbitration verdict contradicts precedent. In 2000 Austria returned Klimt's *Apple Tree II* (1916) to the heirs of Müller-Hofmann's sister, Nora Stiasny, after conceding its forced sale in 1938; a similar ruling led to the recovery of Klimt's *Lady with Hat and Feather Boa* (1909) and *Farmhouse with Birches* (1900) by the heirs of Georg Lasus in the same year. Noll's law firm successfully handled both cases.

While a forced transaction is also at the heart of the Bloch-Bauer complaint, the Bloch-Bauer heirs dismiss the validity of the original transfer of property from Bloch-Bauer to Zuckerkandl, rather than the transfer from Zuckerkandl to Künstler. "There is really only one side to the story," the Bloch-Bauer heirs' Los Angeles lawyer, E. Randol Schoenberg, told *ARTnews*, "and I don't have any sympathy for those who think otherwise."

Meanwhile, at the Belvedere, Amalie's portrait has replaced *Portrait of Adele Bloch-Bauer I* in the permanent exhibition of Klimt works since the restitution of five masterworks from the Bloch-Bauer collection to Maria Altmann last year. ■

Sophie Lillie is an art historian and an independent restitution expert.

Munch Goes Back to Mahler Heirs

Last November the Austrian minister of culture, Elisabeth Gehrer, said that Austria would return Edvard Munch's *Summer Night on the Beach* (ca. 1902) to the heirs of Alma Mahler-Werfel, ending a restitution battle that has lasted six decades (see "Reexamining the Legacy of Shame," December 2006).

Gehrer reversed a decision taken seven years earlier. In 1999, while publicly conceding the strength of the claim on "historical and moral grounds," the minister's advisory council on restitution issues threw out the case on a technicality, arguing that the matter had already been settled by an Austrian court in the early 1950s.

Gehrer's recent decision comes in response to petitions by Gert-Jan van den Bergh, the Dutch lawyer acting for the Mahler heirs, who argued that Austria's General Settlement Fund Law, enacted in 2001, allows for the resolution of cases of "extreme injustice" without prejudice by previous rulings.

Summer Night on the Beach was given to Alma Mahler-Werfel in 1916 by her then husband, Walter Gropius, on the occasion of the birth of their daughter, Manon. She left it behind in Vienna when she fled the Nazis in 1938. In 1940, without her knowledge, her stepfather, the painter Carl Moll, sold the work at a fraction of its worth to the Austrian Gallery Belvedere, where it has hung ever since.

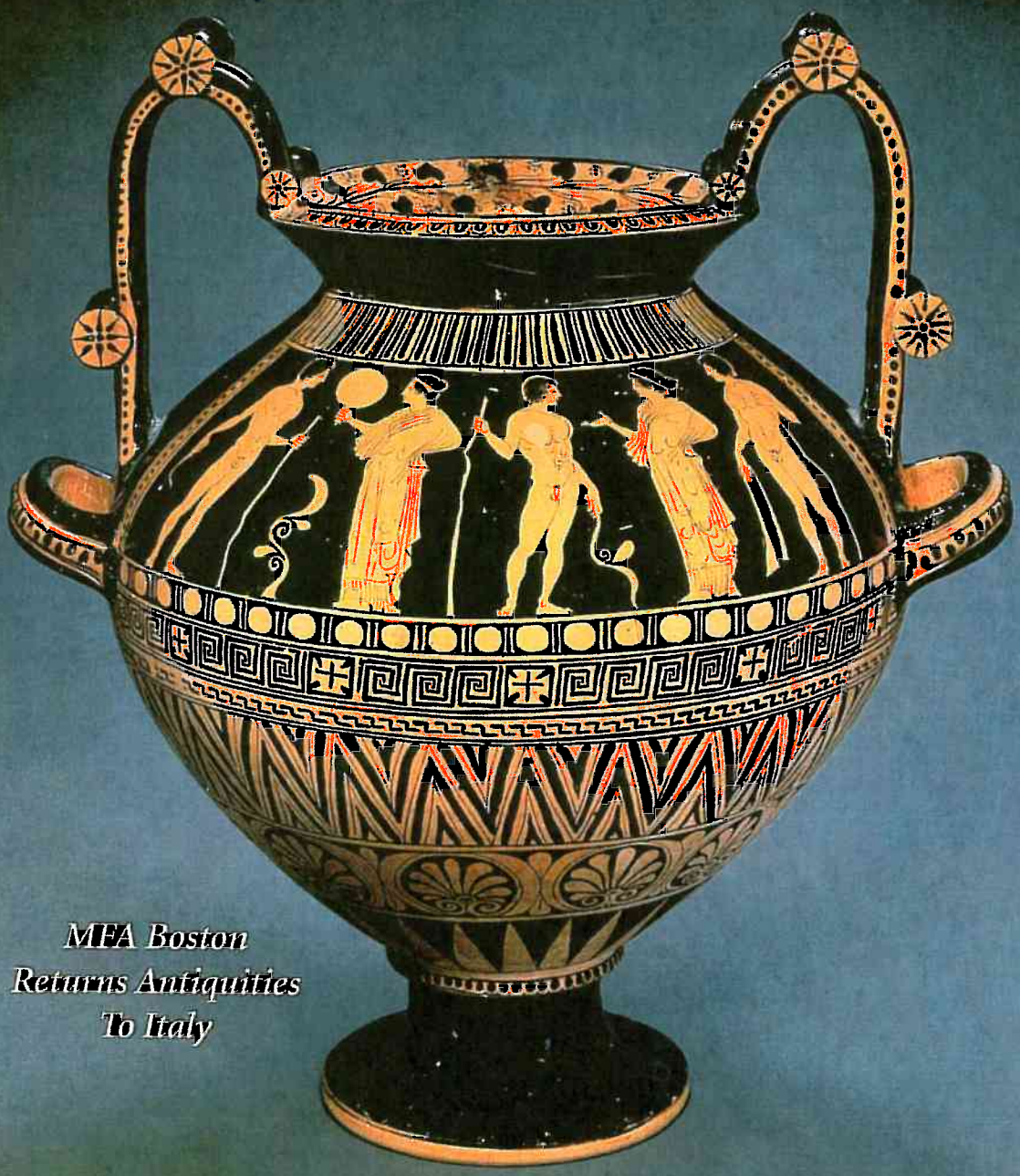
Commenting on the restitution, Marina Mahler, the granddaughter of Alma Mahler-Werfel and the composer Gustav Mahler, said: "The decision is an important step toward the restoration of the special bond between my family and Austria. It pays tribute to the memory of my grandmother Alma, who with great sadness and a deep sense of betrayal fought to her deathbed for the return of the painting." **—Sophie Lillie**

ÖSTERREICHISCHE GALERIE BELVEDERE, VIENNA

VOLUME 9 NUMBER 1 2006

IFAR Journal

INTERNATIONAL FOUNDATION FOR ART RESEARCH



MFA Boston Returns Antiquities To Italy

HENRY ADAMS ON THOMAS HART BENTON FAKES

KLIMT RESTITUTION — THE INSIDE STORY

DAMAGE TO MUNCH´S *SCREAM*

INCORPORATING STOLEN ART ALERT

THE RECOVERY FROM AUSTRIA OF FIVE PAINTINGS BY GUSTAV KLIMT

AN *IFAR EVENING* WITH THE NEUE GALERIE

JULY 31, 2006

E. RANDOL SCHOENBERG*

EDITOR'S NOTE:

On July 31, 2006, IFAR held an extraordinary IFAR Evening *at — and with — the Neue Galerie in New York where E. Randol Schoenberg, grandson of the composer Arnold Schoenberg and attorney for Maria Altmann, described his successful eight-year battle with the Austrian government to recover five paintings by Gustav Klimt that had belonged to Mrs. Altmann's uncle, Ferdinand Bloch-Bauer, before WWII. The most famous of the paintings,* "Adele Bloch-Bauer I," *had just been purchased by the Neue Galerie, and the other four were temporarily on exhibit, prior to sale at Christie's. IFAR's guests were treated to a private viewing of the works and an elegant reception in the Galerie's Cafe Sabarsky. The* Evening *was so popular that Mr. Schoenberg agreed to give a second talk the same day, but IFAR was still unable to accommodate all who wished to attend. We are grateful to the Neue Galerie for making their lovely space available to us and to Chubb Personal Insurance for their underwriting support of the event. The following is an edited version of the talk and Q&A.*

I would be pleased to speak about this case anywhere and anytime, but it is a special pleasure for me to be at the beautiful Neue Galerie, in such close proximity to the famous gold portrait of Adele Bloch-Bauer (Fig. 1) and the four other recovered Klimt paintings (Figs. 2–5), and to relay the long saga of how they came to be here. The very first time that I saw the painting of Adele Bloch-Bauer, I was just eleven years old, on my first trip to Vienna. My mother brought me to the Austrian Gallery Belvedere and said, "Do you see this picture? It shows Adele Bloch-Bauer, the aunt of your grandmother's friend, Maria Altmann." Little did I know that thirty years later I would be responsible for bringing the painting out of that museum and here to New York for permanent display. I couldn't be happier.

Let me start this story a hundred years ago with a history of the paintings. Gustav Klimt (1862–1918) was the leading painter in Vienna at the turn of the

* E. Randol Schoenberg, Esq. is a partner in the Los Angeles law firm of Burris & Schoenberg.

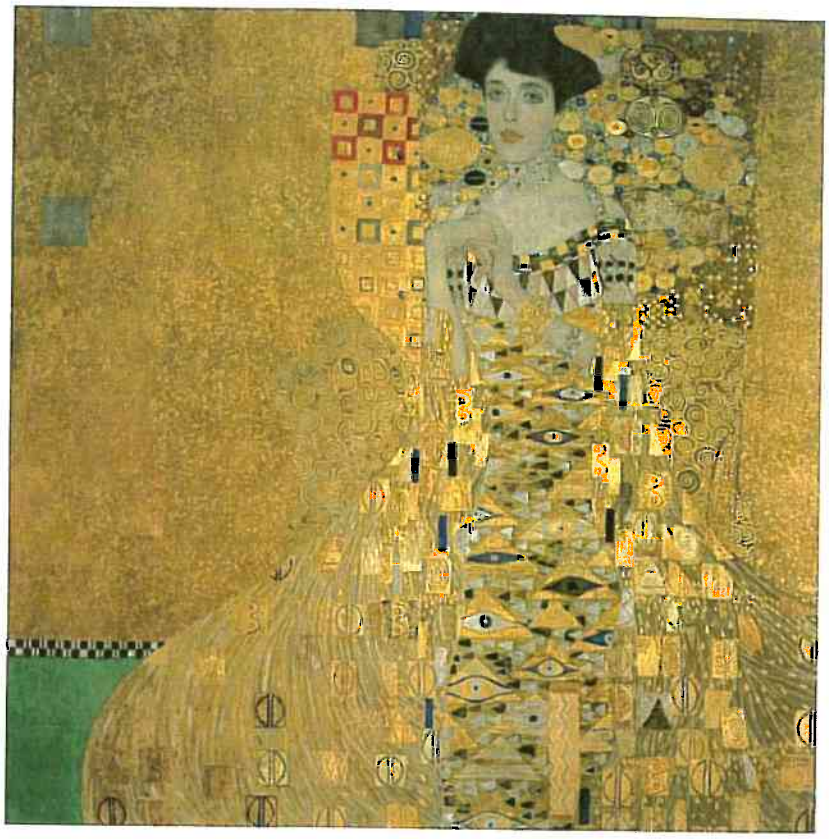


FIGURE 1. Gustav Klimt. *Adele Bloch-Bauer I*, 1907. Oil, silver, and gold on canvas. 138 x 138 cm. Neue Galerie, New York. Photo: Erich Lessing / Art Resource, NY.

last century, when there was an enormous outpouring of intellectual development in just about every field, whether Sigmund Freud in psychology or Gustav Mahler and my grandfather, Arnold Schoenberg, in music. Art was no exception. The wonderful exponents of that art are in this museum. Viennese arts patrons included a number of recently wealthy Jewish families, among them the Bloch-Bauers. The Bloch-Bauers were actually two brothers named Bloch who married two sisters named Bauer, and the families became Bloch-Bauer. The older ones, Gustav and Theresa Bloch-Bauer, had five children, the youngest of which, Maria Altmann, is now ninety years old and was my principle client and my grandmother's good friend. She is the last surviving Bloch-Bauer, if you will. Her uncle and aunt, Ferdinand and Adele Bloch-Bauer, did not have children. Perhaps as a result of that they turned to collecting art.

Ferdinand's job as the president of one of the largest sugar manufacturing companies in central Europe helped them acquire their paintings. Sugar is important to the diet in that part of the world so this sugar baron, as he was known, Ferdinand Bloch–Bauer, had the ability to buy quite a number of artworks. He bought not only these paintings by Klimt, but also an enormous collection of older Austrian works, including works by 18th and 19th century masters. He had nine paintings by Ferdinand Waldmüller (1793-1865), whom no one knows today, but who at the time was the favorite Austrian painter of a young art student in Vienna named Adolf Hitler. The Bloch-Bauers also had a three-hundred-piece porcelain collection, which was the largest and most wonderful of its time. Perhaps thanks to Adele Bloch-Bauer, they commissioned two portraits from Gustav Klimt.

FIGURE 2. Left: Gustav Klimt. *Adele Bloch-Bauer II*, c.1912. Oil on canvas. 190 x 120 cm. Estates of Ferdinand and Adele Bloch-Bauer. Photo: Erich Lessing / Art Resource, NY.

FIGURE 3. Above: Gustav Klimt. *Apple Tree I*, 1912. Oil on canvas. 110 x 110 cm. Estates of Ferdinand and Adele Bloch-Bauer. Photo: Erich Lessing / Art Resource, NY.

ADELE AND THE PAINTINGS

Maria Altmann characterizes her aunt Adele as a Socialist socialite — extremely wealthy and yet very civic-minded. She supported orphanages and workers and was a big fan of the leading Socialist politician at the time, Karl Renner. She also liked modern art and, being somewhat of an intellectual but not having gone into any field, she surrounded herself with the intellectuals and artists of the time including Klimt, the composer Richard Strauss, and various writers and politicians. Adele must have been the one who convinced her husband to commission the two wonderful portraits of herself (Figs. 1 and 2) on exhibit, and to buy the other three landscapes on exhibit (Figs. 3–5).

Ferdinand Bloch-Bauer purchased two other Klimt paintings: one was a landscape of a beautiful castle, *Schloss Kammer am Attersee III* (Fig. 6), which I'll discuss, and then, in the 1920s, another portrait of a family friend, *Amalie Zuckerkandl* (Fig. 7). So at one time Ferdinand Bloch-Bauer had seven Klimt paintings. There were, I think, only three collecting families that had that many Klimt paintings; all of them happened to be Jewish. In addition to the Bloch-Bauers, there was the Zuckerkandl family, which had eight or nine Klimts at various times; another was the Lederer family, with about ten or more Klimts. So these three families were responsible for a large proportion of Klimt's overall output. He died in 1918 leaving behind perhaps 80-100 major works, of which these five are representative.

Adele and Ferdinand Bloch-Bauer displayed the two portraits of Adele and four landscapes by Klimt in a room in their home in Vienna. Unfortunately, Adele died very suddenly of meningitis in 1925. She left a handwritten will that she had penned two years earlier when her mother had died. In that will she made a number of bequests to orphanages and the workers of Vienna, and she then added a paragraph that says:

FIGURE 4. Gustav Klimt. *Birch Forest*, 1903. Oil on canvas. 110 x 110 cm. Estates of Ferdinand and Adele Bloch-Bauer. Photo: Erich Lessing / Art Resource, NY.

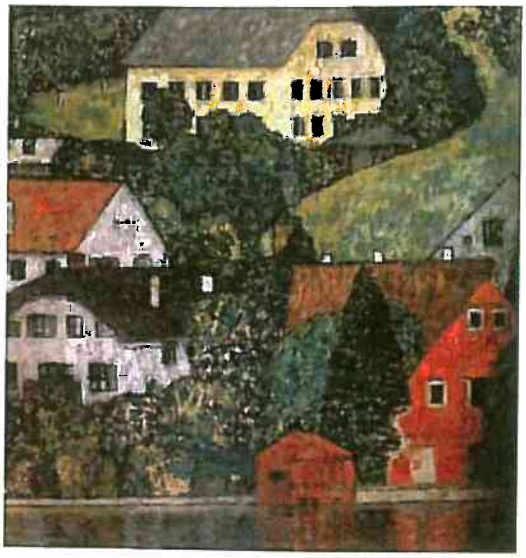


FIGURE 5. Gustav Klimt. *Houses at Unterach on the Attersee*, c.1916. Oil on canvas. Estates of Ferdinand and Adele Bloch-Bauer.

I ask my husband to give my two portraits and the four landscapes by Gustav Klimt to the Austrian Gallery upon his death.

How was that will seen at the time? In 1926 Maria Altmann's father, Gustav Bloch-Bauer, who was the executer of Adele's estate and also the lawyer for the family, filed the document in the Viennese court. The filing describes Adele's will and says that she makes various bequests which do not have the binding character of a testamentary request. In other words, the will, he says, is just a wish. But Adele's husband, Ferdinand, dutifully promises to fulfill her wishes. Gustav Bloch-Bauer added: "It should be noted that the Klimt paintings were not her property but his." So the circumstance in 1925, when Adele died, was that the paintings were Ferdinand's property; she left a request in her will, and he, at that time, intended to fulfill her wishes and donate these paintings to the Austrian Gallery. In fact, in 1936 before he died, he donated the missing landscape, *Schloss Kammer am Attersee III* (Fig. 6), to the Austrian Gallery and replaced it in the same room in his home with a portrait of himself by Oscar Kokoschka (Fig. 8). So he was left with the five Klimt paintings on exhibit (Fig. 1–5) and the *Portrait of Amalie Zuckerkandl* (Fig. 7), which hung in a different room. According to Maria Altmann, the Klimt paintings were set apart in the house in what they called a memorial room, where there were always fresh

"So the circumstance in 1925, when Adele died, was that the paintings were Ferdinand's property; she left a request in her will, and he, at that time, intended to fulfill her wishes and donate the paintings to the Austrian Gallery."

FIGURE 6. Gustav Klimt. *Schloss Kammer am Attersee III (Wasserschloss)*, 1910. Oil on canvas. Österreichische Galerie im Belvedere, Vienna, Austria. Photo: Erich Lessing / Art Resource, NY.

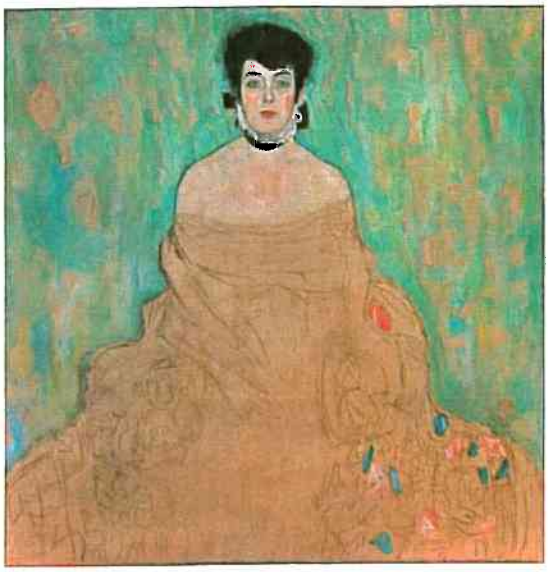


FIGURE 7. Gustav Klimt. *Amalie Zuckerkandl* (unfinished), 1917-18. Oil on canvas. 128 x 128 cm. Österreichische Galerie im Belvedere, Vienna, Austria. Photo: Erich Lessing / Art Resource, NY.

flowers, and Ferdinand, apparently, could go and think about his deceased wife and look at the paintings.

THE WAR

In 1938 everything changed for Austrian Jewish families. In March of that year the Nazis annexed Austria and Hitler returned to his homeland triumphantly. Jews like Ferdinand Bloch-Bauer were high on the list of targets of the Nazis even before they entered, and so Ferdinand fled from Vienna in 1938, on the eve of the Anschluss, first to his castle — really a large estate — outside of Prague, Czechoslovakia, where the family would spend summers. Maria Altmann also spent many summers there, and I think Klimt actually visited that castle about twenty years before. From Czechoslovakia Ferdinand escaped to Zurich, Switzerland where he remained until the end of the war. As an interesting aside, his castle then became the home of Reinhard Heydrich, who was known as the *Reichsprotektor* of Bohemia and Moravia. Heydrich was the architect of the final solution; he held the Wannsee Conference. Thus, the extermination of the Jews of Europe was presumably plotted from within Ferdinand's home in Czechoslovakia.

Meanwhile, in Vienna, Ferdinand's home was ransacked and liquidated. Ferdinand hired a Nazi lawyer with the unfortunate name of Dr. Eric Führer to fend off the Nazi efforts at liquidating his estate, but that was unsuccessful, and Dr. Führer turned into the liquidator himself, selling off all of Ferdinand's assets to pay taxes that the Nazis had levied against him. This included the home where the paintings were once housed. That home was used as the headquarters for the German railroad in Vienna. So, while Heydrich was planning the extermination of the Jews from Ferdinand's home outside Prague, the deportations of 60,000 Austrian Jews was probably handled from Ferdinand's home in Vienna.

What happened to his paintings? As I mentioned, Ferdinand's collection attracted the immediate attention of the Nazis. Hitler himself was a huge fan of Waldmüller, and Ferdinand had one of the finest Waldmüller collections in Vienna, with nine of them up for the taking. Hitler ended up with several of them, and several were purchased for his planned Führer Museum in Linz, Austria, near his birthplace. Goering was given a couple of them by a friend who bought them from Dr. Führer, and the others were

FIGURE 8. Oskar Kokoschka. *Portrait of Ferdinand Bloch-Bauer.* Kunsthaus Zurich. © 2006 Artists Rights Society (ARS), New York/ProLitteris, Zürich.

dispersed. The Klimt paintings, however, were a little too modern for the taste of the top Nazis, so they went primarily to local Austrian museums. The Austrian Gallery obtained the gold portrait (Fig. 1) and the *Apple Tree* (Fig. 3) from Dr. Führer in exchange for the return of the castle landscape, *Schloss Kammer am Attersee III* (Fig. 6), which Ferdinand had already donated in 1936, so Dr. Führer got *Schloss Kammer am Attersee III* back. He then sold that castle landscape to an illegitimate son of Gustav Klimt named Gustav Uccicky, a famous Nazi film director who liked to collect paintings by his father. Uccicky bought not only the landscape that Ferdinand had donated to the Austrian Gallery, but at least three others that have recently been returned to Jewish families, including one that was returned to the family of Maria Altmann's brother-in-law, Bernhard Altmann.

The Austrian Gallery bought the standing portrait of Adele Bloch-Bauer (Fig. 2) in 1943 from Dr. Führer, so the Gallery ended up with three of the paintings by the end of the war. The *Birch Forest* (Fig. 4), an early landscape, was purchased by the City Museum of Vienna, and Dr. Führer himself kept *Houses at Unterach on the Attersee* (Fig. 5) along with eleven other works from Ferdinand's collection. Thus, at the end of the war, the Austrian Gallery had three of the Klimt paintings, the two portraits and *Apple Tree;* the City Museum had *Birch Forest*; and *Houses at Unterach on the Attersee* was with Dr. Führer.

THE ALTMANNS

What happened to Ferdinand's family? Ferdinand's sister was killed, but the children of his brother Gustav managed to survive. Maria Altmann, the youngest, came to Los Angeles, California. Her story is a fascinating one. She married at age 21 at the end of 1937, so she had been married just a few months when the Anschluss took place in March of '38. Her husband, Fritz Altmann, was the much younger brother of Bernhard Altmann, the famous sweater manufacturer. Bernhard, like Ferdinand Bloch-Bauer, was very high on the list of Nazi targets, and he fled immediately before the Anschluss, but because he was in the textile business, he was able to tell his customers in other countries not to send their checks to the Vienna office. Rather, he would pick them up. So he went to Paris and London and Rome, picked up checks from his customers, and was able to set up shop in England. The Nazis responded by selling basically the entire contents of his home in June of 1938. Then they arrested his younger brother Fritz, Maria's husband, and sent him to Dachau. They held Fritz as ransom until Bernhard agreed to return the receivables and sign over his sweater company to the Nazi "Aryanizer," which Bernhard did. Bernhard then arranged the escape of Maria and Fritz (still under house arrest) through Germany, up into Holland, and then to freedom in England. On the eve of war, they managed to go to the United States, first to Fall River, Massachusetts, and then to Hollywood.

In Hollywood Maria and Fritz reconnected with Fritz's longtime friend, my grandfather on my mother's side, Eric Zeisl, also a composer. The Zeisls and the Altmanns became very close friends, and my mother essentially grew up with the Altmann children, which will explain how I get involved with the situation a little bit later. So, at the end of the war, Maria

and her siblings escaped. Most of the others ended up in Canada. One sister who ended up in Croatia, where her husband was executed after the war by the communists for being a capitalist, ultimately escaped to Canada also. So, Ferdinand's nieces and nephews were outside of Austria, and Ferdinand was in Switzerland. He lived to see the end of the war, but died in Zurich in November 1945. Because he hadn't recovered any of his property, he left behind a very short will. Not surprisingly it did not leave any paintings to the Austrian Gallery. Rather, Ferdinand left his entire estate, consisting only of restitution claims, to his two nieces and one of his nephews. It fell on those three heirs to locate Ferdinand's property and to recover as much as possible. Maria's older brother Robert, who had changed his name to Robert Bentley in Vancouver, hired a family friend, Dr. Gustav Rinesch in Vienna, and Dr. Rinesch was given the task of locating and recovering Ferdinand's property. For a while I didn't understand why it took so long to do this type of work, but now, with the recent example of Iraq, we see what chaos follows regime change, if you will, and war. Vienna was no different than Baghdad today in that respect.

"The [Austrian government] would deny export permits for large portions of the restituted collections and coerce families into making donations of the artworks."

POST-WAR AUSTRIA

It took three years, from the end of the war until 1947–48, for the first restitution laws to make restitution possible for Jewish families. The entire Nazi period in Austria lasted only six years. It wasn't until the end of 1947, early '48, that Dr. Rinesch began making inroads in finding Ferdinand's collection. A number of the paintings, as I mentioned, although not the Klimts, had been collected by Hitler and Goering and for the Führer Museum.

It is helpful to understand the restitution procedures. The Allies, principally the American government, set up an Art Collecting Point in Munich, where they collected the paintings that had been recovered from various Nazi storage facilities. But individuals were not allowed to go to the Munich Art Collecting Point and just pick up their artworks. Rather, only governments could recover artworks: the policy was to return paintings to their countries of origin. So, if a painting had been taken out of the Louvre and ended up in Goering's collection, it would be brought to the Munich Art Collecting Point, the French government would make an application, and the Munich Art Collecting Point would return the painting to France. For collections such as the Bloch-Bauer collection from Vienna, Dr. Rinesch would have to apply to the Austrian government for it to ask the Allies at the Munich Art Collecting Point to return the paintings to Austria. Then he would have to ask the Austrian government to return the paintings to him on behalf of the heirs.

This meant that the paintings were in Vienna, but the heirs were in Canada and the United States. Thus, in order to remove the paintings, Rinesch would have to apply for export permits. This procedure gave Austria an opportunity for extortion with many Jewish families, not just the Bloch-Bauers. They would deny export permits for large portions of the restituted collections and coerce families into making donations of the artworks. Let's say you applied to export twenty paintings. The government would say: "Eight of these are too important to Austria, you cannot get them out." If someone tried to appeal, the government would say: "If you would donate five of eight paintings that we say are important to our Austrian museums, we will let you take the other three out of the country." By this procedure Austria enriched its museums at the expense of many Austrian Jewish families — the Austrian Rothschild family for example, and many others.

Dr. Rinesch was aware of this procedure in 1948 when he wrote to the Austrian Gallery and asked about the Klimt paintings. The response from the Austrian Gallery was a very aggressive one. It said

that the paintings belonged to the Austrian Gallery through the will of Adele Bloch-Bauer already in 1925, and that Ferdinand Bloch-Bauer was allowed to keep them during his lifetime, but the three works the Gallery currently had (Figs. 1–3) belonged to them, and Dr. Rinesch, on behalf of the heirs of Ferdinand Bloch-Bauer, was responsible for returning the other three that they didn't have. The latter included *Houses at Unterach on the Attersee*, which Dr. Rinesch had recovered from the Führer's collection, *Birch Forest*, in The City Museum of Vienna, and *Schloss Kammer am Attersee III*, which was in Gustav Uccicky's apartment. Thus Austria took a very aggressive approach. There is even correspondence between the director of the Austrian Gallery and the state attorney preparing for lawsuits in this case.

Meanwhile the director of the Austrian Gallery wrote to the Federal Office for Protection of Historical Monuments in April of 1948, after having viewed some of the collection that was recovered, and asked the Federal Monuments Office to delay the export permit procedure for tactical reasons related to the Klimt paintings. Therefore, Dr. Rinesch made a decision. He met with the director of the Austrian Gallery just one week later on April 10, 1948. Incidentally, this was the first day that Rinesch actually saw the will of Adele Bloch-Bauer. The very next day he wrote to his clients, and concluded, as Adele's executor Gustav Bloch-Bauer had, that the will itself did not give the Austrian Gallery a right to the paintings, but he thought that the promise that Ferdinand had made in 1926 might have. So he met with the Austrian Gallery director, and he made a deal. He said, the heirs would acknowledge the will of Adele Bloch-Bauer: We will leave the paintings in the museum. We will even help you get the other ones back, and through that we hope to get your cooperation in getting export permits for other paintings, namely, the Waldmüller and other old Austrian paintings, the porcelain, the drawings, and things like that. That worked. Not without some difficulties, but it worked.

Over the next year and a half, Dr. Rinesch was successful in exporting most of the rest of the collection with the exception of sixteen Klimt drawings and nineteen porcelain settings, which were also donated in the process of getting export permits. So if you had asked Maria Altmann between 1948 and 1998 what happened to *Adele Bloch-Bauer I*, she would have said: "It's too bad; my aunt willed it to the museum, and we never got it back." That was the story that came down to her from the lawyer. She had no idea that there was a possibility of making a claim for the painting.

TURN OF EVENTS IN 1998

But that changed in 1998. At the end of 1997, Judith Dobrzynski wrote a story for the *New York Times* on an Egon Schiele painting — *Portrait of Wally* — that was on loan to the Museum of Modern Art in New York from the Leopold Museum in Austria. The article said that a family was claiming that Schiele painting, whereupon the district attorney in Manhattan, Robert Morgenthau, filed a lawsuit to seize the painting. That developed into litigation, which is still ongoing.

The Austrian government was outraged by the litigation. The Minister of Culture and Education, Elizabeth Gehrer, made a statement effectively saying it was all absolutely ridiculous; we don't have any looted paintings in Austria; we gave everything back after the war; and we can't be accused of these types of things. Whereupon Hubertus Czernin, a wonderful journalist who recently passed away — not incidentally, the same journalist who uncovered the Kurt Waldheim story ten years before — decided to take up the minister's challenge. He looked up the provenances of the various paintings, in government archives, for example. In looking up the gold portrait of *Adele Bloch-Bauer I*, which had been featured in a recent book published by the Austrian Gallery, the provenance said: "Donated 1936 by Ferdinand Bloch-Bauer." Czernin uncovered the trade that Dr. Führer had made in 1941, when he traded the gold portrait and *Apple Tree* for *Schloss Kammer am Attersee III* in a letter signed "Heil Hitler." Czernin also uncovered the documents showing the post-war extortion, and the various internal documents that demonstrated the aggressive position the Austrian government had taken vis-à-vis the Bloch-Bauer heirs. He wrote an

exposé, not just regarding the Bloch-Bauer paintings, but also concerning the Austrian Rothschild family, the Lederer family, and many others.

NEW AUSTRIAN RESTITUTION LAW

The exposé caused a bombshell in Austria. The Austrian minister established a provenance commission, and, ultimately, in September of 1998, she proposed a new art restitution law for Austria,[1] which was designed to return artworks from federal collections that had been donated in exchange for export permits or that had been looted during the war and then obtained, perhaps in good faith, by an Austrian museum after the war. Let us say a museum had bought a painting from a private collector which turned out to be one that had been looted by the Nazis. If the artwork was in a federal collection, the Austrian government was given the ability by this law to return it. The law didn't have any teeth to it. It did not allow a private right of action; it did not allow claimants to participate in the procedure; it just said that the government would set up an advisory committee, and if the government decided that it wanted to, it could return a painting.

In September 1998, Maria Altmann got a call about this new law from a man in Vienna named Peter Moser, Austria's former general consul in Los Angeles and later its ambassador to the United States. As she had no idea what he was talking about, she did what she normally did under those circumstances, she tried to call my mother, to see if my mother could call me, to see if I could find out. But my parents, as it happened, were in Vienna at the time for an event at the Schoenberg Center with my grandfather's archives. By coincidence, I had looked on-line at the Austrian newspapers and had seen the headlines about this new art restitution law, including a discussion of the famous gold portrait and the Bloch-Bauer collection. So when Maria called me and said, "Randy, I got this call," I said, "I know what it is about." We got together and decided to work on it. I was thirty-one years old, just shy of my thirty-second birthday. There wasn't much to do initially other than wait for the Austrian law to go into effect, and see what the advisory committee would do. It was set up, if you can believe it, without any members of the Jewish community; just bureaucrats and art historians, none of them particularly fans of restitution. This committee was given the task of advising the minister which paintings should be returned. At first, with much fanfare, they returned hundreds of artworks. The number may be misleading because it included coins, and each coin, for example to the Rothschild family, was considered a separate artwork.

In 1999 the committee considered the Bloch-Bauer family. I had sent the commission several legal opinions that I had obtained from an Austrian lawyer, Dr. Andreas Lintl, about Adele Bloch-Bauer's will, which, I figured, would be the real issue. I later found out that the head of the commission did not share the opinions with all the other members. I called one of the lawyers on the commission, Dr. Manfred Kremser, to offer to come to Vienna and meet with him to discuss whatever issues they might have. I was told that they decided not to have any external discussions. I said that sounded a little unfair; I was not just somebody, I was the lawyer for Maria Altmann and shouldn't she have a right to participate? He said, "No, we are doing this all internally." He added: "Mr. Schoenberg, you can come and meet with me at any time, but we cannot talk about the case." So that is where things stood.

In June of 1999, not surprisingly, I think, given that attitude, Austria decided not to return the Klimt paintings to the Bloch-Bauer heirs. They did return the porcelain and drawings, which were at issue, but none of the Klimt paintings. As an excuse they gave the will of Adele Bloch-Bauer, the same story that the Austrian Gallery had given in 1948, namely that Adele had willed the works to the Gallery. Thus, their claim of title had nothing to do with the Nazi era. I disagreed. I believed that Adele Bloch-Bauer's will was a wish. In lawyers' terms, we would call it precatory, and, therefore, that the title to the painting was only transferred in 1948 by Dr. Rinesch when he acknowledged the will in exchange for export permits.

[1] Federal Act Regarding the Restitution of Artworks from Austrian Federal Museums and Collections, dated 4 December 1998, Federal law Gazette 1 No. 181/1998.

I thought that this exchange should fall under the new Austrian restitution law. So I wrote a long letter to the Minister of Culture and Education pointing out the mistakes that were made and the evidence that we had. I suggested that we resolve what was essentially a legal dispute about a will not with her advisory committee, which was made up mainly of bureaucrats and art historians, but with arbitration. They would pick one arbitrator; we would pick an arbitrator; and those two arbitrators would pick a third. The arbitrators in Austria would decide under Austrian law whether the will gave Austria the right to the paintings. The minister's response said: If you disagree with our decision, your only remedy is to go to court.

LEGAL ACTION

I'm a lawyer, that is what I do. At the time I was working in the Los Angeles office of Fried Frank Harris Shriver & Jacobson, a large New York firm, and I very naively looked into the possibility of suing. At first I thought that the obvious place to sue was Austria. An Austrian lawyer, Dr. Stephan Gulner, was willing to look into the case. The new law didn't create a right to make a claim, but he thought there was an equal protection argument and another argument that he might be able to make, and he prepared a complaint. It was very well written. I thought we should file it. He said, "You know, in order to file a complaint in Austria, you have to pay filing fees." I said, "Okay, we can probably pay a few hundred dollars, that's no problem." He said, "No, you don't understand. The filing fees in Austria are calculated as a percentage of the value at stake in the litigation. In this case, it would cost about two million dollars just to file the complaint." That was out of the question. Maria Altmann and two of the other heirs who were going along at this stage did not have that type of money. They all lived relatively modest, middle-class lives and did not have two million dollars to spend on a speculative lawsuit in Austria. Our lawyer suggested we apply to the court to reduce the filing fees. So Maria Altmann filed a declaration of her assets, not unlike the one she had to fill out in 1938 when the Nazis came in, listing everything that she owned. We submitted that to the court, and the court decision said you are correct; you do not have to pay so much *more* than your entire estate to file a lawsuit in Austria, you just have to pay *all* of your available assets. She would have had to pay basically everything but her home in order to go ahead with the lawsuit, several hundred thousand dollars. This was not possible. But the Austrian government actually appealed that decision, and said that she should pay more, including the value of drawings and porcelain that the Austrian government hadn't yet returned to her. At that point I looked at the possibility of suing in the United States. After all, Maria Altmann was in Los Angeles, like me, and she had lived there since 1942. So I looked in the code book that every lawyer has on his shelf to see how you can sue a foreign state in the United States.

FOREIGN SOVEREIGN IMMUNITIES ACT

The Foreign Sovereign Immunities Act, passed in 1976, regulates when you can and cannot sue a foreign state. Not surprisingly, it says you *cannot* sue a foreign state, except in certain situations. One of these exceptions, which is rarely used, is:

1) when the property was taken in violation of international law — I thought the Bloch-Bauer claim fit that;
2) the property is owned or operated by an agency or instrumentality of a foreign state. Here the property — the art — was owned or operated by a museum, the Austrian Gallery, which is an agency of a foreign state; and
3) the agency or instrumentality is engaged in a commercial activity in the United States.

If you meet all these criteria, then you can sue.

On that third hurdle, I asked myself, what do they do in the United States? They sell books; they advertise their exhibits; they have U.S. tourists come and use their American credit cards. Arguably, there might be enough of a nexus. I relied on a case from the Ninth Circuit in California that had to do with a Jewish family from Argentina that had lost a hotel. The court held that the family members could

sue Argentina because that hotel had advertised in the United States and attracted U.S. tourists. With that precedent, I decided that it would be possible for Maria Altmann to file a lawsuit in the U.S. Unfortunately, my law firm was not so keen about the idea, so I left and opened up my own office in 2000. One of the first things I did was file a lawsuit for my grandmother's old friend, Maria Altmann.[2] It didn't cost two million dollars. It cost two hundred-fifty dollars to file the complaint. We were not overly optimistic about our chances. In an old e-mail I even refer to my filing as a public relations stunt, something to keep the case alive. That is what happened. We kept the case alive. Austria responded to the complaint by hiring the Jewish law firm of Proskauer Rose, which sought to dismiss the claim on eight different grounds, one of which was sovereign immunity. They argued that the Foreign Sovereign Immunities Act of 1976 could not be applied to events that took place prior to that. Fortunately, we had a terrific district court judge, Florence Cooper, who rejected Austria's motion. She denied it in its entirety and, in May of 2001, said that we could proceed with the lawsuit. It was a huge surprise.

We were not yet out of the woods, however. Austria had a right to appeal because it was a sovereign immunity question. It appealed to the Court of Appeals for the Ninth Circuit. I argued in the Ninth Circuit and, in December 2002, the Ninth Circuit unanimously ruled in our favor, affirming the district court. At this point things were looking very good because, usually, the Court of Appeals is the last word on any appeal. But then the U.S. government got involved. I think they were receiving calls from various governments concerned about the precedent we had just set in the Ninth Circuit. There were a lot of pending class action suits asserting historical claims against Poland, Austria, Japan, Mexico and France, and these actions were not making our foreign allies (countries who are *now* our allies) very happy. They asked the State Department to intervene, so the State Department, through the Solicitor General's office, filed a brief asking the Ninth Circuit to reconsider its decision, which, thankfully, it did not do. In May 2003 that decision became final. But then Austria petitioned the U.S. Supreme Court, and the Supreme Court decided to take up the case.

THE U.S. SUPREME COURT

We were not so happy anymore. The Ninth Circuit does not fare well in the Supreme Court. Its decisions are almost always reversed. This case seemed to be headed for a reversal as well. If you had asked anybody following the case, lawyers especially, whether we had a chance to win, they would have said without hesitation, "No." I might not have disagreed. But I did my best in preparing the brief that was submitted, and then I prepared for the oral argument. To prepare for oral argument in the Supreme Court, especially if, like me, you've never done it before, you do practice sessions, called moot court sessions. I did one at the University of Southern California Law School, my alma mater, one at Santa Clara University, and one at Georgetown. Professors and lawyers pepper you with questions pretending to be Supreme Court justices, so that by the time you go before the Supreme Court, you are prepared for anything.

I went to the Supreme Court in February 2005 with my family and Maria Altmann and her family, determined to do the best that I could. My goal at the time, I think, was to get one justice on our side so someone would write our side of the story. I certainly did not expect to win. I just wanted to do the case right and not fall on my face.

Austria's lawyer spoke first, and then the U.S. government's lawyer because I had won in the Ninth Circuit. By the time I stood up, it seemed to me that some of the justices may have read my brief, perhaps even agreed with what I was saying. You do not prepare a speech in the Supreme Court; you get interrupted with questions. I had prepared a very short introduction with an outline of what I wanted to say. I started off saying "There are four grounds for affirming the Ninth Circuit, one is . . .," and, boom, I got inter-

[2] *Altmann v. Republic of Austria*

"I went to the Supreme Court in February 2005. . . . I certainly did not expect to win. . . . Three months later . . . the phone rang. . . . 'You won six-three'."

rupted by Justice David Souter. He speaks with a New England drawl that's difficult to understand. He had a long convoluted question that went on and on and on and on, and on and on. All of the sudden he ended the question, and he looked at me and I looked at him, and I had not the slightest idea what he had just said, not a clue. You can read it in the transcript. It says, "Well, umm...," as they are waiting for me to say something. Everyone was waiting. This was the first question. I said the only thing that I could think of saying; I said, "I'm sorry your honor, I don't think I understood the question. Please rephrase it." There were gasps in back of me from the audience as if I were a skater who fell during the first jump at the Olympics. But all the other justices smiled at me as if to say, "Oh, don't worry, he does that all the time," or, "Thank goodness you asked because none of us understood either."

It turned out to be such an honest moment. Justice Souter rephrased the question, and I answered it. They realized that I wasn't going to make things up. I was just going to do the best I could, and answer the questions as best I could. As a result, the rest of the argument went like a dream, like a conversation about this case that of course I had already been dealing with for six years. It finished, after thirty minutes, and I sat down. Everything ended and everybody started to leave. I thought, "Oh my goodness, did that just happen? We actually have a chance of winning." I went outside, and everybody was excited. My dad, who is a retired judge and never thought we had much chance, was excited and said, "You know, this really went well." Maria was so happy.

I returned home to Los Angeles and opened the *Daily Journal*, our legal newspaper. The headline was: "Court Likely to Reverse Altmann Case." It was a long article about how we were going to lose because of this and that. I called the journalist, David Pike, and asked: "Why did you write this? Everybody thought it went so well." He said, "Trust me. I have been reporting on the Supreme Court for thirty years. You do not have a chance. The body language was against you." I said: "Some of the justices didn't even open their mouths." He said: "Trust me. It's all over." I said, "Well, okay, that is what everybody is expecting anyway. Do me a favor. Here is my home number. When you find out, give me a call." The journalists find out first. You do not get advance warning when they make a decision in the Supreme Court.

Sure enough, three months later, I was making breakfast for the children (it's three hours earlier in Los Angeles) and the phone rang. The voice said, "Hello, this is Dave Pike." I said, "Okay, give me the bad news." He responded saying, "No, not bad news. You won!" I almost dropped the phone. I said, "You're kidding right?" He said, "No, you won six–three. Justice Stevens wrote the opinion, dissent by Justice Kennedy. You won. I guess I was wrong." I said, "Thank goodness you were."

We were just elated. It was one of the great moments in my life. I finally reached Maria Altmann, because, of course she was getting phone calls too. We were so ecstatic and happy. After a little while, we came down to Earth and realized what we had just won. The paintings were not on a plane back; we had just won the right to *start* the lawsuit in Los Angeles. So we went back down to the district court in California and entered what I lovingly describe as "discovery hell," where the lawyers basically torture each other with various interrogatories and discovery requests.

BACK TO AUSTRIA

That lasted for about a year until there was a required, court-ordered mediation. Until this

time Austria had not shown any willingness to discuss a resolution of the case. Thus, I thought the mediation was just going to be a formality. I told the Austrian lawyers to pick the mediator, "Whoever you want," because I did not really expect anything to happen. They picked Professor Dieter Binder, a historian from Graz, Austria with no legal background, to be the mediator. "This is going to be interesting," I thought. He turned out to be a great guy. He came to Los Angeles with Austria's lawyers and met with Maria Altmann and me. He said: "You know, I get the sense in speaking to all of you that you would really like the case to be over with." I said: "After seven years and my client being eighty-nine years old now, yes, I would like the case to be over with." The Austrians agreed, although I think they had a different view of what "over with" meant at the time. Professor Binder said: "I have an idea. Why don't we do an arbitration in Austria? You pick one arbitrator; they pick the other, and those two pick a third." This sounded familiar to me. But I didn't say, "That was my idea." I said, "Let me think about it for a moment. Let me talk to my client." So I brought Maria over to the side and I said, "Maria, this is really good. This is the break we have been waiting for. We will be able to resolve the case." And she said, "Are you crazy? We just spent five years going to the Supreme Court and back to have this wonderful Judge Cooper decide our case. Why would we want to go to Austria and have three Austrian arbitrators decide it?" I said: "Maria, if you want this case decided in your lifetime, we have to take this chance. I really think we need to do it." There were endless procedural appeals that could be made in the court case in the United States. Even if we had won, there was a question of enforcement of the judgment. We could get rid of all of that by just going into an arbitration in Austria and having the case revolve around the question of Adele Bloch-Bauer's will. I was confident we could win that issue.

I prevailed upon her. My father was also against arbitration, but I was able to persuade everybody that it was the right move. Thankfully, Maria Altmann trusted me, and we agreed to do an arbitration in Austria. So in September 2005, I went to Austria and had a full day of arbitration. All in German. I had a translator with me, but, fortunately, I could understand and speak most of it myself in German. It was an exhausting day. There were no live witnesses in this case. It was all about the documents. Even Maria Altmann was just a sidelight witness. It was all about what the documents said, and what did they mean? Where did they come from?

We had a lengthy full-day discussion and submitted the matter to the arbitrators. Then we waited. Per our agreement the arbitrators were supposed to decide in October 2005. They didn't. November came around, and also no decision. December, no decision. I was worried that we might not get a decision before Maria's ninetieth birthday, which was in February of this year. But sure enough, in mid-January, I returned home after a late night Sunday poker game. I had an e-mail from the chief arbitrator in Vienna, where it was Monday morning. The attachment was in convoluted German, and it was a full opinion. I read through it and realized we had won — *unanimously*! All three arbitrators, including the one selected by Austria, ruled in our favor and determined that Maria Altmann was entitled to recover the five Klimt paintings under Austria's 1998 art restitution law. They rejected Austria's claim that Adele Bloch-Bauer's will had determined that the paintings must go to the Austrian Gallery, and agreed with us that it was really only in 1948 that title was exchanged in return for export permits.

It was of course a great and very unexpected day for us, after the seven and a half years of working on the case, to finally have recovered the paintings. They were not in our possession yet; they were still in the Austrian Gallery Belvedere, and Austria had required, as part of the arbitration procedure, that we enter into an option agreement that gave them the right to buy the paintings. After about two weeks, however, they decided to abandon that option. In February, we had the luxury of having to decide what to do with these five amazing paintings. I had received a number of inquiries from many museums throughout the world, and the two that seemed to me the most fitting to show the paintings were the Los Angeles County Museum of Art, where Maria Altmann and I live, and the Neue Galerie here in New York. We set up the

exhibitions in a matter of weeks and had the paintings transferred to the Los Angeles County Museum. Then we announced that the Neue Galerie was purchasing the magnificent gold painting of Adele Bloch-Bauer and that the other four would be on loan to the Neue Galerie for several months over the summer, so that New Yorkers could also get a chance to see them.[3]

I am so pleased and proud to be at the Neue Galerie to tell you about this long saga. It is very rare when you talk about the Holocaust that you actually have a "sort of" happy ending. We have to remember that, in the scheme of things, the looting of art ranks very low in terms of the crimes that were committed by the Nazis. It is not surprising that the recovery of art was not given high priority after the war. It is completely understandable. But it is very nice that now, so long after the war has ended, sixty years later, we can have a modicum of justice and return paintings like these to their rightful owners.

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Q&A

Q Why do you think the Austrian government did not use its option to purchase the paintings?

A **E. RANDOL SCHOENBERG:** It became clear to me very early on that they weren't going to do that. Politically, the Austrian minister responded to the decision by saying, "I don't have enough money in my budget to pay for it." So as soon as it became a question of using money out of their budget, money that might go for schools, hospitals, police, fire, it was clear the paintings were going to lose out. Culture always loses out to those types of things if you make it a one-for-one deal. If she had said, "It's very sad. We will either have to give up these assets or perhaps find some other assets to give up instead," I think she could have built up the public will in Austria for a repurchase. But once they started talking about tax dollars, the writing was on the wall.

Q What was the rationale for the Ninth Circuit not accepting sovereign immunity?

A There were many arguments, almost too complicated to answer briefly. Essentially, the Ninth Circuit agreed that it wasn't impermissibly retroactive to apply the Foreign Sovereignty Immunities Act to these events. To use a legal term, immunity is an act of comity that one government grants toward another government. A government can remove that immunity at any time, and then it is not a question of retroactivity. That is the argument that prevailed in the Ninth Circuit and the Supreme Court.

Q Are the current frames on the Klimt paintings the ones that were on the paintings in Austria?

A These are all the original frames as far as I know. Photographs of the gold painting (*Adele I*), from an exhibit I think in 1908, show this frame, which was done by Josef Hoffman, one of the Wiener Secession artists. No one knows why there is a blank space below the painting. This is one of only three gold paintings by Klimt. There is also *The Kiss*, which is perhaps his only painting more famous than this, and *Judith and Holofernes*, which may be patterned on *Adele Bloch-Bauer I*. It has a very similar face. I've been told that of the gold paintings, *Adele* is in the best condition. *The Kiss* has been very damaged by a restoration attempt, and the gold is much darker, whereas *Adele* has much of the original color. So this is really one of the finest existing gold portraits.

[3] Subsequent to the talk, it was announced that the four Klimt paintings would be auctioned at Christie's New York on November 8, 2006.

Q Why was the L.A. County Museum not interested in these paintings?

A I think everybody is interested in them. . . . I don't know what happened. I brought in another lawyer, Steven Thomas, to handle the transactional details. I, fortunately, have not had to be involved and reinvent myself as an art transactional lawyer. He handled all the loan negotiations with the museums and the sale of the gold portrait, so he would have to speak to that.

Q Who were the Austrian arbitrators?

A I picked a youngish man named Dr. Andreas Nödl, a lawyer in Vienna. Austria picked a professor, the dean of the University of Vienna Law School, Walter Rechberger, and the two of them picked a professor in Linz, Austria named Peter Rummel. He's actually German born but a very famous Austrian professor. So it was two professors and one lawyer.

Q Do you know the status of the ownership claim for *Portrait of Wally* by Egon Schiele?

A Not really. I'm not involved in that case. I know it is still going on here in New York, but I don't know the current status. It's really a shame that it has dragged on this long. It is one of the difficulties with these types of cases — they do tend to drag on. I think we showed in our case how quickly they can be resolved if there is a willingness of the parties to get down to the real legal issues and not hide behind procedural difficulties.

Q Do you not think that the world-wide fame of *Adele Bloch-Bauer I* positioned it better for this outcome than if it had been a less important painting? In other words, was it not more important for the arbitrators to carefully consider and correctly decide this than if it had been a less important painting?

A That is partly true. The reason we were in this mess eight years, however, is because of the fame of the paintings. I think they latched onto the issue of the will because of that. . . . They wanted to look for any excuse not to return them. When it came to the arbitration, our side was right on the law, so it would have taken a lot of effort for them to get around that. They realized it. I had obtained an opinion four years ago — and it's not improper for me to disclose this, actually Ronald Lauder's Commission for Art Recovery helped pay for part of it — from the chairman of the Institute for Civil Law in Vienna, Professor Rudolf Welser, an expert in inheritance law. He wrote a 140-page opinion with his colleague, Professor Christian Rabl, on the question of the will, going into every possible nuance and detail. I think that was just too much for the other professors to get around. Here was one of their colleagues, *the* expert in Austria, giving his opinion that we were correct. It would have been very difficult for them to get around that opinion.

FIGURE 9. Gustav Klimt. *Portrait of a Lady*, c.1898-99. Restituted in 2004 to the heirs of Bernhard Altmann.

Q There's been a very positive response here in the States to the outcome. Can you summarize the popular opinion in Austria about the government's decision not to acquire these paintings once the legal opinion had been rendered by the arbitrators?

FIGURE 10. Left: Pablo Picasso. *Femme en Blanc*, 1922. Oil on canvas. © 2006 Estate of Pablo Picasso/Artists Rights Society (ARS), New York.

FIGURE 11. Above: Canaletto. *Santa Maria della Salute*, 1727. Oil on canvas, 45 x 60 cm. Strasbourg, Musée des Beaux-Arts (Inv. no. 987-1-1). 1987 purchase made permanent in 2005 in accordance with B. Altmann's inheritors and the help of the State, the general and regional council and the patronage of Würth, France and the Coop-Alsace.

A In Austria, very much like here, people latch onto a winner. As soon as we won, of course, everyone had been on our side from the beginning. I think the converse would have been true here too. Everyone would have said, "I told you so." In terms of public opinion, I heard that people were generally supportive. We had resolved this in an Austrian way, through arbitration. I think that helped. If we had had a U.S. judgment saying these paintings have to come back, there would always have been a question about those crazy Americans trying to stick it to us. They don't understand us, and they don't understand our language and our documents and things. But to have three Austrians say that we were right had a real impact. Maria Altmann said that she heard from a friend who was in a café when it was announced over the radio that the paintings were going to be returned that the people spontaneously cheered and clapped. . . . I don't think, however, that everybody was very happy about it. Certainly, people in the art world there were very concerned about losing these paintings, but there are some pros and cons to that also.

Q You mentioned another landscape that Ferdinand owned. What happened to that painting?

A That painting was returned to the Austrian Gallery in 1961, when Gustav Uccicky died, along with three other paintings, one of which, an early Klimt portrait (Fig. 9), was restituted in 2004 to the heirs of Bernhard Altmann, whom I also represent. There was also the *Portrait of Amalie Zuckerkandl* (Fig. 7), which I didn't get to talk about. We had a separate arbitration hearing on that, but it's too long to go into. The Zuckerkandl family also claimed it, saying that Ferdinand Bloch-Bauer, from his exile in Switzerland, managed to give that painting to them, and then they sold it, supposedly under duress. The woman in the painting, Amalie Zuckerkandl, was ultimately killed. Her non-Jewish son-in-law sold it. It was a very complicated case. That arbitration followed the arbitration over the five Klimt paintings on view at the Neue Galerie, and the arbitrators decided that there wasn't enough proof of our claim as to how the painting left the estate of Ferdinand Bloch-Bauer, even though we knew it was part of his estate at least until 1939, when he was in exile. Therefore, the arbitrators did not give the painting back to us. They also rejected the claim of the other family, and so that painting, unfortunately, is staying in the Austrian Gallery. I think the decision is wrong. But sometimes you

win, and sometimes you lose. It is hard for me to say that about these types of cases because I take it very personally, and I think justice should always be done. I should add that another decision around the same time, from a different arbitration panel under a different Austrian law, gave back the home of Ferdinand Bloch-Bauer in Vienna, which the heirs are recovering this year. There has been quite a lot of activity.

Q Did you do this kind of legal work before the Maria Altmann case? Is restitution what you specialize in now?

A I had no experience in art restitution before this. I have handled several other cases as a result of the notoriety of this case. One is the famous case concerning a Picasso, *Femme en Blanc* (Fig. 10),[4] which was resolved last year with a collector in Chicago, Marilynn Alsdorf, who agreed to repurchase the painting from my client. It's a very long and interesting story that will have to wait for another day. Another case concerns a nice Canaletto (Fig. 11) in the museum in Strasbourg that was repurchased by the museum from the heirs of Bernhard Altmann. So I've handled quite a number of other cases — those are the most prominent ones — through this. It's become a field that I like and that, I guess, I've been relatively successful at.

Q In your opinion do you think this case would have any kind of impact, in a positive way, on the Leopold Foundation case? Positive depending on which way you look at it.

A There's a lot of water under the bridge in the Egon Schiele *Portrait of Wally* case, so I'm not sure that anything from the outside will determine that. But in the broader sense, I think, the victory that we've had in this case has to have an impact. It has to give museums and collectors pause when they're confronted with claims because we've shown, against all odds, that if you clear away all the procedural hurdles, and you get down to the merits of the case — Was this painting stolen or not? Was it looted or not? Should it be returned or not? — that the claimant can be right, even sixty-five or seventy years later. I think that's important. I hope these cases will not go into arbitration or litigation but will be resolved, because collectors, when faced with claims and when faced with evidence, will realize it's not worth fighting for five, six, seven years. Rather, we should sit down and resolve the claim.

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[4] For more about this case, *Bennigson v. Alsdorf*, see *IFAR Journal*, Vol. 7, nos. 3 & 4, pp. 5–7.

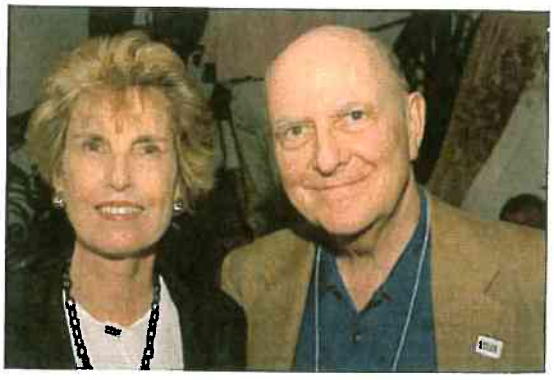
SCENES FROM AN IFAR EVENING

Left to right: Monica Dugot, Herbert Hirsch, Jo Backer Laird, and Peter R. Stern.

Jeremy G. Epstein and Constance Lowenthal.

Left to right: Shelby White speaking with E. Randol Schoenberg; Lucille Roussin in the background.

Donna Torrance and Thomas Jaffe.



Catherine Cahill and William Bernhard.

Left to right: Gertje Utley, Annette Blaugrund, Lee MacCormick Edwards, and Michael Crane.

STOLEN BY AUSTRIA

Gustav Klimt, *Portrait of Adele Bloch-Bauer I*
Stolen from Ferdinand Bloch-Bauer and never returned!

Gustav Klimt's famous *Portrait of Adele Bloch-Bauer* is just one of **six** paintings by that artist which were taken from Ferdinand Bloch-Bauer by the Nazis after March 1938 and never returned. Ferdinand's niece and heir, Maria Altmann (age 84), has actively been trying to recover the paintings for the past two years. This is her story.

Contents

Summary

Ferdinand Bloch-Bauer, a prominent Jewish Viennese businessman, head of the Austrian sugar industry and a lifelong collector of art, commissioned the well known painter and founder of the Austrian Secession Movement, Gustav Klimt, to do several portraits of his wife Adele. He bought two of these in addition to four landscapes by the same artist. In 1936 he donated one of the landscapes to the Austrian Gallery. The five remaining paintings were hanging in Ferdinand's home until the day that the Nazis seized its entire contents.

Adele died in 1925 when the bacillus of the Nazi plague was still dormant. She left a will *requesting* her husband to leave the Klimt paintings in *his* will to the Austrian Gallery in Vienna. Ferdinand declared himself willing to do so when his time would come, even though Adele's request in her will did not have the legal force of a bequest. However, in 1938 when the Nazis invaded the Austrian territory, Ferdinand fled for his life to Switzerland, leaving, of course, all his possessions behind. He died in exile in 1945 having revoked all previous wills. The reason for this is obvious; he had lost all of his Austrian possessions and therefore the possibility to dispose of them.

The Austrian Government now takes the position that the *request* of Adele Bloch-Bauer's will has the force of a legacy. This, of course, is absurd. The paintings belonged to her husband who had commissioned them and paid for them. Under the most flimsy pretext the Austrian Government has refused to turn over the stolen paintings to the last surviving member of the Bloch-Bauer family, Maria Altmann. An attempt to take legal action against the Austrian Government was stifled by its demand of a prior deposit of $500,000. And so, the Klimt paintings are stolen again: the first time by the Nazis in 1938; the second time at the end of

World War II when the Austrian Government forbade the export of "Austrian Art"; and the third time now by a flagrant perversion of the law.

Before 1938

Maria Altmann was born into an affluent Jewish family in Vienna, Austria in 1916. Every Sunday she and her four older siblings would have brunch over at the beautiful palais owned by her uncle Ferdinand and aunt Adele. The palais, a large building on one of the finest streets in Vienna, was gorgeously decorated with fine artworks, tapestries, porcelain and furniture. When Adele died suddenly of meningitis in 1925, Ferdinand created a memorial room for her with her two full-length portraits by Klimt and four landscapes. A seventh Klimt painting was in Ferdinand's bedroom.

When Adele died, she left behind a short will that asked that her husband donate the two portraits and four landscapes to the Austrian Gallery after his death. Although the paintings belonged to Ferdinand, and not his wife, Ferdinand allegedly stated that he intended to fulfill his wife's wishes although he was not legally required to do so. In 1936, at the request of the Austrian Gallery, Ferdinand donated one of the landscapes to the museum.

Escape from Austria

In December 1937, Ferdinand's niece Maria (age 21) was married. Her husband Fritz Altmann was the younger brother of the cashmere sweater manufacturer Bernhard Altmann. As a wedding gift, Ferdinand gave Maria a diamond necklace and earrings that had once belonged to Adele. After just two months of marriage, in March 1938, the Nazis annexed Austria. Fritz was arrested and sent to Dachau as a hostage to force his brother, who had escaped to France, to sign over his business to the Nazis. The Gestapo took Maria's jewelry, sending her diamond necklace to the Nazi leader Hermann Göring as a present for his wife.

Ferdinand fled first to his summer home in Czechoslovakia, a large castle and estate outside Prague. When the Nazis took the Sudetenland, Ferdinand fled to Zurich, Switzerland, and his estate was used as the principal residence for the Nazi commander of the so-called Protectorate, Reinhard Heydrich. Heydrich, one of the principal architects of the Nazi's "Final Solution" was leaving Ferdinand's castle when he was assassinated in 1941.

After several months in prison, Fritz was ransomed by his brother and released from Dachau. Maria was taken by the Gestapo to Berlin to seal the deal. Although Fritz was subsequently placed under house arrest, he and Maria managed to escape on the way to a doctor's appointment. With Bernhard's help, they fled over the border to the Netherlands where they were met by Bernhard and flown to Liverpool, England, where the British had invited Bernhard to build a new sweater factory. Maria and Fritz soon came to the United States and in 1942 reached Los Angeles, where Maria has resided ever since. Maria became a U.S. citizen in 1945.

The Looting

In exile in Switzerland, Ferdinand was cut off from his family and all his possessions. The sugar company he directed was aryanized, and Ferdinand's shares held in Swiss banks were handed over to the Nazis. Ferdinand's palais was bought by the railroad for its new headquarters. The artworks were plundered. In early 1939, a large group of Nazi and museum officials met in Ferdinand's palais to discuss dividing up the enormous art collection. His famous 400-piece porcelain collection was auctioned off, with the best pieces going to Vienna's museums. Some of his 19th century artworks by Austrian masters were taken and given to Adolf Hitler and Hermann Göring. Others were bought for Hitler's planned museum in Linz.

Erich Führer, the Nazi lawyer liquidating the estate, was allowed to take a few paintings for his own collection.

The Austrian Gallery expressed an interest in the Klimt paintings, ultimately obtaining three of them from Führer, including the famous gold *Portrait of Adele Bloch-Bauer*. One landscape was bought by the City of Vienna and another was kept by Führer. The portrait in Ferdinand's bedroom ended up in the hands of an art dealer.[1]

In his second-to-last will, dated Oct. 8, 1942, Ferdinand wrote while in exile in Zurich: "In an illegal manner, a tax penalty of one million Reichsmarks was imposed and my entire estate in Vienna was confiscated and sold off." Indeed, when the war ended in 1945, Ferdinand was almost penniless. He died in November 1945, never having recovered any of his property. Not surprisingly, in his last will written in October 1945, Ferdinand made no provision for the donation of his property to any Austrian museums.

Post-war Hostility

The government of Austria in the post-war period after 1945 was extremely hostile to restitution claims by exiled Jews. For example, at the end of the war, in April 1945, Dr. Karl Renner, a noted legal scholar, chancellor and president of Austria (and, incidentally, formerly an intimate friend of Adele Bloch-Bauer), wrote:

> 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. A circumstance, that for many reasons must be paid very close attention to. . . . The restitution to the victims cannot follow naturally. As soon as the property of the fund,

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1 The Klimt painting was donated by the art dealer to the Austrian Gallery in the 1980s in exchange for an export permit for a work by Egon Schiele which the dealer wished to sell to former U.S. Ambassador to Austria Ronald S. Lauder.

> which shall serve to compensate collectively all of the robbed individuals, is established, shares will be given out, for each pro rata based on the suffered damages -- not by the measure of whether a person's property is completely, partially or not at all recoverable; this collective procedure naturally provides that claims can only be satisfied in relation to the recovered property and only after the completion of investigation, prosecution and return of valuables (that is after years!). . . . Basically the entire nation should be made not liable for damages to Jews.

This overwhelming hostility to the claims of Jews on the part of the Austrian government carried over from the Nazi period into the post-war period and placed every Jewish family with claims against the government in a very precarious position. If a claimant was to have any success at all, deals had to be made to assuage the government ministers and their cohorts, who in most cases were as anti-Semitic as their Nazi predecessors.

Attempts at Restitution

Ferdinand had no children and left his entire estate to Maria and her older brother Robert and sister Luise. Luise was stranded in Yugoslavia, where she had survived the war with two young children. Her husband was arrested by the communists and executed for being a "capitalist." Maria's brother Robert, who had fled to Vancouver, Canada, with his two other brothers, took up the task of attempting to retrieve Ferdinand's property.

After the war, a family friend and lawyer in Vienna, Gustav Rinesch, attempted to recover the Klimt paintings and other artworks and property. The Allies had collected looted artworks and held them in the Art Collecting Point in Munich. However, individual applicants were not permitted to retrieve their property directly. Rather, the artworks would only be returned to their country of origin, which was then responsible for determining whether the artworks should be restituted. Austria used this procedure and laws against exporting cultural items to obtain and hold Nazi-looted artworks hostage. The Austrian Federal Monument Office

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 Austria.

One of the Klimt landscapes was retrieved by Rinesch from Führer, who was imprisoned for Nazi activities. It was kept in an apartment in Vienna pending a request for export permits. The City of Vienna agreed in 1947 to return another landscape painting to Ferdinand's heirs, but demanded a return of the purchase price. But the Austrian Gallery refused to return the three paintings it had taken from Ferdinand's collection during the war, claiming instead that the paintings had been given to the Austrian Gallery in 1925 by Ferdinand's wife, Adele. This claim was inconsistent with Adele Bloch-Bauer's will of 1923, which makes only the legally unenforceable request that her husband donate the paintings after his death. The heirs and their attorney, however, did not have access to Adele's will or other court documents, which were taken out of the court files by the Austrian Gallery.

The Director of the Austrian Gallery, Karl Garzarolli, realized the invalidity of his museum's claim to the Klimt paintings, as he very revealingly confided to his Nazi-era predecessor, Bruno Grimschitz, on March 8, 1948:

> Because there is no mention of these facts [the purported donation of the Klimt paintings by Adele or Ferdinand] in the available files of the Austrian Gallery, i.e. neither a court-authorized nor a notarized or other personal declaration of Ferdinand Bloch-Bauer exists, which in my opinion you certainly should have obtained, I find myself in an extremely difficult situation. . . . 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 be also 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.

The Extortion

Meanwhile, despite his reservations, Garzarolli took an aggressive stance against the heirs and prepared to sue them to obtain the other Klimt paintings that were not yet in the Austrian Gallery. On April 2, 1948, Garzarolli wrote to Otto Demus, head of the Austrian Federal Monument Office, expressing his strategy with regard to the Klimt paintings and other artworks in Ferdinand's collection:

> 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.

Demus immediately telephoned and met with Rinesch on April 3, informing him that the Austrian Gallery desired a number of artworks from Ferdinand's collection, including the Klimt paintings. He told Rinesch that none of the paintings would be allowed to be exported if the heirs disputed the Austrian Gallery's ownership of the Klimt paintings. Based on this meeting, Rinesch decided (without first obtaining the informed consent of his clients, and obviously under extreme duress) to agree to "donate" the Klimt paintings to the Austrian Gallery in order to get the absolutely necessary support of Garzarolli and Demus for export permits for the other works recovered from Ferdinand's collection, many of which were being held at the Munich Art Collecting Point. Rinesch met with Garzarolli to confirm this deal on April 10, 1948 – the same day he first saw Adele's will and concluded, "This is not in the form of a bequest." On April 13, Rinesch sent his five-page request for export permits for the rest of the Bloch-Bauer collection to Demus, with a copy to Garzarolli adding, "I rely on your sense of justice."

In this underhanded way, Austria managed to avoid having to return the Klimt paintings to Ferdinand's heirs. In the end, the heirs were required to donate additional paintings, drawings

and porcelain, and trade several other artworks, in order to obtain export permits for the remnants of Ferdinand's once enormous collection. Still fighting for export permits in July 1949, Rinesch wrote:

> The Bloch-Bauer heirs have, to document their interest in the public Austrian collections, in the most loyal way agreed that the major works of the Austrian painter Gustav Klimt from the Bloch-Bauer collection may remain at the Austrian Gallery as a bequest. Even if this bequest was originally already foreseen in the will of Ferdinand Bloch-Bauer's deceased wife, the heirs certainly had the ability to prevent the fulfillment of this bequest, because in the meantime the financial circumstances of the testatrix's family had changed catastrophically and also the remaining conditions of the bequest had fallen away through the experiences of the Third Reich.

He enlisted the support of Garzarolli, who now agreed to approve lifting the export restriction on several remaining works, based on the donation of the Klimt paintings:

> The Austrian Gallery has recently studied the question again and believes that for the following reasons approval of export can be recommended for both paintings without exception. Namely, the heirs of Ferdinand Bloch-Bauer have immediately agreed to acknowledge and accept Ferdinand's declaration that in the event of his death he wished to follow the wishes of his deceased wife to donate the paintings by Gustav Klimt to the Austrian Gallery, despite various transactions by Bloch-Bauer's attorney during the Nazi era that extremely worsened the situation of the Austrian Gallery, and thereby established a way for the Austrian Gallery actually to receive this bequest.

The government continued to fight the heirs in other ways, dragging out the negotiations over the return of Ferdinand's sugar factory for over ten years. The heirs and their attorney finally gave in, settling for a payment of just $600,000 from the sale of the sugar factory. As part of the settlement, they were forced to give up the beautiful palais, which to this day houses the offices of the Austrian railroad. They also had to sell a number of the returned artworks to pay taxes the government said were due from the factory. Nothing was ever retrieved from

Czechoslovakia. Most of the fabulous porcelain collection was never returned, and pieces continue to show up at auction – the owners immune from suit under Europe's "bona fide" purchaser rules.

From Ferdinand's once enormous personal estate, little or nothing remained. The post-war restitution process in Austria had turned the old maxim on its head – to the defeated went the spoils.

The Revelation

In early 1998, in the wake of the seizure of two paintings by Egon Schiele that had been loaned to the Museum of Modern Art in New York by a government-supported Austrian foundation, the Austrian federal minister for education and culture, Elisabeth Gehrer, opened up the old archives to permit researchers to prove that no looted artworks remained in Austria. Thereafter, and much to her surprise, an Austrian author and journalist, Hubertus Czernin, published a series of articles exposing the fact that Austria's federal museums had profited greatly from the extortion of artworks from exiled Jewish families after the war. Principal among these artworks were the collections of the Bloch-Bauer, Rothschild and Lederer families. Klimt's *Portrait of Adele Bloch-Bauer I*, which all the museum publications represented as having been donated to the museum in 1936, was revealed to have been transferred to the museum only in 1941 with a letter from the Nazi lawyer Führer signed "Heil Hitler." The revelations were devastating.

Gehrer responded by closing the Ferderal Monument Agency archives and ordering a thorough investigation by a committee of archivists from the various federal museums and headed by the director of the Federal Monument Agency, Ernst Bacher. The researchers essentially confirmed Czernin's stories and reported to Gehrer that indeed many valuable

artworks had not been restituted to their owners after the war and in many cases donations were coerced by government officials. In many cases, such as with the Klimt paintings from the Bloch-Bauer collection, the provenance had been falsified to hide the fact that the paintings had been stolen during the war.

Promised Restitution

In response, in September 1998, Gehrer proposed a new restitution law, designed to return artworks that had been donated to federal museums under duress in exchange for export permits, or obtained by the federal museums despite having a provenance which suggested that they were never properly restituted to their pre-war owners. The law was unanimously approved by the Austrian parliament and signed into law by the President in December 1998. The new law created a committee made up of government officials and art historians which was to advise Gehrer which artworks should be returned and to whom. Rudolf Wran, the section chief for culture under Gehrer, was selected to head this committee.

In January, 1999, the government permitted Czernin to copy the documents in the Federal Monument Agency files. Czernin provided copies to Maria Altmann's attorney, E. Randol Schoenberg. It was at this time that Altmann first learned that the Austrian Gallery had lied to her brother's attorney about the contents of Adele's will, and had swindled her out of her inheritance.

In early February, the committee announced its first recommendation to return hundreds of artworks to the Austrian branch of the Rothschild family. Later that month, Minister Gehrer responded to parliamentary inquiries regarding a long list of suspect artworks by concluding that "the connection between the donation of the Klimt paintings and the export permit law is

evident." The Austrian press reported in big headlines that the Klimt paintings would have to be returned.

The Opposition

But Wran and the other committee members had other plans. Most of them were greatly distressed by the prospect of returning these icons of Austrian art to Ferdinand's heirs. The Rothschild collection, while certainly very valuable, did not include any significant Austrian artworks. As valuable as it was, the entire Rothchild collection, which was auctioned off in July 1999 for $90 million, was probably worth only about half as much in today's market as Ferdinand Bloch-Bauer's Klimt paintings that are at the core of the Klimt collection at the Austrian Gallery, Vienna's most popular museum. Certainly in terms of their importance to Austria, Ferdinand's Klimts were in a class by themselves.

Anticipating possible opposition from the very conservative committee, Schoenberg obtained an opinion from an Austrian expert on probate and estate law, Andreas Lintl, on the significance of Adele's will. Lintl concluded (as had Garzarolli and Rinesch in 1948) that the statements in Adele's will were of no legal consequence and that the heirs had not been required to give the paintings to the Austrian Gallery. This meant that the paintings were donated solely in exchange for export permits and would have to be returned under the new restitution law. Schoenberg sent the opinion to Wran. He met with Wran in late April, but Wran refused to discuss the specifics of the case.

In March, Bacher's research committee submitted a report on the Bloch-Bauer collection to Wran's committee, and sent a copy to Schoenberg. The report omitted key documents, gave only a partial view of the story, and made several incorrect conclusions. Schoenberg wrote to Wran and Bacher correcting the report and asked that his letter and further documents be shown

to Wran's committee. Unbeknownst to Schoenberg, this request was not honored and the rest of the committee was forced to rely on an incomplete and misleading report.

Wran forced the decision on the Bloch-Bauer collection to be pushed off by the committee until the end of June. In the meantime, he and one of his compatriots on the committee, Manfred Kremser, a government attorney, drafted a legal opinion contrary to the one submitted by the heirs. Not knowing the conclusions of the government attorney's opinion, Schoenberg requested by telephone and in writing that he be given an opportunity to read any contrary opinion and to address the committee and respond to any arguments made against restitution. This request was refused by Wran and Kremser. Having heard from the press that opposition was brewing, but in the dark as to what Kremser had written, Schoenberg submitted a further opinion from Lintl again concluding that neither Ferdinand, nor his heirs, were legally required to donate the paintings to the Austrian Gallery.

The Decision

On June 28, 1999, the committee met and quickly affirmed the recommendation of Wran and Kremser that the Klimt paintings not be returned. The committee did agree to return 16 Klimt drawings and 19 porcelain settings that had been donated by the family in 1948 as part of the consideration for export permits. Gehrer simultaneously announced her adoption of the committee's recommendations.

The other members of the committee were not given copies of the two opinions by Lintl, nor were they given any of Schoenberg's letters or informed of his request to see and respond to Kremser's opinion. Wran confirmed this when he informed Schoenberg of the committee's decision. The Bloch-Bauer heirs and their attorney had been purposely excluded from the entire decision-making process.

Not all of the committee members were in accord with Wran's tactics. Ilsebill Barta-Fliedl abstained from the vote and questioned the judgment and motives of the other members. Before the committee even discussed the matter she had been ordered by her boss, one of the government ministers, not to vote in favor of restitution in the Bloch-Bauer case. Apparently, the committee vote was predetermined by the Austrian government before the committee had even discussed the Bloch-Bauer matter. The vote was a sham. At the end of the year, Barta-Fliedl resigned from the committee in protest. She has stated that it was clear from the first couple of meetings that the attitudes of the other members of the committee were inconsistent with the purposes of the committee. The committee was made up of people who opposed art restitution in general and were especially hostile to the claims of Ferdinand's heirs.

The Law

Kremser's legal opinion, and therefore the committee's decision, was premised on the false assertion that Adele's will gave the Austrian Gallery an ownership interest in the paintings. In coming to this conclusion, however, Kremser misread Adele's will and expressly disagreed with all of the leading Austrian legal experts who have written on this precise legal issue in the last several years (before the Bloch-Bauer case arose). In his 1994 article on "The Legacy of an Object Not Belonging to the Estate," Prof. Rudolf Welser concluded:

> [The rule] that the testamentary disposition of an object not belonging to the estate is valid when the object belongs to an heir, does not apply in the case when the testator sets forth that the heir should upon his own death leave an object from his own separate property to a third party.

Adele's will reads as follows:

> I ask my husband after his death to leave my two portraits and the four landscapes of Gustav Klimt to the Austrian Gallery.

In the estate files is a declaration dated January 1926 from Gustav Bloch-Bauer (Ferdinand's brother), the attorney for the estate, stating:

> It should be noted that the referenced Klimt paintings are not the property of the deceased testatrix, but of her husband.

Thus, it is clear that Adele's request in her will was not a legal bequest, but was at most a "Legacy of an Object Not Belonging to the Estate" asking her husband Ferdinand to dispose of his own property in a certain way after his death. This wish, according to Prof. Welser and the other Austrian legal scholars, is, and was, unenforceable. To enforce such a request against the terms of Ferdinand's last will would violate and circumvent the strict laws regarding testamentary dispositions. And yet Kremser and Wran led the commission members to believe the exact opposite so that there would be no opposition to the government's pre-ordained decision not to return the paintings.

Political Pressure

Schoenberg wrote to Gehrer to inform her of the committee's grave error and the denial of due process to Ferdinand's heirs. He recommended an arbitration process to resolve the dispute over the legal significance of Adele's will. Gehrer rejected this approach, stating that if the heirs believed the decision was wrong, their only remedy was to go to court. Gehrer also stated, contrary to all the facts that were available to her and in clear denial of what had transpired during the Nazi era, that "The paintings were not stolen from Ferdinand Bloch-Bauer."

Clearly, even the one government minister who had proposed the new law, now found it politically impossible to continue. Her party, the conservative People's Party, faced difficult elections in October, where her party eventually came in third, behind even the far-right

Freedom Party led by Jörg Haider, known for praising Nazi SS leaders as "men of character," and referring to Nazi death camps as "penal institutions." By rejecting the Bloch-Bauer's claims to the Klimt paintings, Gehrer joined in the Holocaust denial and revisionism that has reigned in certain circles in Austria since the end of the war. It is no surprise that she was rewarded for her "loyalty" and reappointed as a prominent minister in Austria's new right wing coalition government.

Lawsuit

In September, Maria Altmann announced that she would file a lawsuit in Austria to vindicate her claim. However, the government had more in store for her. First, it was necessary to apply for a waiver of the enormous court costs required to bring a lawsuit in Austria. These court costs are based on the value of the recovery that is sought and in this case would total several million dollars, far beyond what Mrs. Altmann, who still works as a specialty dress supplier at age 84, can afford.

However, in November, the Austrian court granted Mrs. Altmann and the other heirs only a partial waiver, and ruled that they were required to spend $400,000 or all the assets at their disposal – essentially their entire life savings – in order to proceed. This is in addition to the risk of paying costs to the opposing side more than $500,000 if the heirs lose the case before an Austrian judge. Not content with even this impossible ruling, in December the Austrian government appealed the court's decision, arguing that the amount Mrs. Altmann and the other heirs should have to pay should include the value of the porcelain and drawings that were finally returned to them, after lengthy bureaucratic delays, in November. Despite Gehrer's earlier invitation, Austria clearly is behaving as if it does not want the Bloch-Bauer case decided in a court of law.

The Treaty

In Article 26 of the Multilateral Austrian State Treaty of May 15, 1955, Austria promised:

> In so far as such action has not already been taken, Austria undertakes that, in all cases where property, legal rights or interests in Austria have since 13th March, 1938, been subject to forced transfer or measures of sequestration, confiscation or control on account of the racial origin or religion of the owner, the said property shall be returned and the said legal rights and interests shall be restored together with their accessories.

Austria has failed to live up to its treaty obligations. It is incumbent upon the United States to assert its rights under the 1955 treaty and insist that Austria provide due process to the victims of Nazi persecution, especially those like Maria Altmann who have been loyal U.S. residents and citizens since they fled from Austria over 60 years ago.

In his May 15, 1959 letter regarding the settlement of Article 26 claims for restitution, U.S. Ambassador to Austria H. Freeman Matthews concluded:

> My Government has instructed me to advise you that it may approach the Austrian Federal Government in the future in connection with the settlement of individual claims asserted under Article 26 of the State Treaty which are not presently known to my Government and do not fall within the classes and categories of claims enumerated in paragraphs 1 and 2 of Section A of your note.

In other words, the U.S. reserved the right to assert unknown claims, such as the ones for the Bloch-Bauer's paintings. The fact that the Austrian government had lied to the heirs and had falsified the provenance of the paintings was not revealed until last year, so these claims fall within the category of claims "not presently known" in 1959.

Conclusion

The Bloch-Bauer case and others like it could be easily resolved if Austria was willing to submit to neutral arbitration. It is a fundamental maxim that in the event of a legal dispute, claimants should be afforded a reasonable opportunity to prove their claims before a neutral tribunal. Today, more than half a century after the defeat of the Nazis, it is time that these matters be resolved and settled fairly and quickly. Unfortunately, given the current political situation in Austria, it seems that without U.S. intervention on behalf of its citizens, these wrongs will never be righted.

Dated: February 4, 2000

_____

E. Randol Schoenberg

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By Sarah Price Brown

Maria Altmann is sitting at the kitchen table in her home in Cheviot Hills, Los Angeles, when the phone rings again. This time, an Austrian journalist speaking in German requests a meeting. Maria flips through the pages of her calendar until she finds an empty slot and schedules yet another interview.

"I don't like being a celebrity," says Maria, elegant at 90 years old, with soft brown curls and a sharp Austrian accent. "I was fine before."

Five miles away, Randol Schoenberg, Maria's lawyer, is fielding phone calls from his office on Wilshire Boulevard when an assistant hands him a slip of paper.

"Ah, CBS Early Show," says Schoenberg, 39, his clear-blue eyes widening. "Finally, finally," he says. "Finally, they're getting on it!"

Whether they like it or not, Altmann and Schoenberg have become heroes of late, victors in a drawn-out battle to reclaim what had once belonged to Altmann's family but had been stolen by the Nazis during World War II: five Gustav Klimt paintings, including the famous, glittering gold portrait of Adele Bloch-Bauer, Maria's aunt.

The portrait depicts a woman with porcelain skin, black hair and red lips, wearing a dress decorated with kaleidoscopic designs. She stands with her hands clasped at her shoulder, before a background of glistening gold. Having been reproduced innumerable times in books and on college dorm-room posters, mugs and even jigsaw puzzles, the painting is one of the world's most recognizable works of art. For 65 years, the portrait hung in the Austrian Gallery Belvedere. The government-owned museum claimed that Adele had left the painting, along with several other Klimts, to the gallery in her will.

Altmann and her family believed something else entirely. They argued that Adele had simply *requested* that the paintings go to the museum in her will. She could not have given the artwork away, because she did not own it, they said. The paintings belonged to Adele's husband, Ferdinand.

While Ferdinand initially expressed his intention to comply with his wife's wishes, once the Nazis drove him from his country and liquidated his assets, he had no interest in donating the works to Austria, his heirs said. They further alleged that after the war, Austria forced them to relinquish their claims to the paintings before allowing them to remove other artwork from the country. From the outset, the family's case looked hopeless. Austria denied any wrongdoing, and decades had passed since the Nazis had come and gone. This was history that no one cared to revisit.

Well, almost no one. For more than seven years, Schoenberg, grandson of the great Austrian composer Arnold Schoenberg, spearheaded an effort to recover the paintings. When the prestigious law firm for which he worked pulled out of the case, Schoenberg quit the firm and started his own. Opposed by both the Austrian and U.S. governments, Schoenberg hauled the case through the Austrian courts, the U.S. courts, all the way to the U.S. Supreme Court, and finally, back to Austria for arbitration.

In January of this year, an arbitration panel announced what few had expected, much less thought possible: Austria would return the five paintings, valued at up to $300 million, to the heirs of the Jewish man who had owned them.

The way Schoenberg sees it, he did more than win a case; he recaptured a legacy.

The woman behind the portrait

Maria Altmann was born in Vienna in 1916, the youngest of five children in a wealthy family. The Blochs were Jewish but assimilated. They celebrated Christmas and Easter and went to synagogue only once a year, on Yom Kippur, the Day of Atonement. At synagogue, Maria's father, Gustav Bloch, looking elegant with his silver hair and top hat, would pray beside the Rothschild brothers.

Gustav was a lawyer but spent much of his time visiting art galleries and antique shops. Each week, he would play chamber music with friends on a Stradivarius cello that the Rothschilds had loaned him for his lifetime.

Maria's uncle, Ferdinand Bloch, could not have been more different from his brother. "My father was so gentle, so forgiving," Maria says, "and my uncle, was like *that*," she says, demonstrating forcefulness by banging a fist on the table. Commanding and hardworking, Ferdinand owned a sugar company, which he managed from the top floor of his palatial mansion.

The Bloch brothers had married a pair of sisters, Therese and Adele Bauer. Therese, Maria's mother, was "a tough little thing," Maria says. (Later, when a Gestapo officer would come knocking on Therese's door, she would order him to remove his hat when talking to a lady, and he would.)

Maria's aunt, Adele, was a pale, frail woman who smoked constantly out of a long, gold cigarette holder. Anxious to leave her parent's home around age 18, Adele had married Ferdinand, nearly 20 years her elder. The marriage was one of great respect but not love, Maria says. Adele appreciated the intellectually stimulating life her husband offered her. Interested in learning and politics, she "would have loved to be a woman of today," Maria says.

Adele and Ferdinand tried to have children, but they had two stillborns and a son who died a few days after birth. So, without any children to look after, she and Ferdinand, who merged their last names to form "Bloch-Bauer," immersed themselves in Vienna's cultural life. They threw dinner parties where the men wore white ties and tails. They filled their home with fine art, antique furniture and tapestries. They accumulated a 400-piece porcelain collection, which they showcased in glass cabinets.

The couple also hosted a salon in their home. The composer Gustav Mahler, the politician Karl Renner and the anatomist Julius Tandler were regulars. So was the painter Gustav Klimt, a well-known but controversial artist. The son of a failed gold-engraver, Klimt had studied applied, rather than fine, arts. He began his career painting murals for theaters, in a naturalistic style. But gradually, he turned his back on tradition. In 1897, Klimt led a group of artists to form the Austrian Secession, a break with the art establishment. When the Ministry of Culture asked Klimt to design three ceiling paintings for the University of Vienna, the sensual, symbolic, provocative pieces he painted drew harsh criticism. In the face of public censure, Klimt retreated to the private sphere, where he painted portraits of women, mostly upper-class Jews.

When Ferdinand married Adele, he commissioned Klimt to paint a portrait of her, as a present for Adele's parents. But Klimt took several years to finish the work, finally

completing "Adele Bloch-Bauer I" in 1907, and Ferdinand kept the magnificent gold portrait for himself. In 1912, Klimt painted another portrait of Adele, "Adele Bloch-Bauer II," a brightly-colored piece in which Adele wears a broad-brimmed, black hat. Klimt, who was not Jewish, and Adele were good friends, perhaps even – as rumor had it – lovers.

Then, one night in 1925, Adele's German shepherd came running and barking into Ferdinand's bedroom. When Ferdinand went to see what the fuss was about, he found Adele, 43, dead from meningitis.

Ferdinand turned Adele's bedroom into a shrine, filling it with fresh flowers, the two Klimt portraits and several Klimt landscapes. The room was supposed to stay that way.

An era's end

Everything changed for Maria and her family when German soldiers marched into Austria on March 12, 1938. In what became known as the "Anschluss," the anti-Semitism that had simmered beneath Austrian society bubbled to the surface and overflowed. One day, the Gestapo came to their apartment, looking for the Rothschilds' Stradivarius cello. Maria used to joke that the cello was the family's sixth child; her father, Gustav, guarded it so closely that whenever the family would go on summer vacation, he would lock the instrument in a vault.

When the Gestapo took the cello away, just like that, Maria says, "the thread of life was cut." About a month later, after watching friends commit suicide rather than fall prey to the Nazis, Gustav got sick and died. "Thank God, he died a natural death," Maria says. With the Nazis around, "he was totally lost, because he was such a man of justice, and that word didn't exist anymore."

Maria, then 21, had gotten married a few months earlier. As a wedding gift, Maria's uncle, Ferdinand, had given her a diamond necklace and earrings that had belonged to her aunt, Adele. Now, the Gestapo took her necklace for the wife of Hitler's right-hand man, Hermann Göring. Nazis arrested Maria's husband, an aspiring opera singer, Fritz Altmann, and sent him to Dachau. They kept him in an effort to force Fritz's brother, Bernard, to surrender his sweater business to them. When the Nazis released Fritz several months later, he and Maria knew it was time to leave.

Maria had a valid passport and visas for entry into France and England, but Fritz had nothing. "Like a biblical heroine," Fritz's brother, Bernard, would later say, "she stayed faithfully by the side of her husband." In a carefully planned escape orchestrated by Bernard, the couple made their way to the Dutch border, where, in the dead of night, a farmer led them across a brook and over a barbed wire fence to Holland, where they chartered a plane to Liverpool, England.

The Nazis pounced on the fleeing Jews' property, including fine art. The Nazis stole masterpieces whenever they could get their hands on them, looting artwork from Austria, Germany, France, the Netherlands and Eastern Europe. Hitler and Göring kept many pieces for their private collections. Other paintings, the Nazis put aside for a museum Hitler was planning to build in his childhood home of Lintz, Austria. Hitler and his men were primarily interested in old-master paintings. They considered modern art "degenerate" and auctioned or sold it to museums and collectors as far away as Switzerland, England, South America and the United States.

When Maria's uncle, Ferdinand, fled, making his way to Zurich, a group of Nazi and museum officials converged on his mansion to divide the spoils. They auctioned off his porcelain, selling many of the pieces to museums. Hitler and Göring each took some paintings for their own collections. The Nazis kept other artwork for the planned museum in Lintz.

Erich Fuhrer, the lawyer who liquidated the estate, kept several paintings for himself, including "Adele Bloch-Bauer II." He sold one Klimt painting to the Museum of the City of Vienna and three to the Gallery Belvedere. The glistening gold portrait arrived at the gallery in 1941 with a letter from Fuhrer signed "Heil Hitler."

After the war, the Allies discovered stockpiles of looted art, stored in churches and salt mines, like the mines at Alt Aussee, southeast of Salzburg, Austria, which housed a cache of 6,500 works of art. A monastery at Mauerbach, near Vienna, stored thousands more objects. The Allies took this artwork to designated holding points, where they sorted through them and, after determining their countries of origin, returned the works to the countries from which they came, with the stipulation that the countries seek to restore the pieces to their rightful owners.

Ferdinand lived to see the end of the war but not the return of his property. In November 1945, he died in Zurich, leaving his estate to his niece, Maria, and her brother, Robert, and sister, Luise.

Robert decided to see what he could do to recover some of his uncle's property, including the Klimt paintings. He solicited his close friend in Vienna, the lawyer Gustav Rinesch, to help.

Rinesch asked the Austrian Gallery Belvedere to return the three Klimt paintings that had belonged to Ferdinand but now hung on the gallery's walls. The museum refused, saying that Adele had left the works to the gallery in her will *and* that it was the museum that had generously allowed Ferdinand to keep the paintings during his lifetime.

Museum officials told Rinesch that he could receive export permits to take other works of art out of Austria if Ferdinand's heirs agreed to relinquish their claims to the Klimt paintings. Without consulting the heirs, Rinesch agreed. He gave the gallery the three Klimt paintings that were already hanging inside it, and he helped the gallery get two Klimt landscapes, which had been in the custody of the Nazi liquidation lawyer, Fuhrer, and the Museum of the City of Vienna.

If not for a remarkable chain of events half a century later, that would have been the end of the story.

Unlocking Pandora's Box

In January 1998, the Museum of Modern Art in New York showed an exhibition of works by the Austrian painter Egon Schiele. The exhibition included two paintings that Nazis had stolen from their prewar Jewish owners. In an unprecedented move, the Manhattan District Attorney, Robert Morgenthau, prohibited the museum from returning the paintings to the foundation in Vienna that had lent them.

Museum directors cried out in protest, claiming that foreign institutions would now be less likely to loan artwork to American museums. But the case had another effect: It turned the world's attention to the issue of ownership of property looted by the Nazis.

The United States created the Presidential Advisory Commission on Holocaust Assets to report to President Bill Clinton on matters related to Holocaust restitution. The Association of Art Museum Directors established new standards, calling on museums to disclose information about their collections that might help Holocaust survivors or their heirs reclaim property.

In Austria, Elisabeth Gehrer, the minister for education and culture, invited researchers to search previously closed archives, to show that no stolen art remained in Austria. This move unlocked Pandora's box.

An Austrian journalist, Hubertus Czernin, delved into the government's files and began publishing a series of stories about them. No one could have predicted what he uncovered. "The truth is that Austrian museums still possess hundreds, if not thousands, of art objects stolen by the Nazis," he wrote, in an article titled "The Austrian Evasion," which ran in English translation in the June 1998 issue of New York-based *ARTnews* magazine.

Czernin went on to explain the after-war "art tax" that the government had slapped on Holocaust survivors and their heirs. Austria, relying on a 1918 law that required citizens to pay export permits when taking certain objects out of the country, had forced Jews to donate some of the art in their collections in exchange for permission to export other pieces. The Bloch-Bauers were not spared this trickery, Czernin reported.

Czernin also dug up correspondence between Austrian Gallery officials that showed that they knew they were on tenuous ground when it came to their claims of ownership of the Klimt paintings. In 1948, for example, Karl Garzarolli, the director of the Austrian Gallery, expressed concern that the museum had no proof of its right to the paintings. "I find myself in an extremely difficult situation," Garzarolli wrote to his predecessor. "I cannot understand why, even during the Nazi era, an incontestable declaration of gift in favor of the state was never obtained.... The situation is growing into a sea-snake."

In September 1998, an embarrassed Austrian minister Gehrer proposed a restitution law that would return art that Jews had donated to museums in exchange for export permits.

Maria, who was now living in Los Angeles, called some local Austrian friends to ask for help in looking up the law online. Her friends were out of town. Instead, she reached their son, Randol Schoenberg.

Schoenberg, a judge's son, was a young lawyer, working in the Los Angeles office of the major, international law firm, Fried, Frank, Harris, Shriver & Jacobson. Schoenberg spoke German, having studied it as an undergraduate at Princeton and during a semester abroad in Berlin. He had learned the language to communicate with his grandparents, who were by now, Austrian legends. Schoenberg's paternal grandfather, Arnold Schoenberg, composed music in an atonal style that was so surprising, it provoked riots during performances. An Austrian postage stamp commemorated him.

Schoenberg's maternal grandfather, Eric Zeisl, was also a composer. Before the war, Zeisl befriended an aspiring opera singer, who happened to be Fritz Altmann, Maria's husband. Schoenberg, in his office, opens a catalogue from a recent Zeisl exhibit in Austria and points to a photograph of his grandfather and Fritz standing side-by-side. "Just to show you, they

were close friends," he says. So, when Maria called the Schoenbergs, she was calling old friends from the Old World. When she called, and Schoenberg answered, he happened to have just read about the Austrian law, and so he was in a prime position to explain it.

Suing the Austrian government

Three months after their conversation, the Austrian parliament unanimously approved the restitution act and announced that a government commission would be set up to review restitution claims. Schoenberg took Maria's case to his law firm and asked for permission to pursue it. The firm granted its consent, for now.

Schoenberg hired an Austrian lawyer to write a couple of opinions saying that Adele's will was a request, not a bequest, and that the paintings were donated only to receive export permits for other artwork. Schoenberg sent the opinions to Rudolf Wran, the Austrian ministry official in charge of the restitution commission. Schoenberg also asked Wran for a chance to respond to any arguments made against restitution.

On June 28, 1999, the commission announced its decision: Austria would return to the Bloch-Bauer heirs some porcelain and Klimt drawings but not the Klimt paintings.

Schoenberg fired off an angry letter, which appeared in *The Wall Street Journal*. "The advisory board met in secret and would not permit the heirs to participate or respond to the opponents of restitution," he wrote. "The chairman of the advisory board and his compatriot in the attorney general's office refused to share with the other members two legal opinions from an Austrian lawyer supporting the heirs' claims to the Klimt paintings."

Schoenberg concluded by calling for arbitration: "The fact that we have documents to evidence all these events is, after 50 years, amazing. The fact that the advisory board simply ignored them is even more incredible. Based on its improper handling of the matter, we do not believe the advisory board can be trusted to give an impartial recommendation...Therefore, we have proposed that a panel of neutral arbitrators be selected to ... come to a final conclusion that everyone can live with."

Gottfried Toman, the director of the Austrian Office of State Attorneys, who managed Austria's side of the case, disputes Schoenberg's version of events. "This is definitely nonsense," he says, speaking on the phone from Austria. "The head of the advisory board shared, of course, all the documents with his colleagues." Schoenberg "was bombing the advisory board nearly every week and every day with additional information, letters, documents, and so on and so on. He took every opportunity to present his arguments," Toman said.

For Toman, the case revolves around a legal dispute about a will. "Randy's interest was to make a huge Holocaust case of this," he says, "which it is only on the sidelines, but not in the center."

Adele was a wealthy patroness of the arts who wanted to leave the Klimt paintings in Austria as a sort of personal legacy, Toman says. The Nazis' taking over Austria after her death should not affect the fulfillment of her wish, he said. "Doesn't it happen quite often that after people pass away, the world is a quite different one?" he asks.

"My key argument was always first, that the paintings belong to Austria based on the last will," Toman says, "and second, based on the acknowledgment of the lawyer of the Bloch-Bauer family after World War II."

Facing such opposition, Schoenberg filed a lawsuit against Austria in a Vienna court in September 1999. Almost immediately, the court stopped him in his tracks. It demanded a deposit of $1.8 million at first, and then, when Schoenberg protested, about $500,000. The amount was too much for Maria, who, then in her eighties, was selling women's clothing out of her home.

Now, Schoenberg had only one option left.

The big law firm for which Schoenberg worked decided that it had to abandon the case. "They wrote me a letter," Maria recalls, "and said that as much as they like me, as much as they would be interested in the case, they are not willing to work years without knowing that there'd be any result, because, they said – and I have it in writing – the U.S. marshal is not going to go to Vienna and pick up the paintings."

On June 1, 2000, Schoenberg, an intense man of slight frame and considerable energy, rented a small room in his current office building. From now on, he would carry the weight of the case on his own.

Schoenberg figured that his only option was to pursue the case in the United States. It was a long shot, but there was a chance that U.S. courts would allow him to sue Austria based on the Foreign Sovereign Immunities Act, which allows lawsuits to be filed against foreign countries when property has been taken against international law. The challenge was that the act was passed in 1976, years after the Nazis had stolen the Klimt paintings and the Austrian museum had refused to return them. Schoenberg would have to show, not only that the law applied to his case, but that it applied retroactively.

In August 2000, Schoenberg filed a claim against Austria in a federal district court in Los Angeles. Austria tried to get the case dismissed, but a federal district court in Los Angeles ruled that the case could continue. "If that hadn't happened," Schoenberg says, "it would've been all over."

Austria appealed to the 9th circuit but lost again. Finally, in 2004, the case reached the U.S. Supreme Court. Few thought Schoenberg had any chance of winning. The U.S. government, fearful that the case could open a can of worms – a plethora of suits to settle long-ago disputes – filed a brief against him.

On February 25, 2004, Schoenberg walked into nation's high court. "I had sort of this gallows humor," he says, "like this is crazy. Here I am, representing my grandmother's friend in the Supreme Court of the United States, over whether I can sue a foreign country over paintings that were stolen 70 years ago, that are *still* in Vienna." He started to speak, but only got in about two sentences before Justice David Souter asked a long, involved question. Schoenberg's mind went blank. "Well, I'm – I'm not sure that I understand the question," he stammered. Some in the courtroom laughed, as if to say, "Well, neither did we." From that point on, the argument turned into a half-hour conversation. "It went like a dream," Schoenberg says.

Four months later, a reporter called Schoenberg to let him know that the court had made its decision. Schoenberg asked for the bad news, but he had won, 6-3. "From then, the die was cast," he says.

Austria proposed going to arbitration, which is what Schoenberg had wanted all along. Maria had some reservations, as the arbitration would take place in Austria, but Schoenberg had a good feeling about it. He told Maria that accepting the offer was the only way she was going to get closure on this case in her lifetime.

In September 2005, Schoenberg flew to Austria to argue his case, which he did, mostly in German, in one grueling day.

Then, it was back to waiting, until one Sunday evening, four months later. Schoenberg had been playing poker with friends and losing terribly when he returned home, checked his Blackberry and found a new message that told him all he needed to know: He had won.

A case of extraordinary impact

"The case is earth-shattering," exults Ori Soltes, chairman of the Holocaust Art Restitution Project in Washington. Not only "because of the fame of Klimt and the value of the works," but also because "it completely revamps Austria's position in this whole issue, pushing them toward the head of the class of trying to right wrongs."

Jane Kallir, co-director of the Galerie St. Etienne in New York, the oldest gallery in the United States specializing in Austrian and German Expressionism, could hardly believe it. "It is a quirk of history that a painting like this should be returned to the international marketplace," she says. "No modern icon of comparable fame or value is going to come back to market."

As for Schoenberg, "I'm incredibly proud of him," Maria says. "He's a terrifically bright person and works like a slave."

Schoenberg is also proud of himself. "I doubt that I'll do anything this momentous again," he says.

After the arbitration panel announced its decision, Austria speculated that it might buy the paintings but then decided that it could not afford their $300 million price tag.

Austrian newspapers reported that Schoenberg's fee would amount to 40 percent of the art works' value. But when an Austrian reporter asks him about it, Schoenberg does not want to talk about money. The 40-percent-figure is "not necessarily correct," he tells a reporter, on the phone from Austria. "It's a little bit anti-Semitic, I think. It wouldn't be news in the United States that people make money for succeeding, but somehow, when people talk about our success, what Maria will be getting, or what I'll be getting, somehow the focus is on that."

If the Austrians are sad say goodbye to Adele's portrait, long hailed as a national treasure, so be it, Schoenberg says. "No one was crying when my grandparents were fleeing or when Maria Altmann was fleeing," he says. "There should be some pain attached to the exile." In a way, the gold portrait of Adele is the last exile, he says, "a fitting conclusion to the migration of the Austrian Jewish community."

Now, the Klimt paintings, remnants of another world, hang on the walls of the Los Angeles County Museum of Art, in a special exhibition running through June 2006. Michael Govan,

the museum's new director, has resolved to "tell the story surrounding the family, its relationship to the artist, and their ownership of the paintings."

For Schoenberg, telling the story is paramount.

"Obviously, there's the fame and fortune that comes with winning, and that feels good," Schoenberg says. "But I always felt it was necessary to tell the story, and not allow the lie to persist," he says.

In his office, where a sketch of him arguing before the Supreme Court hangs behind his desk, and framed newspaper articles about the case line the wall to his right, Schoenberg recalls a piece he once read that categorized the kinds of third-generation Holocaust survivors. One type, in particular, resonated with him.

"I was like, oh my God, that's me," he says. "It is the one who intuits, without even being told, (that) they have to be the repository of all the history and tell the story." They call him "the torch bearer."

The Shadow on the Gold

by Monica Strauss

In January 1998, two paintings in an exhibition at the Museum of Modern of Art caught the attention of New York District Attorney Robert Morgenthau. Egon Schiele's *Dead City* and *Portrait of Wally* were among the works on loan from the Leopold Museum in Vienna. Just as the show was closing and the museum was preparing to fly the pictures back to Austria, Morgenthau moved in. Claiming that the two paintings were looted art, he issued a subpoena freezing their return. In the end, the legal grounds for Morgenthau's unprecedented intervention proved shaky, but just as a relieved MOMA was poised to send the pictures back, the federal Customs Office stepped in, confiscating the two as imported stolen goods. Although *Dead City* was soon released for want of solid evidence, Schiele's *Portrait of Wally* remains in U.S. custody pending a trial later this year.

To this day, the repercussions of Morgenthau's rash move continue to reverberate in both the U.S. and Austria. One of the aftershocks is the struggle over five paintings by Gustav Klimt in Vienna's Austrian National Museum at the Belvedere. The dispute between Maria Altmann, an 89-year-old Austrian-born American citizen, and the government of Austria has gone on for six years. Altmann claims that the five paintings, confiscated from her uncle Ferdinand Bloch-Bauer's home after he fled from the Nazis in 1938, entered the Belvedere's collection by dubious means. The Austrians, who consider these Klimts indispensable examples of their cultural heritage, insist they are the rightful owners by virtue of a bequest made by Ferdinand's wife Adele in 1925. Because of the difficulty in separating its legal and moral dimensions, the case is unusually complex. The way it plays out will reveal how far Austria is willing to go in acknowledging the country's participation in the great theft of Jewish art during World War II, as well as the postwar shenanigans that allowed it to hold on to some of the loot.

What paved the way for Altmann's claim was the response of Austria's Minister of Culture to Morgenthau's 1998 intervention . Hoping to demonstrate to the world that there was little, if any, looted art in the federal museums, Minister Elisabeth Gehrer opened previously inaccessible archives and encouraged researchers to ferret out any irregularities. The results were hardly what she had hoped for.

Among the investigators was the veteran journalist Hubertus Czernin. A reporter at the daily *Der Standard,* with a history of controversial confrontations with the government, he wrote a series of six articles in the early months of 1998, focusing on Altmann's uncle, the sugar magnate Ferdinand Bloch Bauer, and his "donations" to the Austrian National Museum. The 42-year-old Czernin discovered that after the war, five Klimts, which should have been returned to Bloch-Bauer with the defeat of the Third Reich, might have been extorted from his heirs by postwar museum directors, art historians and lawyers.

The most well-known of the implicated paintings is Klimt's striking 1907 portrait of Adele. Even those unfamiliar with the artist will have seen a reproduction of the young woman's delicate features set off by the patterns of gold ornament that mark her dress, cloak, the chair she sits on, and the glittering ambient aura behind her. The other pieces are three landscapes—*Birch Forest*(1903), *Apple Tree I* (1912) and *Houses at Unterach on the Attersee*(1916)—and a second, very different standing portrait of Adele painted in the rich colors Klimt began to experiment with in 1912.

When similar discoveries were made in the archives of other Austrian federal museums, it became clear that extortion had been a common practice. Reluctant to let go of plundered pieces enriching their collections, postwar curators denied their claimants export permits for works considered essential for Austrian culture---even when the works in question had been in private hands before 1938. Since most of the original owners no longer wished to reside in Austria, they, or their heirs, had no choice but to sell or donate the restricted works, usually as the price of getting the remainder of their property released. The Rothschilds, alone, had to give up over 200 works of art that had ended up in the collections of all the major museums, including The Belvedere, the Kunsthistorische Museum, and the Albertina.

Confronted by the mounting evidence of these injustices, Gehrer took up the challenge. "From today's standpoint we can no longer assume responsibility for this unethical practice," she declared and proposed new legislation to return free and clear work in the federal museums acquired under duress. In December 1998, just a year after Morgenthau's controversial action and nine months after Czernin's revelations, the law was swiftly and unanimously approved by the Austrian Parliament. A committee of five government officials from the departments of Education, Economy, Defense, Justice and Finance and two independent art historians was set up to to advise the Minister on what was to be returned and to whom.

Amid the high spirits and self-satisfaction at the law's passage, members of Parliament expressed goodwill toward their "fellow Austrian citizens of Jewish descent" and praised Minister Gehrer , a member of the ruling People's Party , for achieving " what the Social Democrats had failed to do over four decades." One representative was even emboldened to admit that the questionable "donations" of the works with which the law would be concerned were the result of the "cynical bureaucratic games played by ***our*** Republic when the victims returned home."

Czernin, in turn, was so inspired by the response to his findings that he decided to found his own publishing company and launch a special series to be called "The Library of Theft." The first title was his own *Die Fälschung* ("The Falsification"), an expanded and more fully documented version of his Bloch-Bauer articles. He dedicated the book to Elisabeth Gehrer.

The restitution process was underway as early as February, 1999, beginning with the spectacular decision to return all of their so-called "donations" to the Rothschild family. At this time, Altmann's claim to the Bloch-Bauer Klimts was still in the wings, but Gehrer had already admitted to Parliament "that a connection between the donation of the Klimts and the export-permit law is evident."

In March, inspired by these events, the Vienna Jewish community organized a symposium provocatively titled "Looted Art and Restitution—Why Now?" Maria Altmann was one of those invited to attend. Excitement was high as museum directors and curators, members of Parliament, and even a few representatives from the diplomatic community crowded into the Bassano room of the Kunsthistorische Museum to hear the discussion. Among those on the podium, along with Maria Altmann, were Czernin, Willi Korte, the Washington lawyer for the "Portrait of Wally" case, and Willi Seipel Director of the Kunsthistorische Museum. In answer to "Why Now?," Korte cited a younger generation no longer weighed down by the trauma of the Holocaust. They felt no shame in seeking truth and justice. He emphasized that it was because of their insistence, that issues of aryanization and confiscation could no longer be pushed aside, "Even three years ago," he added, "the seizure of the Schiele pictures would not have been possible."

Altmann agreed with Korte. "Until recently" she told the audience, "it was as if a wall had been erected against which we couldn't do anything. We tried to be satisfied with the few things we were allowed to take out. There may have been anger, but what I felt was powerlessness." Seipel concluded that

the time had come for the Austrians to "settle a debt that had been hidden, silenced and gone unrecognized."

The country's mood began to change, however, when the Rothschild heirs put the art that had been returned to them up for auction. Not only did the sale reap 90 millon dollars, but devoted Viennese museum goers had to watch while some of their favorite pieces were picked up by foreign institutions. Rumblings of discontent could be read in the newspapers, as writers complained that Austria was giving away its heritage. Even more than the Rothschild dispersal, the threatened Klimts in the Belvedere-- works by an Austrian artist—began to rouse nationalist emotions. On June 22, 1999, an article in the *Kronen Zeitung* asserted that the Klimts were " the most important Austrian paintings to which the world has access," and deemed the claim a "fight against Austria." Just a few days later, on June 28th, under outside pressure, and with the prospect of elections looming in October, the committee, with one dissenter, announced its recommendation. Sixteen Klimt drawings and twenty pieces of Vienna porcelain were to be returned to Altmann, but not the five Klimts The committee had found a loophole in the claim and Gehrer denied their restitution.

When Adele Bloch-Bauer died in 1925 she left a will in which one of the items read "I kindly ask my husband to bequeath my two portraits and the four landscapes by Gustav Klimt to the Austrian National Gallery in Vienna after his death. . . ." A year later, during the probate process Ferdinand consented to the request. Disregarding the evidence of duress exposed by Czernin, Gehrer's committee accepted Adele's will as binding. What they also chose to ignore were the three words that Adele had appended to her wish: Ferdinand was to give the pictures to the museum "**after his death.**" But the widower was still alive in 1945 at the close of World War II when the world in which Adele's request had been made had been turned upside down. The former industrialist was living in exile in Zurich and all his property had been confiscated by the Nazis. The Klimts were no longer in his hands to give. By the end of the war, through no action of his own, three of them were already in the Austrian National Museum, one was in the Vienna City Museum and two were in the private collections of prominent Nazis.

Ferdinand Bloch-Bauer had been a member of the new, close-knit and very successful class of Jewish entrepreneurs at the turn of the century. Born soon after 1850, they were the first generation to enjoy the full benefits of emancipation after Jews became citizens of the Austro-Hungarian Empire in 1867. Arriving in Vienna from small towns in Hungary, Bohemia and

Moravia, these young men, full of fresh energy, understood the opportunities offered by the industrial revolution, and, by 1900, many of them had made enough money to embark on an aristocratic way of life. Although, as Jews, they had no hope of entering the so-called "First Society," which consisted of families ennobled for several generations, they formed their own elite community, moved into grand town houses, and purchased country retreats. Many of them also began to collect art as a recent book, also published by Czernin, attests. "Was Einmal War" ("What Once Was") by art historian Sophie Lillie gives a precise accounting of the collections of 148 Jewish families. Eager to fit in, most of these collectors acquired works by established 19th century Austrian painters, but a few cultural risk-takers, Bloch-Bauer among them, began to patronize Gustav Klimt, the most controversial artist in fin-de siècle Vienna.

Between 1899 and 1907 Klimt made portraits of the wives and daughters of some of Austria's wealthiest Jewish industrialists. These included Serena Lederer, spouse of the leading producer of alcoholic spirits, Hermine Gallia, married to an entrepreneur in the new field of electric lighting, and Margaret Stonborough-Wittgenstein, daughter of the head of the iron and steel industry who had acquired one of the largest fortunes in Austria. Each one of the portraits became more elaborate than the last, culminating in the 1907 shimmering image of Adele. The daughter of a banker, she had married the thirty-five-year old Ferdinand at age eighteen in 1899, and just a year later, her husband had commissioned Klimt to paint his bride.

Klimt's patrons were fascinated by the contrast between the sophistication of the artist's talent and his origins in Vienna's lower-class outer districts. Among the Bloch-Bauers and their friends, he had the status of a rock star avant la lettre and was courted as such. He cut a manly figure. One of his friends described him as having "an energetic, large and powerful body with a head like that of an apostle on a strong bull neck—a head reminiscent of Dürer's Peter. . The eyes, melancholy and unworldy, gazed out from a hard tanned face framed by a dark severe beard. That, and the unruly coronet of hair, sometimes gave him a faun-like appearance."

Throughout his life Klimt lived decorously at home with his mother and two unmarried sisters, but it was well known that in the studio, the sacred realm of art, norms of propriety did not count. Within the privacy of its rooms, the artist, barefoot and dressed bohemian-style in only a floor-length blue smock, could move easily among the bevy of young laundresses and shop girls who served as his models. And in these precincts, his-well-to-do sitters

could enjoy a break from the repressive restrictions of bourgeois society. Indeed, gossips did not hesitate to make suggestive allusions about the nearly seven years Adele had sat for her portrait.

But Klimt was also a favorite of the husbands. As entrepreneurs, they admired his ambition and leadership of the art community. Klimt had been the one to rouse a group of his colleagues to secede from the official exhibition society in 1897 in protest against its conservative attitudes. The renegade artists formed a more open-minded association known from then on as the Secession and elected Klimt its president. Once the Secession had a building of its own, the exhibitions mounted there changed the face, the politics and the international reputation of Austrian art. In its turn, the Secession inspired the 1903 founding of the Austrian National Museum, which immediately began to acquire the Klimts that would serve as the center of its future collection of contemporary art. In 1924, the museum moved into the Belvedere. Built for Eugene of Savoy in 1722, the baroque summer palace surrounded by formal gardens, sits on a rise overlooking the city.

Klimt was a regular member of the Bloch-Bauers' social circle. He contributed to the heady atmosphere of Adele's salon, was an amusing guest at her dinner parties, and took part, somewhat reluctantly, in the hunting parties Ferdinand organized at his estate in Bohemia. By the time of the artist's untimely death in 1918, age fifty-five, Ferdinand had commissioned the second portrait of Adele , acquired four of Klimt's landscapes, and amassed a collection of his drawings.

In1920, the Bloch-Bauers moved into a town house on Elisabethstrasse located in one of Vienna's most elegant residential areas. Visitors made their way through a courtyard and up a grand staircase to the first floor where a suite of rooms opened out of a large hall. On display were Ferdinand's collection of nineteenth-century Austrian landscape painting and carefully selected examples of his passion for Austrian porcelain The Klimts were not on public view. Adele kept them enshrined in the private quarters of her bedroom and adjoining sitting room. On the table was a photograph of the artist she had been so close to dressed in his floor-length studio robe.

Ferdinand did not re-marry after Adele's sudden death from meningitis in 1925 when she was just 43. He left the Klimts hanging in Elisabethstrasse just as they were when his wife was alive. They were a memorial to her and the painter who had captured her in her prime.

In the decade that followed, Ferdinand, became more personally active in Vienna's art world. He sat on the board of The Friends of the Austrian National Museum, lent his pictures to exhibitions at home and abroad, invited scholars and curators to Elisabethstrasse to view the collections. And he began to donate paintings to the museum. In 1936, he gave one of his four Klimt landscapes, *Castle Kammer on the Attersee III* to the Belvedere.

Klimt had painted the third version of *Castle Kammer on the Attersee*, the most striking of his four depictions of the romantic lakeside castle, in 1910 on his annual summer holiday in the Salzburg region. The whitewashed façade, barely emerging from a screen of trees, is viewed as if from a boat floating just off shore. A pointillist tour de force, the painting relies on minute variations in the size and density of the brushstrokes to distinguish the motif from its shimmering reflection in the water. The fate of this brilliant landscape was the key to Czernin's discoveries.

As the journalist looked through the documentation of the Bloch-

Bauer bequests in early 1998, he discovered troubling inconsistencies when it came to this picture. . He had seen the 1936 letter thanking Bloch-Bauer for the gift of the painting, but uncovered no record of the donation in three official catalogues of the collection, two of which were published in the 1990's. In 1992, Gerbert Frodl, the director of the Belvedere, had written that the painting had been acquired by the museum in 1961 as a "gift of the Bloch-Bauer family." A year later, in a catalogue of the museum's inventory, the "gift" was described as having come to the museum in 1949. Most disturbing was the entry in the catalogue raisonné of Klimt's work published by Johannes Dobai and Fritz Novotny in the 1950's. In this standard reference work used by all scholars doing research on Klimt, the entry for *Castle Kammer on the Attersee III* read "gift of the Bloch-Bauer family, until 1961 on loan to Gustav Ucicky." In fact, each of these entries had a grain of truth but none gave the whole picture.

The 1949 citation referred to the first agreement with the Bloch-Bauer heirs. Although Ferdinand Bloch-Bauer had survived the defeat of Hitler and begun proceedings to retrieve his possessions soon after the war ended, the childless widower passed away in Zurich in November 1945. The will he left behind in Switzerland neither confirmed nor denied Adele's bequest, but stated clearly that whatever remained of his property in Austria should be given to his nieces Louisa Guttmann, Maria Altmann, and nephew Robert Bentley (formerly Bloch-Bauer). All three had left Austria in 1938.

From Vancouver, Robert Bentley appointed the lawyer Gustav Rinesch to represent the family. As the lawyer began to make inquiries, the curators of the Belvedere—both the deposed Dr. Bruno Grimschitz who had been in charge under the Nazis, and the newly appointed Dr. Karl Garzarolli -- closed ranks. Desperate to hold on to the Klimts they had on hand, they resurrected Adele's will. Rinesch understood the maneuver. In a letter to Bentley, he intimated that permission to take the considerable Bloch-Bauer art collection out of the country appeared to be contingent upon leaving the Klimts behind. But even as Garzarolli was insisting to Rinesch that Adele's wish was binding, behind the scenes, he was acknowledging to his colleagues that the dispersal of the paintings under the Nazis posed a threat to the will's legality. He chided his predecessor Grimschitz for having put him in this position and asked him to stand by him in the tricky maneuvers that were to follow.

Rinesch was at a disadvantage in these negotiations. In the late 1940's documentation was hard to come by, and it took time before he got hold of an actual copy of Adele's will. In the meantime, Garzarolli increased the pressure with delaying tactics and veiled suggestions that several other paintings from Bloch-Bauer's collection " of great importance to Austria" might not be allowed to leave the country. To expedite matters and believing that in this way he would save as much of the other Bloch-Bauer collections as he could, Rinesch convinced the heirs that it was in their best interest to acquiesce in the bequest of the Klimts. Once the family had agreed, he wrote Bentley about the effect of the decision "Through this [acceptance], the museum is in a favorable mood and I immediately brought up the export of the remaining pictures."

Thus the 1949 date in Frodl's volume for the donation of *Castle Kammer on the Attersee III* , mistakenly lumps the 1936 gift with the postwar donation. But in 1949 the landscape was not even hanging in the Belvedere. It could be found on the wall of an elegant apartment in Vienna's 9th district which housed the largest collection of drawings and paintings by Klimt in private hands. The owner was one Gustav Ucicky, a popular filmmaker and Klimt's illegitimate son.

During the war Ucicky had been a favorite director of the Nazi regime, one trusted to produce propaganda when required His most important assignment had been the production of a film justifying the regime's brutal treatment of the Polish population after the country had been defeated in September 1939. The result was *Heimkehr (Homecoming),* a film so crude in its prejudices that, like *Jud Süss,* today it can only be screened under special

circumstances. The Poles were depicted as a primitive people capable of committing the very atrocities on the local German population that, in reality, the Nazis were perpetrating on them. Goebbels declared the production" Film of the Nation" and Ucicky was given Germany's cinema ring of honor.

After hobnobbing with the men in the highest echelons of the Nazi party while living in Berlin between 1933 and 1938, Ucicky returned to Vienna a man of means and influence. And back in his native city, he saw the opportunity to rewrite his ignominious beginnings as an illegitimate child. Works by Klimt were suddenly on the market as Jewish collectors either fled the country leaving their possessions behind, or, if they could not escape, were being forced to sell whatever they owned to survive. Ucicky, as a Nazi favorite, had the pick of the spoils.

Almost immediately after Ferdinand Bloch-Bauer left for Switzerland in 1938, his possessions, including the five Klimts that remained in his collection—two portraits and three landscaes--were put into the hand of Erich Führer, a Nazi lawyer accountable for all sales of Bloch-Bauer's property to the regime. In the pseudo-legal fashion in which the Nazis operated, the proceeds of the sales were intended to make up for a tax debt incurred by the exiled industrialist over many years.

When Ucicky showed up in 1940 to examine the Klimts in Führer's hands, he was not satisfied with what he found. Neither the portraits of Adele, nor the landscapes were of sufficient interest to him. The painting from the Bloch-Bauer collection he had his eye on was hanging in the Belvedere: *Castle Kammer on the Attersee* III.

Nothing apparently could stand in Ucicky's way, as Führer went ahead and arranged for a deal with the museum. Without ever having seen Adele's will, Führer was, nevertheless aware that there had been a provision concerning the Klimts. He alluded to the document in order to justify an exchange with the Belvedere to his Nazi overseers. Two of the Klimts he had on hand—the 1907 "gold" portrait of Adele and the 1912 landscape *Apple Tree*—were traded for *Castle Kammer at Attersee III.* He then proceeded to sell Bloch-Bauer's donation to the Belvedere to Ucicky.

In 1941, continuing to play fast and loose with a document he had never seen, Führer now sold another one of the Bloch-Bauer Klimts to the Belvedere—the second portrait of Adele—for a considerable price. When it came to the last two Klimt landscapes Führer had on hand, however, Adele's will was no longer a consideration. *Birch Forest* was sold to VIenna's City

Museum, *Houses at Unterach on the Attersee* Führer kept for himself. Hence when the war ended the museum had acquired three of the paintings mentioned in Adele's will through the offices of a Nazi lawyer, while at the same time having de-accessioned Bloch-Bauer's outright gift.

Soon after gaining the concession of the Klimts from the Bloch-Bauer heirs in 1949, the curators began to deal with the problematic trade with Gustav Ucicky. Declaring the transaction illegal, they demanded that the filmmaker return *Castle Kammer on Attersee III* to the Museum. But Ucicky refused, saying he had paid good money for it. Nevertheless, he made an offer of his own. He would bequeath the painting to the museum free and clear in his will, if he could keep it as a loan until then. To sweeten the deal, he promised to leave an additional three Klimts from his collection as well. The museum accepted with alacrity, and made no effort to question the source of Ucicky's other acquisitions. When the filmmaker died in 1961, the four paintings went to the museum as promised. *Castle Kammer on Attersee III* received its old label declaring it a donation from Bloch-Bauer but with the new date of 1961, and the other three Klimts were described as gifts from Gustav Ucicky "in honor of his father." Since Gehrer's restitution law of 1998, those three, all of which had once been the property of Jewish collectors, have been returned to the heirs of the original owners.

In June, 1999, when Altmann's claim to the five Klimts was refused, several Austrian newspapers applauded the decision to hold on to the country's "rich" heritage. Not *The Standard*, however. A rousing dissent was published there by the lawyer Alfred Noll, a good friend and admirer of Czernin. He argued that since Bloch-Bauer was still alive when the war ended and had immediately begun proceedings to regain his property, the requirements of Adele's will had not been fulfilled. Legally the paintings, should have all gone back to him, or after his death, to his heirs.

In addition to sticking to Adele's will as if nothing had happened to the family, or the paintings for that matter, between 1938 and 1945, the commission had bolstered their decision with a strict interpretation of the 1998 law. According to its stipulations, artworks would be returned only if the donations had been coerced. But since in 1949 the return of the Bloch-Bauer Klimts had been blocked by referring to Adele's will , coercion may have been implied but was not documented. This literal interpretation was the source of the harsh condemnation by Noll at the close of his piece in *Der Standard*.. "There is no legal limitation preventing Minister Gehrer from returning the pictures—it is a limitation of will," he wrote. " And precisely this lack of will

when it comes to the Jewish victims of National Socialism is acclaimed by the tabloids, just as it was then. If one looks under the cloak of sophistic legalisms, we see the withered skeleton of patronizing immorality."

When Czernin published his articles in early 1998, Maria Altmann, was the only one alive of all of the Bloch-Bauer heirs. The youngest of Ferdinand's nieces and nephews, she had not been involved in the postwar negotiations. Living in California, a working mother with two children, she had accepted all the decisions of her older brother. It was only after reading Czernin's articles that Altmann had turned for help to an old friend of the family, the California lawyer Randol Schoenberg, grandson of the Austrian composer. She asked him to look into Czernin's findings and, after the passage of Gehrer's legislation, to assess whether the fate of the five Klimts met the criteria of the new law.

With the rejection of the claim, Altmann decided to fight on despite her almost ninety years. Schoenberg's first move was to suggest arbitration, but the Austrians summarily refused. The attempt to sue in the Austrian courts that followed proved too costly since the fees were derived from the value of the contested paintings. Ultimately, Schoenberg won a ruling from the U.S. Supreme Court that Altmann could take the case against the Austrian government to federal court. But last spring, after a court-ordered mediator was dispatched from Vienna, and an article in the Austrian press suggested that "a Nazi trial in Los Angeles would not be of advantage to Austria," the two sides came to an agreement. The Austrian government accepted arbitration and Altmann agreed to drop the lawsuit. Together, they set up the arbitration committee with Dr. Andrea Nödl, an Austrian lawyer representing Altmann, and Dr. Walter Rechberger, Dean of the Vienna Law School, speaking for the Austrian government. These two, in turn, chose Professor Peter Rummel to be the third member. Their decision, expected by the end of the year, will be binding.

After a week spent in Vienna speaking to people concerned with the case, it became clear that what divides those who oppose Altmann's claim from those who recognize its validity is their attitude to the years. between 1938 and 1945. For the former, that painful time has no connection to the issues of estate law on which their arguments rest, while the latter insist that the fate of the Bloch-Bauer family (and their paintings) during the Nazi period must be taken into account.

For Berthold Unfried, a young historian at the University of Vienna whose specialty is restitution, the new claims are an unsatisfactory application of contemporary attitudes to former times. "In the 1940's the Bloch-Bauer

lawyer went along with the binding nature of Adele's will," he reminded me. "He could have fought but he didn't." To Unfried, a case based on documents and not on living witnesses brings up "a question of authentic memory." And he considers Altmann, who did not even participate in the original negotiations as "an actor who is not from the past."

Ruth Pleyer, Czernin's research assistant, is a member of the younger generation motivated to engage with the wrongs of the past, not, as she says " out of guilt, but out of responsibility." A tall, blue-eyed agile young woman, she cycled to meet me in the part of Vienna First District that is still known as the textile neighborhood, the area in which the many Jews who worked in that industry had their offices and warehouses. "It was a neighborhood of ghosts until just a few years ago," she tells me. "People didn't want to hang around here and they couldn't even talk about why. That situation is infinitely better today."

For Pleyer, as well as for Ilse Barta-Fliedl, the art historian who abstained from the 1999 decision and later resigned from the commission, the Bloch-Bauer case has to be considered on both legal and moral grounds. "Now the two sides have hardened," Pleyer says, "but at the beginning compromise would have been a way out. Politically, the government didn't want to give anything up."

Erika Jakubovits , executive director of Vienna's Jewish Community was coping with the news of Simon Wiesenthal's death when I showed up for my appointment with her. A strange parallel, I thought, to the days I had just spent dealing with the same troublesome past the tenacious old fighter would not allow Austria to forget. It was only during the past year, in grudging respect, that Wiesenthal had been given Austria's highest medal of honor at age 96.

A capable woman of great energy and charm, Jakubovits assured me that we could talk as promised, if I didn't mind being interrupted by phone calls regarding the funeral arrangements. "The last years have been good ones," she told me while deploying two cell phones at once. "The community has very good relations with the government now, but progress always occurs when there's a push from the outside." And," she added," the surprising move by Robert Morgenthau seven years ago was one of them."

I arranged to meet Gustav Rinesch's daughter Daniela in the new Museumsquartier (MuseumQuarter). The large enclosed area of the former Imperial stables is now a cultural playground with several museums, a number of cafes and restaurants and a great open space for outdoor events. It's a

neighborhood that has become familiar to me since just across the street is the building in which my grandfather had his office until 1938. As I spoke to Daniela, I wished he could have had someone like her father to turn to before he was deported in 1942—never to return. Rinesch, who, according to Daniela, was one of Robert Bentley's best friends in his youth, also had many other contacts among the wealthy Jewish families. In fact, he was so adroit in assisting many of them with visas and escape routes before the war that he was known as the "Jewish Rinesch." After hostilities ended in 1945, he continued to help some of the same families in their struggle for restitution. Daniela recalled that her father, who died in 1985, kept a low profile and his work was known only among his clients' families until the Bloch-Bauer case hit the news in the late 90's. "I remember working with my mother after he died to get rid of the masses of papers he left behind," Daniela related. "Maybe there was a document there that would have simplified matters."

It was at the Café Griensteidl (successor to the famous watering hole where Arthur Schnitzler and his young writer friends took their coffee in the 1890's), that I finally got together with the affable and well-tanned Dr. Gottfried Toman, Director of the Austrian Office of State Attorneys and the lawyer presenting the government's case. He expressed his satisfaction with the results of Gehrer's initiative. "Since 1999 more than 2000 pieces have been returned to the heirs of the original owners," he explained, "and only three or four claimants have been refused. There are good reasons why Maria Altmann is one of them." Toman believes he has evidence that the Klimts belonged to Adele and not Ferdinand which gives additional support to the binding nature of her wishes. "In addition," he added emphatically, " Rinesch's acceptance of the bequest in 1948 does not refer to a deal. It may have been implied but there is no document indicating real pressure. Hence the claim is ineligible under the 1998 law. which requires proof of 'forced donations.' And, after all," he concluded, as we sipped the last of our cappuccinos, "the Nazi time ended in 1945 and Austria has been a Republic for sixty years."

Indeed, 2005 has been declared a commemorative year in Austria celebrating fifty years since the 1955 State Treaty established the country's freedom and sovereignty. That signal event took place at the Belvedere, and in its honor, the museum mounted an exhibition titled "The New Austria" tracing the country's history from the end of World War I and the fall of the Habsburgs to the present day. Paralleling the photographs and historical artifacts on display, is an " art trail"—so named by the organizers-- of twentieth-century masterpieces of Austrian art. Among them, of course, are some of the Bloch-Bauer Klimts, artfully placed and with their ownership

rigorously defended on their labels. But Ferdinand Bloch-Bauer and his fellow Jewish patrons who, before 1938, had been instrumental in supporting artists, advising museums and lending their paintings to international exhibitions celebrating Austria, are given short shrift in a parenthetical phrase in the catalogue. The article by Gerbert Frodl, the current director of the Belvedere, concludes: "The paintings by Klimt once belonged to an elite minority alone (to which actually they owed their existence) instead of [as they do today] to a million people around the world."

MY ADVENTURES AND ESCAPE

from

NAZI GERMANY.

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Gentlemen,

I am deeply grateful for the interest you show for me and my experiences and it is a pleasure to tell you, the citizens of a free country, of what can happen and has happened in other countries in Europe not at all far from here.

The Austria from 1918 to 1928 had been a free and progressive country - free from hard political feelings. There was a free press and the possibility of free speech for everybody, and a hard-working Parliament.

It is a pity that Austria was not able to follow this line longer than 10 years.

After this period the party of Dolfuss and Dr. Schuschnigg started to curtail the freedom of the people more and more.

At last, some 5 years ago the Parliament was dissolved, the freedom of press and speech was stopped, and citizens who intended to defend their freedom were shot.

Vienna was a battle-field for 2 days, and Dolfuss and Schuschnigg established a new politic, which was the beginning of the end. I had been living in Vienna, capital of the former Austria, where my eldest brother had a factory with approximately a thousand workers.

A short time before Hitler came into Austria, I married, and this is just a time when one is not too interested to look at

newspapers, and so I was rather surprised that one day, almost overnight, the situation had changed; good and well-known citizens were despised only on account of their personal feelings or thoughts or religion if different to the Nazi ideas. Nobody was allowed to have a personal opinion - everybody must think alike.

My brother, the owner of the factory, had not been in Austria at that time, and it was not enough for the Nazis to take his house and all his belongings and the whole factory - without taking the trouble to look into the facts of rights or wrongs - and without trial they took away all the possessions of our family.

The method was very simple. A young boy of 25 years came into the factory one day, showed a badge of the Secret Police and told us that this organisation had taken over the factory and all belonging to it, and another even younger man, without the slightest experience in the class of business, had been detailed to act as commissar. But even this was not enough for the Nazis. A large part of the trade was in export, and they could only take over the bank account in Germany but not the money outstanding against accounts in other countries where right is still right. They therefore, decided to force my brother to transfer all foreign accounts to them, and they followed the method - which is the gangster's method - and took a hostage.

I was taken for the hostage, and was imprisoned for 3 months during which time nobody told me why, for how long, or

to what purpose. Not once was I given the opportunity to state my case nor did I see any responsible person to whom I could tell my story.

In the meantime, the new owners of the factory went to Paris to meet my brother, and told him that if he wanted to see me again, he would have to transfer all his foreign possessions including the factory he has in Paris, and he would have to declare that he would not start a new factory anywhere in the world, and further that he would help the export trade of his former Viennese factory.

My brother told them that he would not make any agreement before I was released, and a short time later I was sent home.

In order to tell you my experiences I have to state first that I was in a Viennese prison for 3 weeks, and although I have not had experience in a prison in any other country, I think the conditions were at least not worse than those in any other such place, the reason for this being that our guards were Viennese.

The Viennese people are quite civilised and not to be confused with other Austrians, who are Germans. The reason for the difference may well be that in Vienna, capital of the former Austrian Empire, for hundreds of years the citizens have been a mixture of all the nations of the Austrian Empire. There is an old Viennese proverb which says "Every real Viennese

is a Hungarian or Czech."

One night a couple of hundred prisoners were brought to the Railway station where a special train was waiting to take them to the Concentration camp at DACHAU. I was one of these prisoners, and I will never forget that journey as long as I live. We were all sitting very close together the whole night in a railway carriage. In every compartment there were one or two young men - only 16 or 17 years of age - members of the Storm Troopers who were really pleased to torture their unfortunate victims.

We were forced to sit the whole night without the slightest movement, and to look straight at the light in the carriage; each blink of the eyelid was enough to cause a hard blow to the head with the butt of a rifle. It is almost impossible to explain what ideas the young boys had for new tortures. I have only to say that a few of us were contemplating trying to jump through the closed window of the fast moving train, as the sure death seemed preferable to sitting in the carriage.

Among the prisoners were a number of the best known men of the former Austria, including ministers of the State (one being a personal friend of Dr. Schuschnigg), the Managing Director of the Austrian Railways was sitting on the floor of my carriage, his face streaming with blood. Also clergymen and a number of men who were officers during the last war, and had

been decorated several times. A couple of Artistes were in the same transport - top line comedians whose only fault had been to joke about the Nazis in the years before.

After our arrival in the Concentration camp, we were without food or drink for more than 24 hours, sitting upright or standing perfectly straight the whole time.

The start of the life in the Concentration camp seemed to be a relief after the journey. It was, however, very hard; not for me as I was young and athletic and had always been very fit, but it was terrible to see old men of 60, 70 and nearly 80 years having to do the same hard work from 3.30 a.m. until 9.0 p.m., and the most cruel punishment was inflicted if they rested for a minute, or could not do the work required of them.

As on the journey, the guard at the Concentration camp was composed of boys of 16 or 17 years.

The Concentration Camp at Dachau is a very large ground - a couple of square miles, with a large yard in the middle where the prisoners had to spend a few hours every morning and every evening, standing in line to be counted, to check if anybody had escaped.

One day we had to stand a few hours extra as one man was missing, until the guard found he had forgotten to allow for the fact that a man had died the same morning.

Round the camp was a wide and deep trench, and outside of this a high barbed wire barrier, which is electrified at

night. At each corner is a tower on which guards with machine guns were posted day and night. Every night the whole camp is as bright as day, with search-lights.

We were living in huts, the walls of which were made of a kind of corrugated paper; these huts were very clean and modern, and we slept 50 men to a room. The food was fairly good and it was possible to obtain supplementary rations with money received from home.

The food and living conditions were quite human, the very bad part was the treatment, the kind of work required, and the hard punishments which were continuously being meted out.

It would take a long time to explain all the trouble and the treatment in the Concentration camp, being too bad sometimes even for animals to endure, and in spite of this I have to say that I saw the Concentration camp at its best. It was spring, the weather was nearly always fine, and there were 5,000 men in the camp which was therefore not overcrowded. My poor friends, with few exceptions, had much worse times later as there have been as many as 15,000 and they have had to stand perfectly still hour after hour as there was not room to sleep. Once, in January they were forced to stand perfectly still the whole night out of doors.

But I should also like to relate one amusing experience. There were among us a few hundred burglars and

I must say they were the most interesting people of all. Nobody could tell such humorous and interesting stories as these fellows. One day during working hours I had the luck to be with one of them. After telling him who I was, he started to give me a full description of our factory, with all details of our cashroom, and told me exactly when we had been in the habit of sending for money from the bank and when we paid our work-people, at which hours the watchman made his rounds, and the size and breed of his dog.

He was the thief who had entered the factory some 10 years previously, opened the safe and relieved the firm of a considerable sum. He also told me that never in his life before or since had he been so successful and so he would never forget the name of the factory. Half of the sum obtained had been sufficient for his accomplice to drop his profession, go to the United States and establish himself as a respectable citizen.

At that moment I was envious that I was the person from whom he had stolen and not the one safe in the States.

This robber and I became good friends; many of my evening and Sunday hours have been made brighter by this friendship.

One night I was released and I regretted that I could not take my friends with me to freedom. But it was not freedom that was waiting for me. I was brought back to Vienna and confined to my home for 3 more months, because the Nazis were

unwilling to let their hostage free until they had taken the last penny from the pocket of my brother.

I, therefore, started planning to escape. Three times I attempted without success, but in spite of the watchfulness of the Gestapo, nobody was aware of these attempts.

The fourth time was luckier. I left my home in the morning having received permission to make one of my trips to town for a few hours. My wife and I went to the aerodrome and boarded a 'plane. My wife's passport was quite in order, but she would not let me try to escape alone. My passport had been taken away from me, which of course, added to my difficulties. In the afternoon we were in Cologne, then travelled by train to Aachen and motor car to the small house of a peasant on the Dutch border. We arrived there at 9 o'clock the same evening; after a few weeks of correspondence directed to a friend of mine, we had an appointment with the peasant, and a few minutes later he was leading us. We were jumping over stepping stones in a little brook, then climbing over barbed wire barriers, to Holland. The night was very black, the moon was not shining, just the stars in the sky.

At the same time the Secret Police were issuing a warrant for my capture to all the border countries.

Our arrival in Holland was one of the happiest moments of my life, but even now we were not sure of safety because the Dutch Police used to send back to the German frontier, all

people whose passports were not in order.

My brother, who was in Amsterdam at this time, was careful to send a well known Dutch Lawyer to escort us and the next morning we arrived in Amsterdam. There we boarded an aeroplane and flew straight to Liverpool, where we landed the same afternoon, having received permission from the Home Office to land without a passport, and when I told the Immigration Officer that I had no passport, he smilingly said, "Yes, I know," and his only question was "Did you get well over the border"?

I am sure that I would not have received the same treatment in any other country in the world.

When I consider the whole matter, I really have the longing to shake the hand of every English man I meet, and to thank him.

I think that the majority of people born and living here do not realise the difference between this and other countries.

When you are tempted to take for granted the blessings of this country, I hope you will think of my to-day's talk and appreciate the freedom and happiness which is yours.

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Bernhard Altmann
"Mauretania"
20th June, 1939

THE STORY OF THE ESCAPE
OF FRITZ AND MARIA FROM GERMANY
ON 21ST and 22ND OF OCTOBER, 1938.

translated from the German
original text by Cecil Altmann
for Fritz's 80th birthday

I had taken residence in Paris and was rapidly making my plans for the future.

An expansion of the Paris factory could not be taken into consideration because the French market was not large enough for our products, certainly not to be able to create a subsistence for my large family. It was also clear that I would not be able to get sufficient working permits for the many members of the family.

I thought first of going to the United States and building a factory there. On the 31st of March, I took a visitor's visa to go to the U.S. That turned out to be very wise because later such visas could be obtained only with great difficulties.

In April, I went to England and started discussions with the government. In May, I was to obtain an answer. When I went to London in May, I was not given a definitive answer. The Scottish knitware manufacturers had objected to the granting of an entry permit for my family and myself to the building of a new factory.

After fourteen days, I decided to follow-up on an offer made by Sir Frederic Marquis and went to Liverpool. I was welcomed there and at a lunch that the Lord Mayor held on June 1, I concluded an oral contract with the key officials. A factory would be built for me, and I would only have to lease it. After three years, I would have the right either to discontinue the lease, to continue it, or to purchase the building at that time. Martin's Bank offered me a 5 years credit of a minimum of £ 10,000 (which we have not drawn on to date).

Then I went to Paris and sought means to bring my family out of Vienna.

Max had become a sales representative for the Vienna firm, travelling to France and England. He begged me in the name of the family to forego the new establishment in Liverpool. It seemed to be the main concern of those family members of the family remaining in Vienna not to make any waves. They were concerned about my keeping some of my assets but did not see that everything was lost and there was only one task ahead : finding every possible way to bring the family members out of Vienna.

Instead I had a multitude of wishes, communications and requests not to establish anything. This to avoid reprisals against the remaining family members.

I did not let myself be deterred from my task. Even if certain members of the family would be taken into custody - Fritz at this time had already been taken into the Landesgericht - after their release they could have an entry possibility to England and even a job. Without this, they would come to naught in Vienna and I could not do anything for them.

Max wanted to travel back to Vienna and I kept him from doing this. I had to beg him to stay.

In August, Julius came. When I asked him before his departure not to come to Paris before Trude and Nelly were out of Vienna, he hung the phone up on me angrily. As he had come without Trude and Nelly, I asked him to stay because each member of the family out of Vienna was for me a relief.

Clara and Liselotte Herlinger had both received passports. I asked Clara to go to Italy immediately. Nothing stood in a way of her departure. However I heard nothing but excuses from her. She could not leave for one or another reason. Her son Gerhard - a marvelous young man, who lived with me in Paris 3 months - was also very upset. I could not give credence to all these excuses.

Despite these difficulties, she finally travelled to Italy. There I could take care of her because there were some Lira in my Italian company.

Shortly thereafter, Titti, the wife of my brother Max, came to London with her daughter.

Thus only Nelly, Trude, Fritz and Maria remained in Vienna. My brothers had made the mistake of picking the wrong Vienna attorney. Our case was given to a man by the name of Hentschel. He was more afraid of the Gestapo than we were. And he obtained nothing. It would have been better had we had no lawyer at all. In September, I decided to send a former administration employee named Robert Lüthy to Vienna to help matters along. He did obtain the promise that Nelly and Trude could leave Austria.

I have to say about my wife Nelly and also of Trude that they behaved extremely well. I had not the slightest complaint from them and the letters that Nelly wrote me were heartwarming. She sought to calm me.

In the middle of September, I decided with an attorney from Brünn (Czechoslovakia) to obtain the departure of the four remaining family members to that town. It was all prepared. In Prague, the permission from the goverment had been obtained for temporary passports. However, this effort failed.

On October 5, I decided to go to Holland. I had heard that the crossing of the border to Germany was relatively easy. I booked a flight from Manchester to Amsterdam. On the 5th of October in the morning, there was a storm in England that caused a dozen or so casualties, hundreds of trees were uprooted. I did not let that get in my way and drove at 6 in the morning to Manchester and took the plane to Amsterdam. We had a tailwind - rather a tailstorm - and landed in the record time of one hour and 17 minutes later in Amsterdam.

I drove to the border, viewed the crossing possibilities and thought those dangerous. Every railroad crossing, every bridge was watched by border guards. When I talked to my Dutch friend C. in Paris a few days later, he advised me differently and counselled me to pursue the Dutch border crossing plan.

On October 12, I was able to receive Nelly and Trude in London. I then decided to bring Fritz out. And went to Paris on October 13.

Now I wish to tell the story of the events that led to the successful escape of my brother Fritz and his wife Maria.

The rules of classic greek drama require unity of time, place and theme. The Schiller drama William Tell is perhaps the best example of this. He follows the rules and his drama is further divided in three sections : the Tell-, Gessler- and the Attinghausen tales. As it happens, the tale of my brother's flight also follows the classic rules. This drama, - although with a happy ending - also has three parts : the German, the Dutch and the English.

My brother was in contemplation of an escape for several weeks. His first idea was to get a Yugoslav passport. He should have got one on October 20. However the people who should have gotten it for him were arrested and thus this plan came to nothing.

An escape to Luxembourg was also considered and dropped.

Finally, Fritz agreed with my suggestion to go accross the Dutch border.

Our correspondence was thru a good a friend of Fritz's, Nissel. He brought the mail regularly to my brother in his apartment at the factory where he was under house arrest by the Gestapo.

The porter at the factory had the obligation to tell the Gestapo if Fritz were to leave without permission.

I advised Fritz that it would be best to tell the Gestapo agent Landau that he had to have dental treatment. In this way he could arrange regular departures from the factory. He did this. As he wrote me that it would be probable that an SS man would be given him as a guard, without whom he could not leave the factory, I made out following plan : He should go with this man to the old Bristol Hotel and ask him to wait in the hall. Behind the hall there is a bar with an exit to the Mahlerstrasse and there one always finds a taxi with which Fritz could go then either to the railway station or to the airport.

On the 18th of October, Fritz left the factory and we talked on the telephone and finalized all plans. I left Liverpool, flew to Paris and met my cousin Isakower who went with me to Holland. Max Isakower, 28 years old, had gone from Paris to Vienna three times, and this without passport. He went over the French - Belgian border and the Belgian - Dutch border at night, and then over the Dutch - German border. He had some modest amounts of money in Vienna which he wanted to bring out, and he did this in this fashion. I took him with me so that he would fetch Fritz in Cologne and then bring him to the Dutch border.

Early in the morning, we drove out to Le Bourget, had some difficulty there because Air France wanted us to sign a declaration that we understood that we were going to Holland at our own risk. Since there was no need to have a visa, it was at the discretion of the police authorities to permit Austrians to enter or to be turned back. The only time that I had a strong heartbeat during these three days was then because I feared that the Amsterdam police would turn me back. But it was without a problem. And so I got to Amsterdam with Isakower and agreed that we would go to the border as soon as possible.

Isakower was to cross the border at Keerkrade in the night of October 20: this was the Dutch border town. From there, he would go to the German border post Kohlscheidt and go to Cologne and meet Fritz on October 21 at 3 p.m. at the Dom of Cologne.

To cover contingencies, we agreed with both Fritz and Isakower that in case something were to go wrong that the concierge of the Dom Hotel would be given a message for Mr. Fritz Hooper. This was the cover for any necessary communications.

At eleven o'clock in the morning of October 20th I said goodbye to Isakower.

Now the drama enfolds and I wish to tell the Dutch part first.

I went to my friends C. to get advice from them. Mr. M.C. would give me his full help, wanted to lend me his car so that I might pick Fritz up at the border and drive him to Amsterdam. I thanked him very much and I said : "Listen, my dear friend, you are a Dutch Jew; as such I cannot bring you into such an affair which is not permitted under Dutch law. I thank you for your wonderful and humane help : I would be endebted to you if you would only give me a good and reliable attorney."

And Mr. M.C. then gave me the name of a wonderful man, Dr. X.P., to whom I went immediately after lunch. I told him my story which he understood in its full importance and seriousness.

To my great regret, he had to leave the next morning and was therefore not in a position to take this case on.

He did however let me know that I would have his full support and that he would be available for me in the evening.

The marvelous thing in all this tale is that at various points, it looked like the whole scheme would fail; as in a tragi-comedy, all the missed opportunities resolve themselves in a happy ending.

So I was in the apartment of this wonderful lawyer Dr. P. and we developed our plan.

One must keep in mind that the southern-most province of Holland called Limburg was at that time in state of alert with regard to all illegal immigrants.

Since hundreds of German Socialists, Jews and Catholics transited there every night, the Dutch Government had reinforced the customs posts. In the little stretch Heerlen - Keerkrade there were at least 50 border policemen.

I then related my plan again in all its details. My brother was to depart on the German Lufthansa flight on October 21, 1938, at 9.45 a.m. He should thus reach Cologne at about 3:30 p.m. In front of the Dom, he was to meet my cousin Isakower and then go with him to Kohlscheidt. There, he was to wait with farmer H. Senior till evening. H. Senior should then bring him to the border under the cover of night. On the Dutch side, the son of H. Senior should then take Fritz to his house in Keerkrade. Where Fritz and his wife were to spend the night.

The wife of my brother Fritz - Maria - said that she wanted to go with Fritz although she had a valid passport and visas for entry into France and England. Like a biblical heroine she stayed faithfully by the side of her husband to whom she had sworn her troth ten months earlier.

With Dr. H. I discussed that he would travel to Maastrich on evening of October 21. There he was to spend the night in the Hotel Lievre et Aiglon. In the morning of October 22, my brother was to leave Keerkrade and go with him to Amsterdam. In case something were to happen at the border, Dr. H. should try to make an official intervention.

The border police had the task of hunting down people coming from Germany without an entry permit and then to turn them over to the German authorities without further ado. Such money that the refugees had was given to the border SS. Dr. H. promised in case any tragedy were to befall us that he would arrange for custody for my brother in Holland.

Now it became necessary to provide entry for my brother to England. And I would arrange for the necessary documents.

Dr. H. was to travel with these documents on the 21st of October to Maastrich. I spoke with him at 11 on the 20th of October and sought to give him the documents.

According to the old rule I adopted, that an officer of the general staff should not go to the front, I took my quarters in the Hotel Victoria in Amsterdam and this was a good thing.

I operated from my room and by telephone. I spoke to Fritz as agreed on the 20th of October at 4 p.m. in Vienna and confirmed that everything was in order.

I called my son Hans in Liverpool. And this was our talk :
"Listen, my son, tomorrow Fritz should come to Holland. He would have a false Czech passport with which to come to England. While need creates expedients, it would not be good to start a new life in wonderful England with a lie. Go to see our protector in Liverpool, Sir Frederick Marquis, and tell him the situation. Ask him for a police document whereby Fritz would be let in to England."

Hans told me that he thought this impossible.

"A lazy servant is a half prophet - says the old jewish proverb" said I to him, "go and do what I ask of you."

Hans was to express mail the entry permit for Fritz.

But let us return to the Dutch part of the story. On the morning of October 21, I went to the air company KLM and asked for the rental of a plane for the next day. I was told that only larger planes of the Douglas variety were permitted to fly over the channel. Such a plane - a 14 passenger plane - would cost 1180 Florins for the flight to Liverpool. I did not want a firm rental as something might still go wrong. On the other hand, I wanted to arrange that Fritz and Maria would not spend a minute longer on Dutch soil than would be necessary.

The KLM official asked for a large down payment. According to a principle learned from my mother I did not want to give anything as a down payment. Finally, we agreed on a sum of 50 Florins for which I got a receipt.

In every serious story there is a touch a humour - and I laughed very much when I saw on the corner of the receipt, the words, in Dutch :
"EXTRA VLUCHT." *

*Translator note : the German homophone, Vlucht, means escape.

At one o'clock in the afternoon, a courier from Liverpool should have brought the letter. He brought nothing. The concierge of the Hotel told me that the next mail was only at 7 p.m. But then Dr. H. would already have left. I went to the central post office, and asked the different departments whether they had not found an express letter. And I found the letter in one of the departments.

I thus went to Dr. H. and gave him the English entry permit which had been in the letter, the receipt from KLM and also photos of Fritz and Maria. With best wishes for his travel, I said goodbye to this excellent man.

On Friday afternoon, I did several errands, and went to the hotel to call Liverpool. At this point, let us go back to the English part of this saga.

Hans did go immediately to Sir Frederick's office and found out that he had left the very morning for South Africa. He then went to Alderman Shannon who heard his story out and declared his willingness to help. He recommended him to the chief of police of Liverpool, who was not in his office. However, his assistant declared to Hans that such a permit was outside the authority vested in him. He would however get in touch with the Home office. He did this immediately over the phone and an official there asked what interest the city of Liverpool had in the entry of this man. He answered that we were building a factory in Liverpool and that all the family was reunited in England with the exception of Fritz, and that Fritz had spent some time in a concentration camp. The Home office gave its approval right on the telephone and said that Fritz could enter into England without a passport. That police official immediately gave his assurance that the next afternoon - Saturday - both an official of the Immigration service as well as a Customs official would be advised that Fritz could enter the country without any further formality. This closes the English part of the story.

With some excitment, I awaited the evening : I agreed with Fritz that he would send no messages.

At 8 p.m. I had to be in the hotel because they advised that there would be an air raid alarm. All Amsterdam was made dark and the hotel was candle-lit like a church. The candle light gave the whole picture an additional element of ambiance. It was muggy in the hotel and the hall was not inviting.

I went first to my room, then down to the lobby. It was 9, then 10 p.m. I had to get some air, but I could not leave the lobby because any time there might be a call. At 10:30 p.m. I decided to go on to the street for 5 minutes to catch a breath of air. I was out on the street only for 7 minutes and as I went back the telephone operator told me that there had been a call from Heerlen. Mr. Max Isakower was on the telephone, gave his number and asked for a return call.

I got a connection immediately and within 5 minutes I got Isakower who told me that Fritz had crossed the border successfully but had not been able to spend the night at H. Junior's place in Keerkrade as planned but was already 7 km from the border at Heerlen where he was the guest of a bicycle dealer. He could not explain this on the telephone. Fritz and Maria could not spend the night there at any cost. What should he do ?

I said that Isakower should immediately take a taxi and go to the Hotel Lièvre & Aiglon in Maastrich. There he should ask Dr. H. that he should go with him to the town of Heerlen, 27 km away, to fetch Fritz. Under the direction of Dr. H., they should then go back to Maastrich to the hotel. Isakower immediately went off to Maastrich.

Then I immediately called the hotel in Maastrich to speak to Dr. van H. He had gone out.

I asked for a connection with Heerlen again because in my haste I had forgotten to speak to Fritz. I wanted to give him courage, should he be in bad spirits. I had not told them about the dangers on purpose because I did not want to trouble him needlessly.

He came to the phone and was in full good mood which made me happy. He had just eaten very well and was waiting for Isakower who was supposed to bring him to Aamterdam in some fashion. I was very happy to know him in such good spirits and promised him that we would meet the next morning in Amsterdam. How that could be arranged I did not know at that time. But I had confidence in my lucky star.

A few minutes later, I spoke to Liverpool and to Paris and told Max and Julius that Fritz was in Holland. Their relief was immense. Yet I was not comforted.

It was at 1:15 that I got a call from Maastrich. Isakower was on the phone. He had been stopped 3 times on his way to Maastrich by gendarmes. On the way back to Heerlen, another time. The clever fellow had come up with a good plan at this time. At 12:20 a.m., the last train leaves Heerlen to go to Maastrich. He took a taxi with Fritz, Maria, Dr. van H. to the railroad station. They were there at 12:18 a.m. He quickly took tickets and they hopped on the train so that the policeman who was on duty did not have time to ask them anything. And in an half hour, they were in the hotel in Maastrich. Dr. H. was well-known there so they did not have to register. Isakower made an arrangement with the concierge that the door be locked because there was a usual round by an inspector of the police at 2 a.m. to check on the guest list. To avoid further complications, not only was the door locked but the bell disconnected. As I had this news, I did have a moment of relief because I told myself that not much could happen anymore. If, by any unhappy circumstances, Fritz would have been taken by Dutch authorities, he would be put into their custody and not turned over to the German border police.

I then informed my family by phone of the improved position.

What had happened in the meantime ?
How come had Fritz not spent the night at H. Junior's in Kaerkrade ?

Now I have to return to the German part of the story.

No ! First I have to record that Max Isakower never went to Cologne. What had happened in the meantime, I could not know. The border from Holland to Germany could not be crossed that night, for some reason. Max Isakower was to have contacted some German coal-workers who worked in the mines in Keerkrade and daily went back over the border to Kohlscheidt in the evening. He arrived too late and could not go over to Germany any more. He had however told the father of H. Jr., in Kohlscheidt, to pick up Fritz at 3 o'clock at the Dom.

H. Senior was there. He asked at the Dom Hotel if there had been any message for or from Fritz Hooper. The concierge said : "Yes, a telegram is here." The old H. took the telegram and its content was : "Cannot travel because of illness". The telegram was directed to a Fritz Leeman but the old farmer who was used to code names thought that could only be for Altmann. Therefore he went back to Kohlscheidt.

Now back to Vienna.

Fritz had left the factory at 9 o'clock, and got to take the 9:45 plane to Frankfurt. He took the ticket in the name of his friend Nissel whose passport he had in his pocket.

A pair of dark glasses and a stern look on his face should have made him resemble the picture on the passport more closely.

Fritz and Maria flew to Frankfurt, changed planes and were soon in Cologne. At the Cologne airport, a stewardess from Lufthansa asked if there were two passengers from Vienna in the group. Fritz and Maria did not answer the call but were unsettled by this query. They arrived in the city and waited a while in front of the Dom - which in our telephone calls we always spoke of as the little church - saw nobody and then asked in the Dom Hotel if there has been a message for Mr. Hooper. Yes, the porter said. The elderly gentleman had taken the message and left.

What a comedy of errors !

Fritz decided immediately to take the next train to Aachen. There, they put their baggage in storage (which would be an important element later) and took a taxi to Kohlscheidt. They gave the chauffeur address of the elder H., who did not know the street. However he drove off rapidly and wanted to go to the border post to inquire of the SS man the directions to the wellknown smuggler.

Fritz was able to stop just before the border post and paid the taxi off and started off on his own to find the elder H.

He did not find the address immediately and asked a young Catholic priest. This priest brought them there immediately.

It was then 4 o'clock in the afternoon and far too bright to try an illegal crossing of the border. So they waited at the house of the old couple until the start of night.

Because the Gods were so favorable to this undertaking, there was no moon that night and it was very dark when Fritz and Maria were under way under the direction of the old farmer.

They came soon to a barbed wire fence that they climbed over. Then there was a second such barrier which tore not only Maria stockings but also her calves. "Do you see the light flickering in the distance ? " asked the old farmer. "Those are of the German border guards lighting their pipes - being changed at 9 p.m." As they crossed the second barrier into Dutch soil, the old farmer indicated a large tree which was just barely visible to Fritz and Maria in the darkness.

"You see the tree there ? My son is waiting there for you."
With these words, the old H. left my people, turned around, because he did not wish to walk on Dutch soil. Even such people have their principles.

So Fritz and Maria left to reach the tree in high spirits - after all they were in Holland and thus felt safe - and found there a young couple. This couple presented themselves as friends of H. Jr., explaining that he could not come and that they were delegated in his stead. What had happened ?

H. Jr. had received word in the morning that a search was being undertaken for custom smugglers and it was necessary to be very careful; therefore Fritz and Maria would not be safe spending the night at his house.

The young couple would bring them into safety at Heerlen but they were not to speak a word of German, letting only the others speak.

It was good that they had no baggage because even the smallest bag would arouse the curiosity of the police. Maria took the arm of her new Dutch girl friend and Fritz walked gaily with the man to the tram from Keerkrade to Heerlen which they reached at 10 p.m. Isakower waited for them and called me. We are thus again in Holland.

I spent the night telephoning and writing and did not realize that it was already 8 a.m. I had agreed with Dr. van H. that my people should not get off the train at the Central station in Amsterdam because the police made random identity checks there. My dearly beloved travellers were therefore to be met by me at the Amsterdam V.S. station (which is about 10 km before the main station) where they were to arrive at 1:18 p.m.

At about 8 a.m. my brother Julius called from Paris and declared that Mr. Böhme - who was one of the two gentlemen who had taken over the Vienna factory - had called : he was totaly distressed by the fact that hostage Fritz had flown the coop. Julius should now go to Vienna instead of Fritz, Böhme asked saying that it would be terrible for him because the Gestapo would now arrest him. Julius promised him to inquire with me.

I called Böhme in Vienna then and gave him my word. We had agreed in August that I would turn over the factory without any compensation. I had so agreed because a large part of my family was under the control of the Gestapo. Now this was not the case, but I would keep my word.

I asked him and his companion Bagusat to come to London to sign the contract. This did happen on the 9th of November 1938 : I gave them the factory and all the land, material, machines, etc. They agreed to pay me and my family an amount of £400.- a month for the next five years. I gave them an amount of £1,200, on account of sums received on my London account. After 3 months, in February, 1939, they stopped the payments. I had never received an additional penny.

At 1 p.m. on the 22th of October, I went with my Amsterdam friend Mr. Alfred C. to the railroad station Amsterdam V.S. where we then received the two refugees who looked marvelous and were in best spirits, getting off the train at 1:18 p.m. At 1:55 p.m., we were at the airport at Schiphol where the Silverbird - a Douglas plane with 14 seats - was ready. At exactly 2 o'clock, as agreed with the KLM the day earlier, the airplane took off. Over the Channel I unpacked the provisions I had got them. We drank a cooled bottle of champagne to the health of the newly reborn young couple. At 4 p.m., we arrived at Liverpool. There, officials of the police and customs were waiting. A half hour later the happy couple was reunited with its even happier family.

Thus ended my efforts at taking our family out of German custody.

I thus had my hands free to continue with the rebuilding of my business reorganisation and to bring my family back into the production process.

N.B.: This translation has been completed on another airflight : Singapore Airlines inaugural Vienna - Manchester August 23, 1988.