

Declaration and Expert Report of Professor Jonathan Petropoulos

Report on Issues Raised in Bakalar v. Vavra 05 Civ. 3037 (WHP)

Table of Contents:

1. **Professional Experience of Author of Report.**
2. **Methodology.**
3. **Background: Fritz and Elisabeth Grünbaum's Life.**
4. **Schiele's Life and Career.**
5. **Schiele was not Declared a "Degenerate" Artist by the Nazis.**
6. **The Kieslinger Inventory.**
7. **The Schenker Inventory.**
8. **Evidence of Nazi Confiscation or Spoliation.**
9. **Absence of Documentation Indicates that Mathilde Lukacs Never Recovered
Artworks.**
10. **Eberhard Kornfeld's Acquisition of Grünbaum's Artworks.**
11. **Otto Kallir's Knowledge that He was Acquiring Fritz Grünbaum's Artworks from
Kornfeld.**
12. **Schiele in the United States.**
13. **"Red flags" Preceding Sotheby's 2005 Bakalar Consignment.**
14. **Previous Scholarly Sources**
15. **The Arc of Understanding.**
16. **Ownership of Artwork.**
17. **Evidence of Nazi Control of Schenker & Co.**

18. **Confiscation or spoliation of Artwork.**
19. **The Reich Flight Tax.**
20. **Jewish Property Declarations.**
21. **Direct Evidence of Confiscation or Spoliation.**
22. **Grünbaum Payments of Atonement Tax.**
23. **Problems in Interpreting Documents Designed to Facilitate Looting.**
24. **Schenker & Co. Control as Evidence of Spoliation.**
25. **Circumstantial Evidence that Mathilde Lukacs Had No Possibility of Obtaining or Recovering the Artworks.**
26. **Endemic Nazi Corruption and Schenker.**
27. **Kieslinger's Motive and Opportunity to Loot the Grünbaum Collection.**
28. **Rochlitzer's Motives, Power, and Opportunity to Loot the Grünbaum Art Collection.**
29. **Theft by Corruption.**
30. **Theory that Mathilde Lukacs Recovered Grünbaum Art Collection.**
31. **Conclusions about the Grünbaum Art Collection during the Third Reich.**
32. **Legal Impossibility of Lukacs Acquiring or Selling Grünbaum Art Collection.**
33. **Kornfeld's Sale of Grünbaum Works from Grünbaum Art Collection.**
34. **Kornfeld's Awareness of Holocaust-Era Stolen Art.**
35. **The Significance of Schiele's Painting *Dead City III*.**
36. **Otto Kallir's Knowledge of the Grünbaum Art Collection.**
37. **Kallir's Problematic Reputation.**
38. **Efforts of Grünbaum Heirs to Recover Artworks.**
39. **Public Awareness of Nazi Looted Artworks.**
40. **Acquisition and Sale of Drawing by David Bakalar.**
41. **Sotheby's Sale of Drawing in 2005.**

42. **Conclusion.**

Jonathan G. Petropoulos deposes and certifies, as follows:

I am above the age of twenty-one and reside at 526 West 12th Street, Claremont, California, 91711. I have been retained by the attorney for Leon Fischer and Milos Vavra to provide this Declaration and Report giving opinions on certain issues arising in this litigation.

1. **Professional Experience of Author of Report:** I am the John V. Croul Professor of European History at Claremont McKenna College in Southern California, where I also serve as director of the Center for the Study of the Holocaust, Genocide, and Human Rights (note that a complete curriculum vitae is attached at the end of the report). Previously, I received my Ph.D. from Harvard University (1990), where I also had an appointment as a Lecturer in History. I began working on the subject of Nazi art looting and restitution in 1983, when I began my graduate work in history and art history. I am the author of *Art as Politics in the Third Reich* (University of North Carolina Press, 1996); *The Faustian Bargain: The Art World in Nazi Germany* (Oxford University Press, 2000); and *Royals and the Reich: The Princes von Hessen in Nazi Germany* (Oxford University Press, 2006); as well as co-editor of a number of volumes, including *The Spoils of War: The Loss, Reappearance, and Recovery of Cultural Property During and After World War II* (New York: Harry Abrams, 1997). I have also helped organize art exhibitions, including *Degenerate Art: The Fate of the Avant-Garde in Nazi Germany*, which opened at the Los Angeles County Museum of Art in 1991.

From 1998 to 2000, I served as Research Director for Art and Cultural Property on the Presidential Commission on Holocaust Assets in the United States, where I helped draft the report, *Restitution and Plunder: The U.S. and Holocaust Victims' Assets* (2001). In this capacity as Research Director, I supervised a staff of researchers who combed archives in the United States and Europe in order to understand better how representatives of the U.S. government (including the Armed Forces) handled the assets of Holocaust victims both during and after the war. As Research Director, I provided expert testimony to the Select Committee on Culture, Media and Sport in the U.K. House of Commons and to the Banking and Finance Committee of the U.S. House of Representatives.

I have served as an expert witness as a historian/art historian in a number of cases where Holocaust victims have tried to recover lost artworks. This includes *Altmann v. Austria*, which involved six paintings by Gustav Klimt claimed by Maria Altmann and other family members. Mrs. Altmann was born and raised in Vienna and her family had its art collections seized after the Anschluss. The research conducted by my staff and me at the Presidential Commission on Holocaust Assets (PCHA) on the disposition of the valuables (including artworks) on the so-called "Hungarian Gold Train" showed that U.S. forces in Austria had mishandled this property. We uncovered and documented widespread theft and numerous other violations of Allied restitution policy. I subsequently testified in a lawsuit filed by Hungarian Jewish victims and heirs against the U.S. government that resulted in a settlement of approximately \$25 million. I have also written expert reports for the Herzog family, whose art in Budapest was stolen first by the Nazis and then by the Soviet Red Army (many of the artworks are still in Russia); for the Cassirer family, whose members had a painting by Camille Pissarro stolen from their Berlin home (it is now in the Thyssen-Bornemisza Museum in Madrid); and for the Wildensteins, the well-

known art dealers who had a great deal stolen from by the Nazis during World War II. I have been engaged by both plaintiffs and defendants to conduct research and to testify about my findings. Pursuant to the highest standards of historical research, my objective is to approach the historical issues in a fair and objective manner, and to present and summarize complex historical documents in such a way as to facilitate understanding the events in question.

Based upon my experience, as described above in brief, I am qualified to testify as an expert on the disputed subject matter at the heart of this case. Additionally, I am fluent in German and have spent years in archives in Austria and Germany (and in archives of many other countries), researching the subject of Nazi art looting (this includes sabbaticals in Germany in 1987-88, 1993-94, and 2000-01, and visits to German and/or Austrian archives every year since 1983). I have a particular interest in the history of Austria after the Anschluss (Hitler's 12 March 1938 invasion of Austria) and have written on the Nazis' cultural policy in Austria, as well as on specific art plunderers. For example, Nazi art looter Dr. Kajetan Mühlmann was a principal figure in my book, *Faustian Bargain*, and has been the primary subject of articles I have published. I have attached my curriculum vitae to this report as Exhibit "A."

2. **Methodology.** To write this report, I reviewed all Bates-numbered documents and deposition transcripts submitted by both the plaintiff and defendants as part of the discovery process. I also provided historical materials to the defendants' attorney, Mr. Raymond Dowd, which I consider relevant to the case. These documents were Bates-numbered and include several reports written by the U.S. Office of Strategic Services' (OSS) Art Looting Investigation Unit, as well as the report on the Nazi plundering agency in the Netherlands (the Dienststelle Mühlmann), written by Dutch Captain Jean

Vlug. All of these reports were produced by government officials just after World War II and are found in various archives in both the United States and Europe. Therefore, my methodology has been first to examine contemporaneous documentation; then to look at the journalistic and scholarly materials produced during the discovery phase. I have also utilized other important secondary source works by reputable scholars. Additionally, I reviewed all of the briefs written by counsel for the parties involved.

The extant documentation is sufficient to permit certain reliable conclusions regarding historical facts that would be relevant to legal determinations regarding title to the artworks in the estate of Fritz Grünbaum. As in almost all Holocaust-era cases, there are gaps in the record with regard to the assets. This challenge of interpreting evidentiary gaps was addressed specifically in the Washington Conference Principals that came out of the ground-breaking 1998 symposium that involved representatives of 44 countries (I gave an address at the opening plenary session on the historical background of Nazi art looting). Principle IV of the Washington Conference Principles on Nazi-Confiscated Art reads, “In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era.”¹ The thrust of these principles, which were articulated as best practices but not ratified as formal international law, was that those institutions, commissions, and agencies making decisions about Holocaust era assets should be guided by the principle of the preponderance of evidence. While affirming the importance of due process, the delegates encouraged those who hold disputed objects not to resort to legal tactics that prevent the consideration of all relevant evidence. The property looted by the Nazis was

¹ Washington Conference Principles on Nazi-Confiscated Art in J.D. Bindenagel, ed., *Washington Conference on Holocaust Era Assets*, November 30 – December 3, 1998 (Washington, DC: Department of State, 1999), 971.

part of the Nazis' efforts to dehumanize and then exterminate specific ethnic groups. The Nazis and those who collaborated with them then took steps to conceal their crimes. This broader historical context, many delegates argued, must be kept in mind in adjudicating the ownership of disputed property.

There is, however, considerable historical documentation about the fate of Fritz Grünbaum's art collection. Grünbaum was a famous entertainer in interwar Europe and possessed an important collection of art—above all, by modern Austrian and German artists. His tragic fate in the Nazi concentration camp of Dachau is well-documented. Extant historical documents also provide a clear sense of what happened to his wife, Elisabeth, in the period from 13 March 1938 through her death in October 1942. The fate of the artworks themselves is more uncertain: we do not know with certainty how the works left the Nazi-controlled Schenker & Co. storehouse where they were deposited on or before 8 September 1938. Sufficient evidence exists, however, to arrive at firm conclusions about who should rightfully possess these artworks today. To assist in this determination, I have prepared a concise history of Fritz and Elisabeth Grünbaum, and the artworks by Egon Schiele that were in their Viennese home up until the tragic events of 1938.

3. **Background: Fritz and Elisabeth Grünbaum's Life.** Franz Friedrich ("Fritz")

Grünbaum (1880-1941) was a well-known cabaret performer, librettist, writer, film actor, and director in interwar Vienna, known for his clever and ironic humor.² His father was an art dealer in the city of Brno, Moravia, in the Habsburg Empire (now the Czech

² For more on Grünbaum's biography, see Sophie Lillie, "The Dead City: The Unresolved Destiny of the Art Collection of Fritz Grünbaum," a translation of Sophie Lillie, "Die Tote Stadt: Die Ungeklärte der Kunstsammlung Fritz Grünbaum," in Marie-Theres Arnbom and Chrisoph Wagner-Trenkowitz, eds., *Grüss mich Gott! Fritz Grünbaum, 1880-1941. Eine Biographie* (Vienna: Christian Brandstätter Verlag, 2005), 147-205 (P- 0266- P 0285 and the English translation, NG 0019 – NG 0025).

Republic), where Fritz was born. Fritz was an officer in the Habsburg army during World War I. He was married three times, the last time to Elisabeth (“Lilly”) Herzl Grünbaum (1898-1942) in November 1919. Fritz Grünbaum was a prominent anti-Nazi in the 1930s (it is listed as a reason for his “protective custody” in the extant documents from Dachau and the International Tracking Service).³ His politics posed a danger for him starting in early 1938, when Hitler began pushing Austrian Chancellor Kurt von Schuschnigg for the Nazis to have greater freedom in Austria (where they had been banned for the previous four years) and for the Nazis to be represented in the Austrian government. Grünbaum tried to flee Austria over the border to Czechoslovakia on 11 March—the day before the Anschluss—but was turned away at the Bratislava crossing. He went into hiding in Vienna, but was soon apprehended by the Gestapo (he was captured in a synagogue, where he had taken refuge).⁴ He was incarcerated and then sent to a concentration camp. Despite Elisabeth Grünbaum’s efforts to gain his release—friends of theirs testified after the war that she went numerous times to the Gestapo headquarters on the Morzinplatz to plead on his behalf and also tried to bribe various officials--Fritz was never set free by the Nazis prior to his death in Dachau in January 1941.⁵

Both Fritz and Elisabeth Grünbaum had multiple siblings: Fritz had two siblings: Paul Grünbaum (1884-1940—killed in Riga) and Elise (aka Alzbeta or Lilli) Zozuli di Salino (nee Grünbaum) (1885-1977), although only Elise survived the war. Elisabeth

³ Klar Gissing (Dachau Concentration Camp Memorial) to Thomas Meyer, 26 November 2007 (DBM 05304 – DBM 05306) and Ursula Mertins (International Tracking Service) to Thomas Meyer, 24 October 2007 (DBM 05307 - DBM 05310).

⁴ See the documentary film by Otto Schwarz and Michael Bukowsky, *Lachen im Keller: Fritz Grünbaum* (2005).

⁵ Dr. and Mrs. Ernst and Hilde Federn statement of January 1997 (D & M 00118 0 D & M 00120).

Grünbaum had four sisters and three brothers, among which only two siblings survived the war: Mathilde Herzl Lukacs (1883-1979) and Anna Herzl (1882-1948).⁶

During his lifetime, Fritz Grünbaum was a well-known art collector, especially of Austrian modernist art, whose artworks were featured in famous catalogues, exhibitions, and at least one newspaper article.⁷ By 1938, his collection extended to over 400 pieces.⁸ The manner in which he amassed his collection is not entirely known. In Jane Kallir's catalogue raisonné of Schiele's work, she asserts that Fritz Grünbaum's collection of Schieles was largely complete by 1925.⁹ We do know that Grünbaum purchased at least three paintings from Kallir (then known as Otto Nirenstein—he changed his name to Kallir in the 1930s): a transaction for Schiele's *Black Maiden* occurred around 1930 and both *Self-Seers* and *Dead City III* also passed through Kallir's hands.¹⁰ We also know that Grünbaum loaned at least 21 works to Otto Kallir for the Schiele memorial exhibition he helped organize at the Hagenbund in Vienna in 1928.¹¹ In 1930, Grünbaum was listed as the owner when loaned several paintings to the Wiener Künstlerhaus show, *Die Kunst in unserer Zeit*; among these works were the oil paintings *Self-Seer I* and *Dead City III*, among the most famous objects in his collection. In his 1930 catalogue raisonné of Schiele's work, Kallir listed Grünbaum of the owner of many works, further confirming the dealer's familiarity with the Grünbaum collection. Provenance researchers routinely rely on such catalogues and publications when tracking the provenance

⁶ See the family tree for Paul Grünbaum (D & M 0129) and Elisabeth Herzl Grünbaum (D & M 01286 – D & M 0129). Some of the spouses of Elisabeth Herzl Grünbaum's siblings survived the war.

⁷ Paul Stefan, "Fritz Grünbaum als Sammler" in *Die Bühne* (26 March 1925) (DBM 05091 – DBM 05092).

⁸ See the inventory by Dr. Franz Kieslinger (D & M 000448 – D & M 000450).

⁹ Herbert Gruber declaration ("Gruber II") (5 January 2006), 9.

¹⁰ Thomas Buomberger, "Memorandum in Regard to Gallery Kornfeld – Egon Schiele's 'Dead City III' (previously 'Dead City I'), 2 (DBM 04696 – DBM 04697). Note that Otto Nirenstein (1894-1978) changed his name in the 1930s because Nirenstein means "kidney stone" in German and he found it "borderline offensive." See William Cohan, "Unravelling the Mystery of Dead City" in *ARTnews* (April 2008), 114.

¹¹ See Otto Kallir to Fritz Grünbaum, 7 September 1928, and the related inventory and correspondence (D & M 01793 - 01803, and D & M 02413). These documents come from the Neue Galerie Archives housed in the Austrian Gallery Archives in Schloss Belvedere. See also the translation of Sophie Lillie, "The Dead City," 2 (NG 0020).

of a particular artwork or an entire collection.¹² As Herbert Gruber accordingly stated in his Declaration of 5 January 2006 (“Gruber II”), “the scholarly consensus ... including Ms. Lillie’s article, [is] that a large number of Schieles, which are now readily identifiable belonged to Grünbaum.”¹³

After the German invasion of Austria on 12 March 1938 (the “Anschluss”), Fritz Grünbaum attempted to flee the country. Like many other Jews, he headed east and tried to find sanctuary in Czechoslovakia, but he was unsuccessful and was turned away at the border. Fritz Grünbaum then tried to hide and see if another opportunity for escape would present itself, but he was soon apprehended by the Nazi authorities and placed under arrest. He remained imprisoned in Vienna from March until early June, whereupon he was sent to the concentration camp at Dachau. With the exception of a short spell in Buchenwald near Weimar, Grünbaum remained in Dachau until his death in January 1941.

Elisabeth Grünbaum was evicted from her apartment at Rechte Wienzeile 29 by early 1939 at the latest and then forced into increasingly squalid quarters (Hofzeile 27 and Kaasgrabengasse 15).¹⁴ After being evicted from the home that she and Fritz Grünbaum had occupied, she tried to conceal herself and live undetected on her own (what Lillie calls “a desperate search for a safe abode”)¹⁵; but she was captured by the Nazi authorities and sent to the collective Jewish residences at Werdertorgasse 5/2/4a and Marc Aurel Strasse 5/7. It should be stressed that these conditions were incredibly difficult: Lilly lived in over-crowded and squalid conditions. Like the others forced to

¹² See the translation of Sophie Lillie, “The Dead City,” 2 (NG 0020).

¹³ Herbert Gruber declaration (“Gruber II”) (5 January 2006), 9.

¹⁴ Translation of Sophie Lillie, “The Dead City,” 3 (NG 0021).

¹⁵ Translation of Sophie Lillie, “The Dead City,” 3 (NG 0021).

live in the collective residence, she had been deprived of nearly all valuables. Indeed, this residence is comparable to the ghettos created by the Nazis in other Central European cities and towns: without their material possessions, these victims were easier to transport to other facilities (this residence was also closer to Gestapo headquarters, which was not a coincidence). Elisabeth Herzl Grünbaum was then deported from Vienna in October 1942, and sent to the Maly Trostinec concentration camp near Minsk. She did not survive this camp (“only 17 people are known to have survived among the almost 9,000 Austrian Jews deported to Maly Trostinec” after May 1942).¹⁶ Most of the victims were shot at the edge of a trench dug in a killing field outside Minsk: this would almost certainly have been the fate met by Elisabeth Grünbaum.

4. **Schiele’s Life and Career.** Egon Schiele (1890-1918) was a young avant-garde artist in Austria who had his life cut short by the great “Spanish” influenza epidemic that arrived at the end of World War I. Up until his death at age 28, he was largely unknown outside of Austria.¹⁷ However, he had attracted the support of modernist artists such as Gustav Klimt and Oskar Kokoschka, and many knowledgeable art critics embraced his work, which was characterized by a boldness hitherto rarely seen in European art. His paintings and graphic works of naked subjects, including self-portraits, were shocking to contemporaries. Indeed, in 1912 Schiele had been arrested on charges of indecency and kidnapping a thirteen-year old girl.¹⁸ One scholar notes that “Schiele was ultimately acquitted on the counts of kidnapping and sexual misconduct, Schiele could also create hauntingly beautiful works and was a gifted landscape artist, but found guilty of the public display of indecent imagery.”¹⁹

¹⁶ See the description of Maly Trostinec at <http://www.does.at/projekte/holocaust/shoahengl/maly.html>.

¹⁷ Otto Kallir, “A Personal Report,” in Renée Price, ed., *Egon Schiele: The Ronald Lauder and Serge Sabarsky Collections* (Munich: Prestel, 2005), 67 (DBM 05777).

¹⁸ “Prison” (NG 0026).

¹⁹ “Prison” (NG 0026).

Schiele's reputation in Austria grew considerably between 1918 and 1938. There were a series of well-received exhibitions, including those at the Neue Galerie in Vienna, an establishment founded and operated by Otto Kallir. In 1930, Kallir compiled the first catalogue raisonné of Schiele's work (concentrating on his paintings).²⁰

5. **Schiele was not Declared a “Degenerate” Artist by the Nazis.** The Nazis' campaign against so-called “degenerate art” (entartete Kunst) is one of the hallmarks of their cultural policy. Adolf Hitler proclaimed that works that were not true to nature or had been created by Jewish artists were unworthy of a place in the new German Reich. He argued that abstract works indicated that the artist was either biologically inferior (and therefore could not perceive shapes and colors as they actually were) or politically subversive (modernism was associated with internationalism, hence the frequently used term “cultural bolshevism”). A traveling exhibition, “*Degenerate Art*” (“*Entartete Kunst*”), which toured German and Austrian cities from 1937 to 1939, attracted over two million visitors, making it one of the most highly attended exhibitions in history. In the postwar period, scholars have studied this program in great deal and museum exhibitions have been devoted to the subject (I helped organize an award-winning exhibition on Nazi “Degenerate Art” at the Los Angeles County Museum of Art that opened in 1991).²¹ The Nazi regime not only organized the defamatory exhibition, but also ordered the purging of all so-called “degenerate” works from German state collections. A law was passed in May 1938 legalizing the confiscation and liquidation of these “degenerate” works.

Because the Nazis were de-accessioning German government works, such works have

²⁰ Otto Nirenstein, *Egon Schiele. Persönlichkeit und Werk* (Berlin/Vienna: Paul Zsolnay Verlag, 1930) (D & M 00663 – D & M 00929). This catalogue does not encompass all of Schiele's graphic works.

²¹ Stephanie Barron, ed., “*Degenerate Art*”: *The Fate of the Avant-Garde in Nazi Germany* (New York: Abrams, 1991).

never been restituted. The artworks seized by the Nazi purging commission and then sold (usually abroad) by the collaborating art dealers appear in prominent museums and private collections worldwide and have never been subject to restitution measures. The Nazi purging commission removed approximately 17,000 artworks from German state collections between 1937 and 1939.

Because of statements by Schiele experts Otto Kallir and Rudolf Leopold, there is a widespread misconception that his work was declared “degenerate” by the Nazis. Such persons have argued that the “degenerate” nature of Schiele’s art enabled Schiele’s works to escape confiscation by the Nazis (on the grounds that his works were undesirable). This was not the case. Egon Schiele’s art was never declared “degenerate” or purged from German or Austrian state collections. Indeed, Schiele’s art was publicly exhibited in the German Reich after the Anschluss. Exhibitions included shows at the prestigious Albertina graphic collection (a state institution) in 1943: that is, after the Nazis had declared “total war” and the regime had become more radical and oppressive with regards to clamping down on dissent.²² Schiele’s works were also included in an exhibition at the Salzburg museum in 1944. Furthermore, unlike banned “degenerate” works that had to be sold outside of Nazi Germany, Schiele’s works were publicly sold within Austria (or the “Ostmark” in Nazi parlance) during the Third Reich, including by the state-owned Dorotheum auction house in Vienna.²³ Additionally, Schiele’s artworks

²² Schiele’s works were included in the exhibition at the Albertina, "Deutsche Zeichnungen nach der Jahrhundertwende" ("Drawings after the Turn of the Century") Feb. - April 1943.

²³ Austria, of course, ceased to exist as a sovereign country after its incorporation into the German Reich in 1938. It was initially designated the “Ostmark,” although this term was later dropped during World War II in an effort to suppress separatist tendencies. The following is a list of painting by Egon Schiele sold at the Dorotheum auction house in Vienna: in 1940 (at auction 458) *Häuser* (1914), *Weiblicher Akt* (n.d.); in 1940, the auction of 22-24 April 1940, *Figurenstudie eines Kleinen Mädchens* (n.d.); in 1941, (auction 463) *Häuser* (1914); in 1941 (auction 467) 2 pages *Weibliche Figurenstudien* (1911), *Weiblicher Akt in Rückenansicht* (n.d.), two pages *Weiblicher Aktstudien* (n.d.), *Zwei Schlafende Mädchen* (1913), 2 pages *Weibliche Aktstudien* (n.d.); in 1941 (auction 470) *Bildnis seiner Frau* (1915); in 2-3 April 1941 auction, *Männlicher Akt* (1908); in the 26-28 May auction, *Figurenstudie eines sitzenden Mädchens* (1910) and *Weibliche Figurenstudie* (1913); in the 11-14 November 1941 auction, *Mädchen* (n.d.); in the auction of 1942 (auction 472), *Städtischen am Fluss* (1916), *Preussischer Leutnant* (1916); in 1942 (auction 479), *Torso* (n.d.); in

were admired publicly by certain Nazi leaders, including the Governor (Reichsstatthalter) of Vienna, Baldur von Schirach, who evinced sympathy for other Expressionist artists.²⁴

The director of the Austrian National Gallery in Vienna, Dr. Bruno Grimschitz (1892-1964), also held Schiele's work in high regard.²⁵ Grimschitz was a very important player in the Nazi-era Austrian government's cultural bureaucracy: he collaborated with the Nazi plundering agencies by providing valuations of confiscated artworks, purchased seized works for the museum he directed, and was a highly regarded authority with regard to fine arts.²⁶ Notably, he was also a good friend of Otto Kallir (and helped the latter export artworks from the German Reich after the Anschluss).²⁷ Grimschitz's admiration for Schiele therefore had significance both practically and symbolically. It made it easier for others in the Third Reich to exhibit and sell the artist's works. In June 1941, Grimschitz wrote to Anton Peschka Jr. (1914-1997), a nephew of Egon Schiele, when Peschka asked Grimschitz to appraise a Schiele portrait of a boy, replying: "... that Egon Schiele's art has not been declared 'degenerate' by any official authority. While the basic mood in Schiele's paintings often seems to be pessimistic and, at the moment, is not to one's liking, degeneration of the pictures is out of the question. On the contrary:

the auction of 3-6 November 1942 *Weiblicher Akt* (1917); in the auction of 14 December 1942, *Bildnis Arthur Rössler* (n.d.)

²⁴ Jonathan Petropoulos, *Art as Politics in the Third Reich* (Chapel Hill: University of North Carolina Press, 1996), 220-26. Oliver Rathkolb, "Nationalsozialistische (Un-) Kulturpolitik in Wien, 1938-1945," in Hans Seiger, Michael Lunardi and Peter Josef Populorum, eds., *Im Reich der Kunst. Die Wiener Akademie der bildenden Künste und die faschistische Kunstpolitik* (Vienna: Verlag für Gesellschaftskritik, 1990), 268-72. In Thomas Weyr, *The Setting of the Pearl: Vienna Under Hitler* (New York: Oxford University Press, 2005), Weyr says that Schiele was tolerated in Vienna in 1942-43.

²⁵ Alexandra Caruso, "Raub in geordneten Verhältnissen," in Gabriele Anderl and Alexandra Caruso, eds., *NS-Kunstraub in Österreich und die Folgen* (Vienna: Studien Verlag, 2005), 98 (DBM 04656). The English translation is DBM 04661. Caruso also explores the close relationship between Dr. Grimschitz and Dr. Franz Kieslinger (who compiled an inventory of the Grünbaum art collection and became an art plunderer): the two had known each other since school days (DBM 04655).

²⁶ Alexandra Caruso, "Raub in geordneten Verhältnissen," in Gabriele Anderl and Alexandra Caruso, eds., *NS-Kunstraub in Österreich und die Folgen* (Vienna: Studien Verlag, 2005), 98 (DBM 04656). The English translation is DBM 04658 – DBM 04660.

²⁷ Jane Kallir, *Saved From Europe* (New York: Galerie St. Etienne, 1999), 20 (D & M 02068).

the public auctions are proof of the fact that Schiele is valued positively both artistically and substantially in the eyes of official authorities.”²⁸

Therefore, while Schiele did have his critics, a somewhat more lenient aesthetic policy prevailed in Vienna. The Nazi leaders in Berlin regarded Vienna as a place with less discipline than in the “old Reich” and generally tolerated a certain Austrian exceptionalism with regard to cultural matters.²⁹ But the fact remains that Schiele’s work was tolerated in Vienna: it was exhibited and sold openly, and as such, had monetary value. Even the Nazi Party newspaper, the *Völkischer Beobachter*, ran an article on the anniversary of his death in 1943 that praised the artist’s work, with lines such as “Schiele bears all the marks of the creative [person], even if he was jarred by the convulsions of his age”; “Just how much expression Schiele could put into a few lines must be felt by everyone who can see his drawings”; and “The fact that Schiele was of high ability, an ability for which German art can only be grateful, makes him important...”³⁰ Again, this article appeared in the Nazi Party paper that also featured many attacks on artists proclaimed “degenerate.”

In 1966, Otto Kallir wrote, “When Hitler came to power in Austria in 1938, Schiele’s work was classified as ‘degenerate’ and banned.” This statement was republished in 2005 in the Neue Galerie’s Egon Schiele exhibition catalogue.³¹ Both Eberhard Kornfeld

²⁸ Alexandra Caruso, “Raub in geordneten Verhältnissen,” in Gabriele Anderl and Alexandra Caruso, eds., *NS-Kunstraub in Österreich und die Folgen* (Vienna: Studien Verlag, 2005), 98 (DBM 04656). The English translation is DBM 04661.

²⁹ For the more lax cultural policies that prevailed in Vienna, see Oliver Rathkolb, “Nationalsozialistische (Un-)Kulturpolitik in Wien, 1938-1945,” and Jan Tabor, “Die Gaben der Ostmark. Österreichische Kunst und Künstler in der NS-Zeit,” in Hans Seiger, Michael Lunardi and Peter Josef Populorum, eds., *Im Reich der Kunst. Die Wiener Akademie der bildenden Künste und die faschistische Kunstpolitik* (Vienna: Verlag für Gesellschaftskritik, 1990), 247-96.

³⁰ Heinrich Neumeyer “Egon Schiele: zum Gedächtnis,” *Völkischer Beobachter* (4 November 1943), 4 (DBM 005840 – DBM 005844).

³¹ Renée Price, ed., *Egon Schiele: The Ronald S. Lauder and Serge Sabarsky Collections* (New York: Prestel, 2005), 67. (DBM 05777)

and Rudolf Leopold also have claimed that Egon Schiele was a “degenerate” artist in the Third Reich. Leopold relates this in the book on his collecting activities written by his son, Diethard Leopold (2003), and Kornfeld stated this in his 2007 deposition.³² Such claims that Schiele was classified as “degenerate” are false.

Certain conclusions can be drawn from the fact that Schiele’s work was not classified as “degenerate”: the Nazi authorities were very practical and would seek to derive financial gain from the seizure and liquidation of Jewish property. This would have applied to Schiele’s artworks owned by Jews and would have induced the Nazis to freeze or confiscate Grünbaum’s artworks.

6. **The Kieslinger Inventory.** Prior to her death, Elizabeth Grünbaum tried to mitigate the persecution that she experienced, and also win the release of her husband, by cooperating with the Nazi authorities. In accordance with the Nazi state’s regulation for property valued in excess of RM 5,000, Lily Grünbaum filed a report registering her and Fritz’s property. Fritz Grünbaum’s art was appraised by a Nazi art historian and art dealer by the name of Dr. Franz Kieslinger.³³ The Kieslinger inventory listed 21 oil paintings, 15 watercolors, 2 pastel drawings, and 278 partial colored drawings, among other objects.³⁴ Kieslinger was later on director for the Weinmüller auction house (an “Aryanized” firm that processed a tremendous quantity of looted art). Kieslinger apparently acted as an appointed consultant of the Nazi regime, and Elisabeth Grünbaum had to pay him to compile the inventory. But the effect of his list was to document the art collection and to communicate this information to the state. Sophie Lillie has noted, “The Kieslinger

³² Diethold Leopold, *Rudolf Leopold—Kunstsammler* (Vienna: Holzhausen Verlag, 2003), 19. For Eberhard Kornfeld’s assertion that Schiele was declared a “degenerate artist,” see his deposition, 41.

³³ Dr. Franz Kieslinger, “Schätzungsgutachten” 20 July 1938 (D & M 000448 – D & M 000449).

³⁴ “Ansuchen um Ausfuhrbewilligung,” 8 September 1938 (D & M 000579 – D & M 000580).

inventory was not only used for the estate registration but also for presentation at the Central Office for Monument Protection, which was responsible for the allocation of an export license.”³⁵ This may or may not be a technically correct statement. As discussed below, the Federal Monuments Office, as it was known until 1940, had an official compile its own inventory (and if they had the Kieslinger inventory, it is unlikely they would they have gone to such trouble). There are also certain differences between the two inventories. But Lillie is right when she says that the Kieslinger inventory communicated the contents of the Grünbaum collection to the state. The document went to the Property Transfer/Declaration Office (Vermögensverkehrsstelle) that tracked and processed the Grünbaums’ property and ended up in the Austrian State Archives.³⁶

7. **The Schenker Inventory.** Elisabeth Grünbaum sought to export these works, and took steps to this end. The extant documentation is an application for an export permit in her name prepared by the storage and transport firm, Schenker & Co. (that does not bear Elisabeth’s signature).³⁷ There is no evidence indicating whether Elisabeth Grünbaum worked with Schenker in filling out the export application: on the application, when asked to list the place of origin, there is a handwritten response of “Vienna” and when asked about the mode of transport, the handwritten response is “Train, ship.” It may be that Elisabeth Grünbaum provided this handwritten information, but with the multiple stamps from Schenker & Co on the document, there is no doubt that the application came through the transport company. The inventory is signed by Dr. Otto Demus (1902-1990) of the Federal Monuments Office, the agency which handled such matters in Austria after

³⁵ Translation of Sophie Lillie, “The Dead City,” 3 (NG 0021).

³⁶ See Austrian State Archives, Archive of the Republic 06, Vermögensverkehrsstelle, VA 44614, Fritz Grünbaum (D & M 00443 – D & M 00459)

³⁷ “Ansuchen um Ausfuhrbewilligung,” 8 September 1938 (D & M 000579 – D & M 000580).

the Anschluss (it was renamed only in 1940).³⁸ It is striking that Demus sketched his own inventory to accompany the export application.³⁹ That he did not rely on the Kieslinger inventory (they differ in overall number and in specific descriptions) indicates that he was examining the works themselves: that is, that they were physically present at the Schenker & Co. premises. That Demus worked for this Nazified monuments agency and compiled an independent inventory is additional proof that the Grünbaum art collection was being tracked by state authorities. Dr. Demus sometimes worked hand-in-hand with representatives of the GESTAPO and other Nazi police agencies in executing the regime's rapacious policies.⁴⁰ However, Demus did emigrate to the United Kingdom in 1939. I am unaware of any evidence that he was complicit in expropriations of Jewish property following his emigration.

This application for export also contains the notation that there has been no charge for a "handling fee" (Manipulationsgebühr), as the figure "0.0" is listed. Any real export would have entailed a fee, and this notation suggests that a seizure of the art collection had already been effected. It is also worth noting that while the art collection had been removed from the Grünbaums' apartment at Rechte Weinzelle 29 in Vienna's 4th District and taken to the premises of Schenker & Co in Vienna's First District, Elisabeth did not remain in her and Fritz' large apartment for long. On 29 October 1938 she moved to a much smaller flat at Hofzeile 27/2/24, where she would have had no place to store the collection. The application for an export permit does not list a destination for the works. In other words, there is no evidence that permission to export the artworks was ever communicated to Elisabeth Grünbaum. Of course, Elisabeth Grünbaum was unable to

³⁸ The Bundesdenkmalamt (Federal Monuments Office) was renamed the Zentralstelle für Denkmalschutz (Central Agency for Monuments Protection) in 1940.

³⁹ "Ansuchen um Ausfuhrbewilligung," 8 September 1938 (D & M 000579 – D & M 000580).

⁴⁰ For Dr. Otto Demus and a representative of the GESTAPO (a Kommissar Schulz or Scholz) collaborating in the seizure of art from the Unger family, see Sophie Lillie, *Was Einmal War. Handbuch der enteigneten Kunstsammlungen Wiens* (Vienna: Czernin Verlag, 2003), 90.

emigrate from the German Reich. It is perhaps worth noting that Elisabeth Grünbaum declared in a June 1939 document that, “I had to pay attorneys fees, treatment expenses, continuous bills for purchases and the costs to prepare emigration, costs for relocation to pay the transport company (or forwarder)—all together about RM 7,000.”⁴¹ In my opinion, this statement would extend to the payment she was forced to render to Schenker & Co. to store the artworks and prepare them for export. In short, there is no doubt that the Grünbaum art collection was housed with Schenker & Co. in 1938.

The Nazis appointed an “Aryan” trustee, Dr. Ludwig Rochlitzer (1880-1945), who required the Grünbaums to pay him for his “services.”⁴² He charged them exorbitant sums: e.g., RM 3,000 in unexplained expenses on 31 January 1939 plus a fee of RM 2,500 (the latter alone more than an average worker’s annual income). According to the 6 December 1938 “Proclamation of the Regulation Concerning the Utilization of Jewish Property,” the Nazi appointed trustee had responsibility for all the assets (“Vermögen”) of the affected party.⁴³ According to this law, only the trustee would have had the power to make the contract with Schenker & Co. There is no extant evidence that Rochlitzer himself ever obtained possession of the artworks (although note that all the files from the Department of Foreign Exchange, or the Devisenstelle, were destroyed after the war by Austrian authorities). Other portions of the Grünbaums’ property were seized and liquidated, including Fritz and Elisabeth Grünbaum’s jewelry.

8. **Evidence of Nazi Confiscation or Spoliation.** There is substantial evidence that the Nazis confiscated or otherwise spoliated the Grünbaum art collection: first, as I will detail

⁴¹ Elisabeth Grünbaum, “Verzeichnis über das Vermögen der Elisabeth Sara Grünbaum,” June 1939 (DBM 000467 - DBM 000468).

⁴² Dr. Ludwig Rochlitzer to Elisabeth Grünbaum, 31 January 1939 (D & M 00255 – D & M 00256).

⁴³ “Proclamation of the Regulation Concerning the Utilization of Jewish Property,” in the *Gesetzblatt für das Land Österreich* (6 December 1938), Nr. 633/1938. A lawyer from Munich, Dr. Alexander Bayer, was also charged with facilitating the “Aryanization” of the Grünbaum property (D & M 000255 – D & M 000256).

below, it is clear that once the works entered Schenker & Co., there was no way for Fritz or Elisabeth Grünbaum, or Elisabeth's sister, Mathilde Lukacs, to remove it from this Nazified agency. Second, a Jewish Property Declaration filled out by Elisabeth Grünbaum in June 1939 indicates that all of her and her husband's assets, including the art collection, had been frozen, and were subject to seizure by various Nazi agencies.⁴⁴ Third, when her husband died in 1941, she reported that the art collection was no longer among the remaining assets.⁴⁵

Sophie Lillie has written, "... during the hearing of Fritz Grünbaum's estate in 1941 ... Elisabeth Grünbaum's recorded testimony stated that there was no existing estate. Likewise, her declaration in 1942, a few days before her deportation, revealed no liquid assets."⁴⁶ This suggests that the collection had already been seized. This would be consistent with Elisabeth Grünbaum's June 1939 Property Declaration, which bears stamps that the blocking of all the major assets had been completed. If the art had been returned to Elisabeth Grünbaum, her sister Mathilde, or any other family member, Elisabeth would have had to file forms with the Nazi authorities to account for it, and it is clear from available records that such restitution or transfer did not happen. Also, it would have been nearly impossible for Mathilde Lukacs to recover the art collection: she had left Austria for Belgium in August 1938—that is, a month before the application for an export permit (when the collection was clearly in the hands of Schenker & Co.). It is important to recall that the Grünbaum art collection included not only Austrian modernist works that had monetary value, but also objects by Old Masters that were coveted by the Nazi leaders. The Nazi officials would not have let the Lukacs art out of the country—

⁴⁴ Elisabeth Grünbaum, "Vermögensbekenntnis" 19 July 1939, Österreichisches Staatsarchiv, Archiv der Republik 06 VA 44614, Fritz Grünbaum (STHB 000516).

⁴⁵ Fritz Grünbaum, "Todfallsaufnahme" (declaration of death) signed by Elisabeth Grünbaum, 14 January 1941 (D & M 00053 – D & M 00057).

⁴⁶ Translation of Sophie Lillie, "The Dead City," 4 (NG 0022).

especially in Vienna where Adolf Eichmann established an extraordinarily efficient expropriation operation to seize the property of Jews leaving the country (more on that subject below).

Furthermore, as of 18 November 1938 the Nazi authorities themselves took the position that any Jewish property listed in the Property Declarations was effectively confiscated and available to the Reich. This is communicated in an 18 November 1938 from Dr. Schultze-Schlutius in the Reich Ministry of Economics, as he detailed categories of assets and also certain exemptions from this policy (the property of non-Jewish spouses, for example).⁴⁷ As far as the Reich Economics Ministry was concerned, once assets were listed in a Jewish Property Declaration, they were effectively seized.

9. **Absence of Documentation Indicates that Mathilde Lukacs Never Recovered**

Artworks. There is an absence of documentation from any of the Nazi agencies showing the location of the Grünbaum art collection following 30 June 1939. Certain inferences may be drawn from this absence. First, as noted above, standard practice would have been to pass the property along to the VUGESTA or another Nazi agency for liquidation once Fritz Grünbaum and Elisabeth Grünbaum were either dead or out of the country (which would have been in 1942). That there is no evidence that the art collection was referred for liquidation strongly suggests that the collection left Schenker and was transferred to an “Aryan” prior to 1940. After 1940, the VUGESTA was set up and liquidation according to customary practices could be executed. Second, if Mathilde Lukacs took the works out of the Schenker warehouse after the war, she would have had

⁴⁷ Dr. Schultze-Schultius, Reich Ministry of Economics to Herren Oberfinanzpräsidenten and Herren Leiter der Devisenstelle Wien (Head Finance President and Leader of the Foreign Currency Office in Vienna), 18 November 1938, in Bundesarchiv (German Federal Archives) R 7/4740.

to produce a receipt or some documentation of her ownership of the property. Schenker, in return, would have provided Mathilde Lukacs with a receipt after handing over the works. There is no extant documentation of either kind. Third, the Allies Monuments, Fine Arts and Archives officers, as well as the members of the OSS Art Looting Investigation Unit, knew that Schenker and Co. was complicit in the Nazis' plundering operations. The MFA&A practice would have been to secure the artworks in Schenker's facilities and send them to one of the Central Collecting Points (CCPs) for review. As noted above, Fritz Grünbaum's art never passed through one of the CCP's. In other words, the extant documentation makes it highly improbable that Mathilde Lukacs went to Vienna after the war and somehow removed the art from Schenker.

Because we do not know where the artworks were stored, or in whose possession they were, from 1939 until 1952, it is difficult to know what to make of an application made in Mathilde Lukacs's name by attorney Dr. Rudolf Skrein on 16 June 1954 for a declaration of death for her sister, Elisabeth, or Skrein's withdrawal of the application a month later.⁴⁸ But this behavior, which Sophie Lillie describes as "paradoxical," sheds no light on whether she was in possession of the artworks or not.⁴⁹ What is clear is that the withdrawal of the application and the absence of any other court declaration of heirship, no heir of Fritz Grünbaum, including Lukacs, could take the art collection.

10. Eberhard Kornfeld's Acquisition of Grünbaum's Artworks. Eberhard Kornfeld was an experienced art dealer with clear knowledge of both the rules of selling artworks (the consigner needed to provide proof of ownership), and of Nazi art looting. During the 1930s and 1940s, Kornfeld had been the President of the Art Dealers Association in

⁴⁸ Translation of Sophie Lillie, "The Dead City," 5 (NG 0023).

⁴⁹ Translation of Sophie Lillie, "The Dead City," 5 (NG 0023).

Switzerland (Kunsthandelsverband der Schweiz or KHVS), an association of prominent dealers--many of whom trafficked in looted works during the war.⁵⁰ This would have afforded him considerable knowledge of the issues surrounding Nazi looted art. The KHVS took steps to lobby the Swiss government about issues pertaining to looted art both during and after the war. More will be said below about Kornfeld's knowledge of the complex of issues surrounding Nazi art plundering, but suffice it to say, he was very sensitive to these issues. He was also listed in a German government report from 2001 that listed him among the best-known dealers involved in the largest transactions involving cultural property during the war (nearly all of those listed trafficked in looted art).⁵¹ It is also telling that Kornfeld said to Swiss journalist/historian Thomas Buomberger that when Kornfeld bought the artworks from Mathilde, she informed Kornfeld that they came from "the family's old private possession in Vienna."⁵² He would therefore have known at the time, in the early to mid-1950s, that these works had changed hands due to an inheritance; this would have provided an even more compelling reason for Kornfeld to ask for proof of Mathilde's good title.

Since 2000, Eberhard Kornfeld has made contradictory statements about how he obtained the artworks, and this must raise doubts about the veracity of his account. As Sophie Lillie has noted, Kornfeld "went so far as to deny [the] existence [of correspondence with

⁵⁰ Esther Tisa Francini, Anja Heuss, and Georg Kreis [the "Bergier Report"], *Raubgut – Fluchtgut. Der Transfer von Kulturgütern in und über die Schweiz 1933 – 1945 und die Frage der Restitution* (Zurich: Chronos Verlag, 2001), 63-64 (DBM 05095 – DBM 05096). The translation is DBM 05109 – DBM 05110.

⁵¹ Declaration of the German Federal Government, Provinces, and Leading Associations regarding the Discovery and Restitution of NS-Persecutees Seized Cultural Property, in particular Jewish Property (Erklärung der Bundesregierung, der Länder und der kommunalen Spitzenverbände zur Auffindung und zur Rückgabe NS-verfolgungs-bedingt entzogenen Kulturgutes, insbesondere aus jüdischen Besitz), *Handreichung* (Bonn/Berlin: BKM, 2001), 36 (DBM 04991).

⁵² Thomas Buomberger, "Memorandum in Regard to Gallery Kornfeld – Egon Schiele's 'Dead City III' (previously 'Dead City I'), 2 (DBM 04697). According to Tim Reif's notes of a 13 March 1998 conversation with Eberhard Kornfeld, the dealer said he had not idea that the artworks were once in the possession of Fritz Grünbaum, although he reportedly reversed this statement in a 14 January 1998 telephone conversation with Paul Langner (D & M 00125 and D & M 00158).

Mathilde Lukacs].⁵³ Eberhard Kornfeld also testified that he did not know that Fritz Grünbaum had owned the works that Mathilde Lukacs provided him until the late-1990s. This is not a credible statement. In his 1956 sales catalogue, he lists Fritz Grünbaum in the provenance for the painting *Dead City III*.⁵⁴ Furthermore, the then valid catalogue raisonné for Egon Schiele's oil paintings, written by Otto Kallir listed Grünbaum in the provenance of other works that Mathilde Lukacs supposedly sold him (*Self-Seer I, Black Girl, Dead City III*).⁵⁵ Kornfeld admitted in his May 2007 deposition that he had consulted Otto Kallir's catalogue raisonné and inserted the Fritz Grünbaum provenance based on this source.⁵⁶ Furthermore, he noted in this May 2007 deposition with regard to the Gutekunst & Klipstein catalogue of 1956 that all objects numbered 1 through 56 had the same provenance: considering that *Dead City* was object number 1 (and was listed as a work from the Grünbaum collection), and the Drawing in question in *Bakalar v. Vavra* was object number 51, the logical conclusion would have been that he knew that the latter also came from the Grünbaum collection.⁵⁷ In the same deposition, he claimed that at the time he had never heard of Fritz Grünbaum.⁵⁸

11. Otto Kallir's Knowledge that He was Acquiring Fritz Grünbaum's Artworks from

Kornfeld. In 1956, Otto Kallir, who had emigrated from Vienna to New York in 1939 (via Switzerland and Paris), purchased the Grünbaum Schieles, including *Dead City III*.⁵⁹ Otto Kallir also knew that the Schieles he bought from Kornfeld came from Fritz Grünbaum. From Kallir's 1928 correspondence with Grünbaum, it is clear that Otto

⁵³ Translation of Sophie Lillie, "The Dead City," 6 (NG 0024).

⁵⁴ Gutekunst & Klipstein, Egon Schiele. Katalog zur Ausstellung Gutekunst & Klipstein 1956 (D & M 00634 – D & M 00659).

⁵⁵ Translation of Sophie Lillie, "The Dead City," 7 (NG 0025).

⁵⁶ Deposition of Dr. Eberhard W. Kornfeld, 25 May 2007, 121.

⁵⁷ Deposition of Dr. Eberhard W. Kornfeld, 25 May 2007, 120.

⁵⁸ Deposition of Dr. Eberhard W. Kornfeld, 25 May 2007, 109.

⁵⁹ The receipt for Otto Kallir's purchase of the artworks from Gutekunst & Klipstein (18 September 1956) (KAL 001 - KAL 001-08).

Kallir had access to and knowledge of Grünbaum's entire collection. As noted above, Otto Kallir and Fritz Grünbaum knew each other personally in pre-Anschluss Vienna. Grünbaum's ownership of works by Schiele was recorded in both Kallir's 1930 catalogue raisonné and in the Gutekunst and Klipstein catalogue for the 1956 sale.

12. **Schiele in the United States.** While there was a circle of dealers, collectors, and other enthusiasts of Schiele in Austria, there were far fewer fans in the United States, especially in the 1950s and early 1960s. As noted above, Schiele's work was generally unknown outside Austria. Furthermore, it had been mostly collected by murdered Jews. The market was therefore limited, although it was steadily growing and prices inched upwards. However, there was still the perception that Schiele's art was transgressive: Otto Kallir, for example, claimed in 1966 that the Nazis had banned Schiele. From the mid-1950s up until David Bakalar acquired the Schiele drawing in November 1963, there was a limited number of collectors of Schiele's works.

But those individuals who were selling and collecting works that had been in Europe during the Third Reich were put on notice that they had to take care to research the provenance. As I will elaborate in greater detail below, there were warnings from the U.S. government and also considerable publicity about Nazi art looting.

13. **"Red flags" Preceding Sotheby's 2005 Bakalar Consignment.** When Sotheby's agreed to take the Drawing on consignment in 2005, they should have known that there were questions surrounding its provenance. For starters, the name of Eberhard Kornfeld should have been a "red flag." There is evidence that Eberhard Kornfeld dealt with Nazis and sold objects with falsified provenances: he is listed in both German and Swiss

governmental reports as someone who trafficked in Nazi looted artworks.⁶⁰ Once the name Grünbaum appeared among former owners, that too would have been a cause for great concern. The investigation and publicity surrounding *Dead City III*, when it was seized in 1998 by New York District Attorney Robert Morgenthau, would have been cause for great caution. Prior to the auction, Sotheby's was warned by Erika Jakobovits of the Jewish Community in Vienna that the drawing was stolen from Fritz Grünbaum.⁶¹ Sotheby's has one of the leading experts in the Holocaust era restitution field in Lucian Simmons. While Simmons would certainly have been aware of problematic aspects regarding the Drawing and its Grünbaum provenance, he and his colleagues nonetheless ignored the "red flags," transported the Drawing to London, and auctioned it.

14. **Previous Scholarly Sources.** Although there is some scholarly literature on Fritz and Elisabeth Grünbaum and the fate of their art collection, much of it is outdated or weak. The best scholarship, in my opinion, is by Sophie Lillie and Thomas Buomberger. However, these scholars were severely hampered by a lack of access to as wide array of documentation as is currently available. For example, Buomberger had never seen the books and records of Eberhard Kornfeld's gallery, but instead wrote a chapter based on Kornfeld's claim about what the documents said.⁶² I also understand that Buomberger was forced by contract to have Kornfeld approve the chapter before he published it, and that Kornfeld did so. Many scholars have relied on Buomberger's account, which represents Kornfeld's assertion that he obtained the documents from Mathilde Lukacs

⁶⁰ Declaration of the German Federal Government, Provinces, and Leading Associations regarding the Discovery and Restitution of NS-Persecutees Seized Cultural Property, in particular Jewish Property (Erklärung der Bundesregierung, der Länder und der kommunalen Spitzenverbände zur Auffindung und zur Rückgabe NS-verfolgungs-bedingt entzogenen Kulturgutes, insbesondere aus jüdischen Besitz), *Handreichung* (Bonn/Berlin: BKM, 2001), 36 (DBM 04991); and Esther Tisa Francini, Anja Heuss, and Georg Kreis [the "Bergier Report"], *Raubgut – Fluchtgut. Der Transfer von Kulturgütern in und über die Schweiz 1933 – 1945 und die Frage der Restitution* (Zurich: Chronos Verlag, 2001), 63-64 (DBM 05095 – DBM 05096). The translation is DBM 05109 – DBM 05110.

⁶¹ Erika Jakobovitz to Andrea Jungmann, Sotheby's Vienna, 7 February 2005 (D & M 1036 – D & M 044).

⁶² Thomas Buomberger, *Raubkunst – Kunstraub. Die Schweiz und der Handel mit gestohlenen Kulturgütern zur Zeit des Zweiten Weltkrieges* (Zurich: Orell Füssli, 1998).

and that Kornfeld had not heard of Fritz Grünbaum until the late-1990s. In short, I believe that newly available sources make it possible to superseded all existing accounts.

15. **The Arc of Understanding.** It is important to understand that frustrating decades were spent searching for information about the fate of Fritz and Elisabeth Grünbaum's art collection. For example, according to the declaration of Rita Reif, who acted under the assumption that she and her husband Paul were rightful heirs, Otto Kallir promised them in the 1960s that he would assist them in their efforts to track the missing artworks.⁶³ His promise yielded minimal returns. To take another example, historian Tina Walzer noted that she searched the archives of the Federal Monuments Office (Bundesdenkmalamt) in Vienna during the 1990s in an attempt to locate relevant documents, but found nothing.⁶⁴ Yet, a few years later, researchers for the Jewish Community in Vienna (IKG) found the 1938 inventory from Schenker and Co.⁶⁵ One would logically conclude that either a researcher made an error, or the document was simply not in the archives (or accessible) until much later. "Hurdles" faced by Holocaust victims and heirs are often set up by those who have a direct financial interest in concealing the truth. Others related to government inefficiency, bureaucracy, and decentralized or inefficient archives. Still other hurdles relate to the enormity of the underlying crime, which spans numerous countries, languages, and jurisdictions.

Although there have been challenges to understanding what transpired in the case of Fritz and Elisabeth Grünbaum, extraordinary efforts have been undertaken to advance research into this history: the Grünbaum heirs did a commendable job accumulating information; the Jewish Community in Vienna (the IKG) has turned up important documents and

⁶³ Rita Reif Declaration, Affidavit, 24 February 2006, paragraphs 97-101.

⁶⁴ Tina Walzer, "List of Archives and Documents" 1 September 1998 (D & M 0339 D & M 0341).

⁶⁵ "Ansuchen um Ausfuhrbewilligung," 8 September 1938 (D & M 000579 – D & M 000580).

commissioned helpful reports; and the team at the Büro für Genealogie led by Herbert Gruber in Austria has been particularly impressive—especially with regards to the careful analysis given to extant documentation. A number of other experts, including Dr. Kathrin Höfer and Dr. Alexander Joll have also enhanced our understanding of the crucial events and issues. The office of the District Attorney in New York, which has researched the provenance of another Grünbaum painting, *Dead City III*, and the office of U.S. Attorney in New York (in particular Sharon Levin and Jane Levine), also contributed greatly to the investigation into the Grünbaums’ art collection. The discoveries and analysis of these experts helps explain why what is in my report below was not understood earlier by the Grünbaum heirs. I am building upon the work of many others.

16. Ownership of Artwork: There is strong circumstantial evidence indicating that Fritz Grünbaum had the Schiele drawing in question, *Seated Woman with Bent Left Leg (Torso)*, 1917 (the Drawing) in his collection.⁶⁶ Although no inventory of Fritz Grünbaum’s collection identified the Drawing specifically by name and dimensions, there is compelling evidence that the Drawing was in Fritz Grünbaum’s collection. First, the evidence includes the inventory compiled by Nazi functionary Dr. Franz Kieslinger in July 1938 (item # 37, listed as “large drawings by Schiele, 55 works colored, 1,200 [RM]). Following this, the sale by Gutekunst and Klipstein in 1956 to Otto Kallir, and the documentation that constitutes the provenance, leads me to believe that the Drawing in question was in Grünbaum’s collection.⁶⁷

⁶⁶ For *Seated Woman with Bent Left Leg (Torso)*, 1917, Jane Kallir, *Egon Schiele: Complete Works* (1st edition, New York: Abrams, 1990; exp. Ed. New York: Thames and Hudson, 1998), object 1974 (P 0331).

⁶⁷ Dr. Franz Kieslinger, “Schätzungsgutachten” 20 July 1938 (D & M 000448 – D & M 000449). The receipt for Otto Kallir’s purchase of the artworks from Gutekunst & Klipstein (18 September 1956) (KAL 001). It appears that the object delineated as “51) 3677 – Sitzende mit angezogenem linkem Bein – Schwarze Kreide und Tempera. Fr 650” is the work in question. This would translate as “Sitting Model with Bent Left Leg. Black Chalk with tempera.” See

17. Evidence of Nazi Control of Schenker & Co. When Fritz Grünbaum was arrested and sent to Dachau, the collection was registered with the Nazi state (more specifically, the National Socialist Office for Property Administration) and entrusted to Schenker and Co. The document where Schenker and Co. apply for an export permit for the Grünbaum art collection in 8 September 1938 proves that the art entered into the possession of the shipping company: if the works had not been in their custody, the Schenker officials would not have filed an export application on behalf of Elisabeth Grünbaum.⁶⁸ This document therefore shows that artworks were removed from the Grünbaum apartment and entrusted to Schenker and Co.

Schenker and Co. was an instrument of Nazi plundering. Since 1931, it had been owned by the German Reich Railway (Deutsche Reichsbahn)—or rather, its subsidiary, the Verkehrs-Kredit-Bank--and it had extremely close ties to the National Socialist government.⁶⁹ Historian Herbert Matis notes that Schenker was “indirectly owned by the state and was therefore far more subject to the influences of politics than purely private companies.”⁷⁰ The headquarters of the company had been moved from Vienna to Berlin in 1931, and this facilitated cooperation with the Nazi regime. In this way, it is comparable to certain other companies in the Third Reich, such as Degussa, a company that smelted dental gold taken from Holocaust victims and gold looted from countries conquered by Nazi Germany, and produced Zyklon B, the cyanide gas that was used to

also the research materials used by Jane Kallir for her catalogue raisonné of the work of Egon Schiele, object 1974 (KAL 0087).

⁶⁸ Schenker & Co. [signature illegible], application for export permit for Grünbaum collection, 8 September 1938 (STHB 000522 – STHB 000526).

⁶⁹ See Herbert Matis, “Die Spedition Schenker & Co. während des Dritten Reiches,” in Alice Teichova, Herbert Matis, and Andreas Resch, eds., *Business History* (Vienna: OGU, 1999), (DBM, 03079).

⁷⁰ Herbert Matis, “Die Spedition Schenker & Co. während des Dritten Reiches,” in Alice Teichova, Herbert Matis, and Andreas Resch, eds., *Business History* (Vienna: OGU, 1999), (DBM, 03082).

kill people in Auschwitz.⁷¹ Of course, both Schenker and Degussa fired all Jewish employees (a considerable number in the case of Schenker because the company had been founded by Jewish owners).

Schenker & Co. included a number of notorious Nazis in leadership positions, included SS-Brigadeführer Dr. Edmund Veesenmayer, who served on the company's "Monitoring Committee." Veesenmayer played a key role in the persecution of Central European Jews (most notably he teamed with Adolf Eichmann in Vienna and then in Budapest as they helped implement the regime's genocidal policies).⁷² The extant documentation shows that Schenker officials were completely cognizant that they were transporting and storing seized property and that this property was being liquidated (sold off) for the benefit of the state. As Herbert Matis notes, "Schenker transported nearly all of the war materials seized in France, Holland and Belgium..." and this included many thousand works for art (over 20,000 works by one estimate).⁷³ Schenker was therefore a cog in the Nazi plundering machine. This is illustrated, for example, in historian Götz Aly's study of plunder in the Third Reich. More specifically, Professor Aly writes of the exploitation of Greek assets during the war: "Transport was organized by the Schenker company, which enjoyed a monopoly in Greece. Schenker's representative in Salonika also served as a spy for the Security Service" (the SD, which was initially headed by Reinhard Heydrich, who was also an architect of the genocide).⁷⁴ That Schenker would be given a monopoly in the occupied country and that its local chief was an intelligence asset for the Nazi regime is indeed very telling. While circumstances were somewhat different for

⁷¹ Peter Hayes, *From Cooperation to Complicity: Degussa in the Third Reich* (Cambridge: Cambridge University Press, 2004).

⁷² Herbert Matis, "Die Spedition Schenker & Co. während des Dritten Reiches," in Alice Teichova, Herbert Matis, and Andreas Resch, eds., *Business History* (Vienna: OGU, 1999), (DBM, 03083).

⁷³ Herbert Matis, "Die Spedition Schenker & Co. während des Dritten Reiches," in Alice Teichova, Herbert Matis, and Andreas Resch, eds., *Business History* (Vienna: OGU, 1999), (DBM, 03096 – DBM 03097).

⁷⁴ Götz Aly, *Hitler's Beneficiaries: Plunder, Racial War, and the Nazi Welfare State* (New York: Metropolitan Books, 2006), 246.

Schenker in the Reich (e.g., there was no state-granted monopoly), Schenker's business depended on maintaining the confidence of the Nazi leaders. Schenker was not going to return valuable assets to Jews. It is also important to recall that much of Fritz Grünbaum's collection concerned art that was coveted by many Nazis (works by Dürer, Rembrandt, Spitzweg, and Waldmüller, for example). We know that the collection was kept intact during the war (with Gutekunst/Kornfeld selling approximately 80 percent of Fritz Grünbaum's collection in the mid-1950s).⁷⁵

18. **Confiscation or spoliation of Artwork.** To consider this issue, it is helpful to have some background information on the Nazi expropriation policies in the Third Reich—and more specifically, in Austria after the Anschluss that occurred in March 1938.

The Nazis pioneered the strategy of expropriating all of a Jewish person's property in the city of Vienna. Referred to by historians as the "Vienna Model," the Nazi authorities in the city developed and refined a process right after the Anschluss in March 1938 by which they could seize nearly all of a Jewish person's property. The architect of the Vienna Model was Adolf Eichmann (later, the key figure in organizing deportations from across Europe to the death camps). Eichmann set up the Central Office for Jewish Emigration (*Zentralstelle für jüdische Auswanderung*) in a palace confiscated from the Rothschild family on the Prinz-Eugenstrasse (just down the road from the Austrian National Gallery in the Belvedere Castle). Eichmann's scheme, which he created and implemented beginning in late-March 1938—was to denude Jews of all their property prior to permitting them to emigrate.⁷⁶ By using punitive taxes, such as the Reich Flight

⁷⁵ The figure of 80 percent comes from Thomas Buomberger's analysis of extant documents from Eberhard Kornfeld. See Thomas Buomberger, "Memorandum in Regard to Gallery Kornfeld – Egon Schiele's 'Dead City III' (previously 'Dead City II'), 2 (DBM 04697).

⁷⁶ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin, 1963), 42.

Tax (Reichsfluchtsteuer), Eichmann and his associates “achieved” a notable increase in efficiency as plunderers.

As scholar Hannah Arendt described, “When everything was ready and the assembly line was doing its work smoothly and quickly, Eichmann ‘invited’ the Jewish functionaries from Berlin to inspect it. They were appalled. ‘This is like an automatic factory, like a flour mill connected with some bakery. At one end you put in a Jew who still has some property, a factory, or a shop, or a bank account, and he goes through the building from counter to counter, from office to office, and comes out at the other end, without any money, without any rights, with only a passport on which it says: ‘You must leave the country within a fortnight. Otherwise you will go to a concentration camp.’”⁷⁷ The efficiency of Eichmann’s Zentralstelle was borne out by the statistic that in the eight months after the Anschluss in March 1938, 45,000 Jews in Austria emigrated (and had their property “processed”) as compared to no more than 19,000 in the “old Reich” during the same period.⁷⁸

Second, Eichmann and others in the Nazi state who were most responsible for the persecution of Jews and other victims developed an artificial and sanitized vocabulary that they used when describing their policies and actions. When Eichmann was tried in Jerusalem in 1960 and 1961, he apologized at one point to the presiding Judge Landau, who interrogated him in German, explaining, “Officialesse [Amtsprache] is my only language.”⁷⁹ In other words, the language of Nazis, especially those in the bureaucratic

⁷⁷ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin, 1963), 45-46.

⁷⁸ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin, 1963), 44. See also David Cesarini, *Becoming Eichmann* (New York: Da Capo, 2006), 61-69 (DBM 04840- DBM 04850).

⁷⁹ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin, 1963), 48.

administration responsible for the persecution of Jews and other victims, often concealed the true nature of the policies and consequences.

It is also important to appreciate that in addition to hundreds of regulations aimed at attaching Jews' property in the Reich, there were myriad Nazi agencies carrying out this task. The Gestapo, Eichmann's Central Agency, later the VUGESTA (which was created in 1940), were but three of many. Basically, any person or agency that wielded power would make efforts to secure property. The Nazi Party Governor (Gauleiter) in Vienna, Odilo Globocnik, suggested in an 8 July 1938 document, "in agreement with the Gestapo ... all household objects that are in the residences of departed Jews, but have not been confiscated ... should be auctioned off and the profits directed to an individual account, its disposition to be decided upon after a hearing directed against the departed Jew."⁸⁰

This initiative indicates not only how pervasive the anti-Jewish measures were, but also shows how there was not always a significant difference in the fate of Jewish property that had been "confiscated" from that which came into a Nazi agency's hands. The result was that the victim lost control over the property and was deprived of any compensation.

With the myriad laws regarding Jewish property, the Nazi authorities not only required the registration of artworks, but made it nearly impossible for Jews to dispose of property. For example, in the 3 December 1938 "Order Concerning the Utilization of Jewish Property," the section in Chapter IV concerning "Jewels, Gems, and Objects of Art" states, "Jews are forbidden to acquire, pawn or sell objects of gold, platinum, or silver as well as precious stones and pearls. Such objects, except in the case of existence

⁸⁰ Gabriele Anderl, Edith Blaschitz, Sabine Loitfellner, *Arisierung von Mobilien* (Vienna: Österreichische Historikerkommission, 2002), 50. The German reads, "im Einvernehmen mit der Geheimen Staatspolizei ... alle jene Einrichtungsgegenstände, welche in Wohnungen geflüchteter Juden stehen, aber nicht beschlagnahmt wurden ... im Versteigerungswege zu verkaufen und den Erlös einem eignen Konto zuzuführen, über dessen Verwendung nach Durchführung der Verfahren gegen die geflüchteten Juden entschieden wird."

of attachments on behalf of a non-Jewish creditor at the time when this decree goes into effect may only be acquired by public purchasing offices, established by the Reich. The same applies to other jewels and objects of art insofar as the price of the individual objects exceeds one thousand Reichsmarks.”⁸¹ This decree, it should be noted, came fairly early on in the larger scheme of Nazi laws aimed at depriving Jews of their property; subsequent measures restricted the range of action in terms of selling or transferring property even further.

19. **The Reich Flight Tax.** The Reich Flight Tax actually dated back to 1931 and the later years of the Weimar Republic, but the Nazis increased the amount tremendously and used it for the purposes of denuding emigrating German Jews of their assets.⁸² Other taxes imposed on émigrés helped serve this purpose: for example, the “atonement tax” (Sühneleistung) of 20 percent that was imposed on 14 November 1938 after the Kristallnacht pogrom was raised on 21 October 1939 to 25 percent.⁸³ Officially, the Reich Flight Tax was 25 percent, but in most cases, it proved to be much higher than this. The Nazi authorities also required émigrés to submit a report of all assets (as did Lilly Grünbaum); once this property was registered, the émigrés and their property were effectively in their clutches.

20. **Jewish Property Declarations.** There were numerous laws passed during the Third Reich requiring Jews to report their property (and then providing mechanisms for

⁸¹ Translation of Document 1409-PS (from the IMT), “Order Concerning the Utilization of Jewish Property of 3 December 1938,” RGBI I, Page 1668) (DBM 005806 – DBM 005811).

⁸² For more on the Reich Flight Tax, see Michael Gruber and Michael Tüchler, *Rechtsfragen der Entziehung, Bereinigung und Rückstellung von Wertpapieren* (Vienna/Munich: Oldenbourg Verlag, 2004), 46-49. They note how increasingly more émigrés were affected by the law, as, for example, the tax barrier was reduced in 1934 from RM 200,000 to 50,000, and other exemptions were eliminated.

⁸³ For the 14 November 1938 decree (Verordnung über Sühneleistung der Juden), see the RGBI Nr. 189, I, S. 1579; and for the 21 October 1939 decree, (Zweite Durchführungverordnung über die Sühneleistung der Juden), see RGBI Nr. 207, S. 2059.

seizure). Historian Lucy Dawidowicz counted over 400 such measures aimed at implementing the “Aryanization” policy of the regime.⁸⁴ Most of the measures were already in place by June 1939: for example, “The Decree for the Reporting of Jewish Owned Property of 26 April 1938,” stated in Article 1 that “Every Jew (Article 5 of the First Regulation under the Reich Citizenship Law of 14 November 1935, RGBI I, 1333), shall report and evaluate in accordance with the following instructions his entire domestic and foreign property and estate on the day when this decree goes into force”; and, more specifically, that Jews must report all property valued in excess of RM 5,000 (Article 3).⁸⁵ Obviously, this would have applied to Fritz Grünbaum and his art collection. The 26 April 1938 decree was issued by the Delegate for the Four Year Plan (Hermann Göring) and the Reich Minister of the Interior (Wilhelm Frick), with the intent of enriching the Nazi state (and thereby helping fund the German war machine). To repeat, Elisabeth Grünbaum was obliged by law to list the art collection. The collection was known to the Nazi authorities via, at a minimum, the export permit application of 8 September 1938. It would have been unfathomably reckless for Elisabeth Grünbaum not to reference the art collection in this document. As noted above, it also would have been out of character for her. The other documents, such as the Kieslinger inventory, show that she was trying to abide by the official regulations—if only because it offered the best hope for gaining the release of her husband.

⁸⁴ Lucy Dawidowicz, *The War Against the Jews* (New York: Holt, Rinehart and Winston, 1975), 58, 95-106. See also Jonathan Petropoulos, *Art as Politics in the Third Reich* (Chapel Hill: University of North Carolina Press, 1996), 84-85; and Gabriele Anderl, Edith Blaschitz, Sabine Loitfellner, *Arisierung von Mobilien* (Vienna: Österreichische Historikerkommission, 2002), 63. This latter source lists the most important National Socialist laws concerning the confiscation of property: die Zweite Verordnung zum Gesetz über die Wiedervereinigung Österreichs mit dem Deutschen Reich (GBIÖ 37/1938) vom 18. März 1938; Die Verordnung über die Einziehung volks- und staatsfeindlichen Vermögens im Lande Österreich (GBIÖ 892/1938) vom 18. November 1938; das Gesetz über die Aberkennung der deutschen Staatsangehörigkeit und den Widerruf von Einbürgerungen (GBIÖ 892/1939) vom 11. Juli 1939; and die Verordnung über die Behandlung feindlichen Vermögens (RGBL. I. S. 191) vom 15. Jänner 1940.

⁸⁵ “The Decree for the Reporting of Jewish Owned Property of 26 April 1938, RGBL. 1938, Part I, Page 414 (See IMT Document 1406-PS) in Nazi Conspiracy and Aggression, Volume III (Washington, DC: USGPO, 1946), 1001-03 (DBM 005803 – DBM 005805).

The next step of this analysis is to look at the specific documents relating to Fritz and Elisabeth Grünbaum's property: the most important in my opinion being the June 1939 Property Declaration ("Vermögensbekenntnis") signed by Elisabeth Grünbaum.⁸⁶ This document, like the others in the Grünbaum property file, comes from the Austrian State Archives (and more specifically, the Archive of the Republic, which constitutes a subsection of the larger national archive). It represents one of the last extant documents about the Grünbaums' property before their deaths in 1941 and 1942, respectively. Both Fritz and Elisabeth Grünbaum had individual files in the Vermögensverkehrsstelle, or the Property Transfer/Declaration Office, although Elisabeth was filling out forms simultaneously for both herself and her husband, who was incarcerated.⁸⁷ What is most telling is the official stamp placed vertically on the right-hand side of the document: it reads, "blocked by property registration" ("Gesperrt durch Vermögensanmeldung").⁸⁸ I would note that there is a period after "Vermögensanmeldung."—which probably signified an abbreviation: the word "agency" ("Stelle") has probably left out. What is striking about the vertical stamp is that it transcends the various categories, which are arranged hierarchically and numbered I – VI. The stamp itself covers categories I – IV; Category V is labeled "Debts" (Schulden) and Category VI is "Blocked Debts" (Gesperrtes Schulden). But all the categories in the document where she lists property are covered on the right side by the word "blocked." It is also significant that this property was "Gesperrt" or confiscated by the "Property Control Office" (Vermögensanmeldung [stelle]): in other words, an agency acting on behalf of the Nazi regime. The Vermögensanmeldung (registration) was therefore an administrative action that was carried out at the Vermögensverkehrsstelle (the actual agency). This was a

⁸⁶ Elisabeth Grünbaum, "Vermögensbekenntnis" 19 July 1939, Österreichisches Staatsarchiv, Archiv der Republik 06 VA 44614, Fritz Grünbaum (STHB 000516 or D & M 000455).

⁸⁷ For Fritz Grünbaum's Vermögensverkehrsstelle file, see D & M 000443 – D & M 000459; for Elisabeth Grünbaum's Vermögensverkehrsstelle file, see D & M 000460 – D & M 487.

⁸⁸ One might also translate "Gesperrt" as "frozen" or "embargoed."

crucial part of the process of blocking victims' property. The document includes another stamp: "completed" ("Erledigt").

21. **Direct Evidence of Confiscation or Spoliation.** A closer analysis of this June 1939 document yields the following observations. First, it appears that the entire document was completed by Elisabeth Grünbaum. While I am not a handwriting expert, the signature appears to match those of Elisabeth Grünbaum on other documents, including her letter to the Property Transfer (or Declaration) Office (Vermögensverkehrsstelle) on 1 August 1938—the document preceding it in the Bates numbered exhibits.⁸⁹ There are distinctive features to her writing, including the loop in the "E" of her name, and this leads me to believe that Elisabeth herself filled out the form. In the June 1939 "Vermögensbekenntnis," Elisabeth Grünbaum put her signature below, and then added her husband's above. Of course, this was not Fritz Grünbaum's own signature: he was in a concentration camp. The fact that his signature was added in this way suggests that some bureaucrat ordered her to add his name. And indeed, the way that the "I.V." ("Im Vertretung" or "On behalf") bleeds into her signature is again suggestive that she was instructed to add her husband's name. The purpose of including both husband and wife's name was to indicate that the action involved—"the registration" of property—extended to both parties in the marriage. The document not only conveys the message that all of their property was involved in the action, but also that all of it was being seized or otherwise wrested from their control and subjected to spoliation.

The evidence demonstrates that Elisabeth Grünbaum never went through Eichmann's "factory" to emigrate successfully—she apparently remained in the Reich hoping to help effect the release of her husband from imprisonment in a concentration camp and then

⁸⁹ Elisabeth Grünbaum to Vermögensverkehrsstelle (1 August 1938) (STHB 000516).

could not emigrate after his death in January 1941 due to the war. The evidence demonstrates that she paid a fee to the Central Office of Jewish Emigration for RM 1,000. This was a sizeable sum (the average worker in the Third Reich earned about RM 2,000 annually). Elisabeth Grünbaum was also undoubtedly a victim of the Nazi bureaucracy. There are various signs of the vicious racist persecution found in her June 1939 “Vermögensbekenntnis”: for example, that the middle names of “Israel” and “Sara” are included (this was mandated by law in order to identify Jews more easily).

The file of the Grünbaums’ Property Declarations in the Austrian State Archives show how assiduously Elisabeth complied with the Nazis’ regulations. Beginning with the “27 April 1938 List Regarding the Property of Jews” (Verzeichnis über das Vermögen von Juden), each document is filled out with what appears to be painstaking care.⁹⁰ The Kieslinger inventory followed on 20 July 1938, and then on 1 August 1938, Elisabeth Grünbaum signed a property declaration “for Franz Friedrich Grünbaum as per authorization from 16 July 1938.”⁹¹ This Jewish Property Declaration that Elisabeth signed on 1 August 1938 includes a notation of “pictures and graphic works and water colors valued at 5,791 RM.” The value, of course, was derived from the inventory compiled by Dr. Franz Kieslinger that is also found in the file.⁹² It is interesting that Elisabeth filed the first Property Declaration with the precise amount of the Kieslinger valuation, and did so four days prior to Kieslinger dating the appraisal. This suggests that Elisabeth had a draft of his appraisal when she completed the form, but he held off submitting an official document until she had registered with the authorities. Part of the 16 July 1938 Property Declaration includes a power of attorney that allowed Elisabeth to

⁹⁰ Elisabeth Grünbaum (on behalf of “Franz Friedrich (Fritz) Grünbaum, “Verzeichnis über das Vermögen von Juden, 27 April 1938,” 16 July 1938 (D & M 000444 – D & M 0000447).

⁹¹ Dr. Franz Kieslinger, “Schätzungsgutachten” 20 July 1938 (D & M 000448 – D & M 000449); and Elisabeth Grünbaum to the Vermögensverkehrsstelle,” 1 August 1938, (D & M 000454).

⁹² Dr. Franz Kieslinger, “Schätzungsgutachten” 20 July 1938 (D & M 000448 – D & M 000449).

act on her husband's behalf (which he did not sign, and could not sign, because he was incarcerated in a concentration camp).⁹³ A few days later, on 28 July 1938, Fritz Grünbaum's pocket watch and jewelry were appraised at a value of RM 750 (the signature and stamp of Carl Brunner are on the document, as is the stamp of the jeweler Hübner in central Vienna—an establishment that is still in business today).⁹⁴

On 1 August 1938, Elisabeth Grünbaum submitted a handwritten letter to the Property Control Office (Vermögensverkehrsstelle) in Vienna, and enclosed the Property Declaration form.⁹⁵ She noted that her husband was in "protective custody," which is an interesting choice of words. That she adopted the Nazi parlance suggests that she did not want to generate friction or create difficulties with the authorities. The wording is consistent with the argument made above: that she followed the Nazi regulations as precisely as she could.

The Grünbaum file in the Austrian State Archives continues with the Property Declaration (Vermögensbekenntnis) of June 1939 and the receipt for Elisabeth surrendering her jewelry to the Dorotheum auction house, dated 9 November 1939 (more on these documents below).⁹⁶ Subsequently, one finds an undated document titled "List of the Property of Franz Friedrich Israel Grünbaum" (Verzeichnis über das Vermögen des Franz Friedrich Israel Grünbaum).⁹⁷ From the pronouns in the document, it is evident that it was filed by Elisabeth Grünbaum. This document explains that Fritz Grünbaum is currently in the concentration camp of Weimar-Buchenwald and references the Jewish

⁹³ Franz Friedrich Grünbaum, "Vollmacht," 16 July 1938 (D & M 000453).

⁹⁴ Carl Brunner, "Wert 27.4.1938 Herr Franz Friedrich (Fritz) Grünbaum," 28 July 1938 (D & M 000452).

⁹⁵ Elisabeth Grünbaum to the Vermögensverkehrsstelle," 1 August 1938, (D & M 000454).

⁹⁶ Elisabeth Grünbaum (for Fritz Grünbaum), "Vermögensbekenntnis," June 1939 (D & M 000455); and Dorotheum receipt, 9 November 1939, 31 March 1939 (D & M 000456).

⁹⁷ Elisabeth Grünbaum, "Verzeichnis über das Vermögen des Franz Friedrich Israel Grünbaum," n.d. (1939?) (D & M 000458 – D & M 000459),

Property Declaration of 30 June 1939. It lists his assets, valuing them at RM 8,370 (including the RM 5,701 for pictures and graphic works), and notes that his assets are less than they were when listed in accordance with the 27 April 1938 decree (this would have been the 16 July 1938 declaration). This later declaration explains that the difference is due to the fact that the Reich Flight Tax had been paid for RM 17,250 and the Jewish Property Tax (Judenvermögensabgabe) had been paid for RM 8,800. Again, the documents show Elisabeth Grünbaum abiding by Nazi regulations with great care. This document also states that Elisabeth had delivered her jewelry on 31 March 1939 (that the Dorotheum receipt is from November 1939 suggests that there was an intermediary who took some time to pass it along to the state-run auction house). This report also explains that Elisabeth Grünbaum had paid RM 1,000 to the Central Office for Jewish Emigration (Zentralstelle für Jüdische Auswanderung), and that she had sent money to her husband while he was in a concentration camp.

22. Grünbaum Payments of Atonement Tax. Other documents in the file show Elisabeth Grünbaum paying the “atonement tax.”⁹⁸ This payment is accompanied by supporting documentation listing both Fritz Grünbaum’s and Elisabeth Grünbaum’s property as of 12 November 1938, including the “pictures and graphic works,” but also jewelry, silver, rugs, fur, and real estate (in Czechoslovakia).⁹⁹ Their property is collectively valued at RM 44,892, of which RM 44,000 will be the taxable amount for the atonement tax.

Other important documents in the file are the Property Declarations completed by Elisabeth Grünbaum on 27 January 1939. One is for her property and one for her husband’s, although there is some overlap: Elisabeth Grünbaum filled out the two forms:

⁹⁸ Elisabeth Grünbaum to the Vermögensverkehrsstelle, n.d. (D & M 000469 – D & M 000470).

⁹⁹ “Vermögensaufstellung – Stand 12. November 1938” (D & M 000472).

for her own, she listed real estate valued at RM 7,851.37 and “special property” (Sonstiges Vermögen) valued at RM 11,227.¹⁰⁰ For her husband, there are no real estate assets, but a similar sum (RM 11,273) for “special property” (Sonstiges Vermögen). What is especially striking about the first document is that it bears the stamp, “Gildemeester’ Emigration Assistance Program, Vienna IV, Prinz-Eugenstrasse 22 (“Gildemeester”: Auswanderungs –Hilfsaktion, Wien, IV, Prinz-Eugenstrasse 22). The “Gildemeester-Aktion” was a scheme devised to facilitate forced emigration: an operation concentrated in Vienna and Graz, it focused on Jews (as defined by the 1935 Nuremberg Laws) who were not formal members of the Jewish community. Although named after Frank van Gheel Gildemeester (“who had previously helped the Nazis in various ways, thus gaining their confidence”), the program was effectively run by Adolf Eichmann and his associates (it was located in the same palace on the Prinz-Eugen Strasse in Vienna that housed Eichmann’s Central Office for Jewish Emigration).¹⁰¹ To describe the Gildemeester program succinctly, it is fair to say that its aim was to denude emigrating Jews of all property (much like the Central Office more generally). One historian observed, “wealthy Jews were supposed to entrust the banking house K., assigned by the NS-authorities, with their complete property. The trustee was to be responsible for the administration and utilization of the property while a determined percentage of this property was to be earmarked for the financing of the emigration operation.” More specifically, the wealthy Jews placed all of their assets into a trust that was used to help finance the emigration of the broader Jewish community. In return for giving up all of their assets, these wealthy individuals would have some measure of legal representation, as be privileged with “preferential treatment concerning their emigration.”

¹⁰⁰ Elisabeth Grünbaum, “Vermögensbekenntnis,” 27 January 1939 (D & M 00477).

¹⁰¹ See the National Fund of the Republic of Austria for Victims of National Socialism, Press Release Decision No. 24/2005, at <http://www.en.nationalfonds.at/cgi-bin/dynamic?id=20070126072249005&temp>. See also the synopsis of the Austrian Historical Commission on the Gildemeester Aktion at http://www.historikerkommission.gv.at/program/e_projects4.html. More generally, see Theodor Venus and Alexandra Wenck, *Die Entziehung jüdischen Vermögens im Rahmen der Aktion Gildemeester* (Vienna: Oldenbourg, 2004).

About 30,000 Jews escaped from the Reich in 1938-39 through the “Gildemeester-Aktion,” but those entrusting their property lost all of it.

Fritz Grünbaum’s Jewish Property Declaration did not bear the stamp of the Gildemeester program, which indicated that he was not cleared for emigration. Elisabeth did fill out more precise and separate inventories for both her and husband’s property.¹⁰² The document for her husband continues to list the art collection and the original Kieslinger valuation at RM 5,791. It also notes that the Reich Flight Tax and the Atonement Tax had been deducted from his assets, although again, there is no evidence of immediate plans to allow his departure from the German Reich.

As noted above, the June 1939 “Vermögensbekenntnis appears to include the art collection that was part of Elisabeth and Fritz Grünbaum’s assets, and that the stamps that show it was “frozen/blocked by the Property Registration [agency]” extend to the artworks. It should be stressed that the concealment of what was actually transpiring was often the goal of this “officialese”; at a minimum, the language rules were meant to gloss over the pain and suffering caused by the Nazis.

The final boxes at the bottom of the Vermögensbekenntnis of June 1939, which constitute Category VI read, “Blocked Property: Cash and stocks/bonds have been seized through a blocking order of the Foreign Currency Office. Disposal of which is permitted only with the approval of the Foreign Currency Office” (“Gesperrtes Vermögen: Bargeld und Wertpapiere ist durch die Sicherungsbescheid der Devisenstelle gesperrt. Verfügung

¹⁰² “Verzeichnis des Vermögens der Elisabeth Grünbaum,” n.d. (D & M 000478); and “Verzeichnis über das Vermögen des Franz Friedrich Grünbaum,” n.d. (D & M 000480).

darüber nur mit die Genehmigung der Devisenstelle”).¹⁰³ As noted above, it appears that Elisabeth Grünbaum filled out the document herself. She noted that her cash and stocks/bonds had been seized, implying that this had happened earlier. The stamps of the Nazi authorities, dated 19 July 1939, indicate one of two things: either a reiteration that her cash and stocks/bonds had been confiscated, or that all of the Grünbaum property had been attached. We do know that the Grünbaums’ household property was seized or “Aryanized” and then sold off.¹⁰⁴

We also know that Elisabeth and Fritz Grünbaum were forced to relinquish their jewelry, which was sold off by the state-operated auction house, the Dorotheum.¹⁰⁵ This document concerning her jewelry is dated 31 March 1939: several months before the “Vermögensbekenntnis” form was filled out. The stamp “Erledigt” appears to signify that all of the Grünbaum property had been seized. The word “Erledigt” (completed) underscores this. Indeed, the large stamp “Erledigt” casts a shadow over the entire document. Later, in January 1941 after Fritz Grünbaums’ death, Elisabeth Grünbaum filed for a legal declaration that would make her his heir. It is notable that the information that she provided—again, one that was legally binding and would have had grievous penalties for deception or perjury—stated that the art collection was no longer among the remaining assets.¹⁰⁶ The chart titled “Fritz and Lilly Grünbaum development of their assets April 27, 1938 till their death” clearly shows how the Nazi authorities

¹⁰³ Elisabeth Grünbaum (for Fritz Grünbaum), “Vermögensbekenntnis,” June 1939 (D & M 000455).

¹⁰⁴ See the documents provided by Dr. Ludwig Rochlitzer, who oversaw the “Aryanization” of the Grünbaum residence, such as Rochlitzer to Elisabeth Grünbaum, 31 January 1938 (DBM 000487) and Dr. Ludwig Rochlitzer to Elisabeth Grünbaum, 31 January 1939 (D & M 00255 – D & M 00256). See also Hans Veigl, *Fritz Grünbaum: Der leise Weise* (Vienna: Kremayr & Scheriau, 1992).

¹⁰⁵ Dorotheum receipt, 9 November 1939, 31 March 1939 (D & M 000456 and STHB 000517).

¹⁰⁶ Fritz Grünbaum, “Todfallsaufnahme” (declaration of death) signed by Elisabeth Grünbaum, 14 January 1941 (D & M 00053 – D & M 00057).

repeatedly taxed and attached their assets until there was nothing left when Elisabeth was deported to her death in October 1942.¹⁰⁷ The chart below documents this.

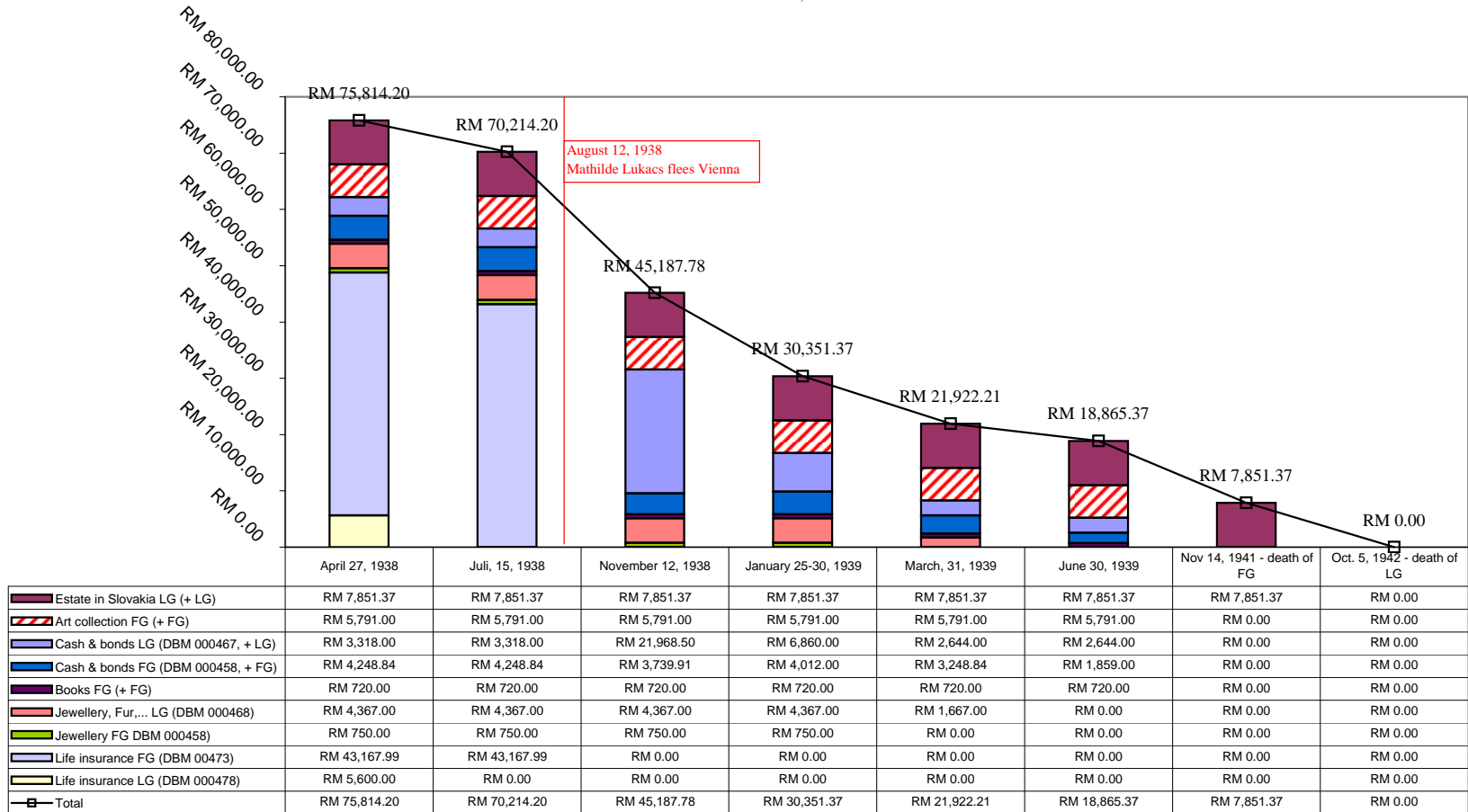
¹⁰⁷ “Fritz and Lilly Grünbaum development of their assets April 27, 1938 till their death.”

Decline of Fritz and Lily Grunbaum's Assets 1938- 1942 According to Nazi Records

Source:

Austrian State Archives, ADR,

Files No VA 44614 - Fritz Grünbaum, DBM000443-459 and VA 34662 Elisabeth Grünbaum DBM000460 - 486



In the June 1939 Jewish Property Declaration, there is a reference to “pictures and graphic works” (Bilder und Graphik). As noted above, they are included in Category IV of the declaration: “Special Property (Cash, Property, Stocks/Bonds, Business Assets) or in German “Sonstiges Vermögen: Bargeld, Guthaben, Wertpapiere, Geschäftsguthaben.” The sum of RM 8,370 encompassed the art collection, which Dr. Kieslinger appraised at RM 5,791 (as well as RM 820 for the jewelry). It must be stressed that Elisabeth Grünbaum was supposed to list all of her and her husband’s assets in this declaration. It would have been a violation of procedure not to do so and hence very dangerous.

23. Problems in Interpreting Documents Designed to Facilitate Looting. In this light, it is helpful to return for a moment to the receipt from the state-operated auction house, the Dorotheum, dated 31 March 1939, that shows that Fritz and Elisabeth Grünbaum’s jewelry was being “purchased.”¹⁰⁸ The document shows that this sale was part of the state-directed economic persecution of the Jewish population (it notes that this measure is according the “Paragraph 14 of the Directive for the Utilization of Jewish Property”). While the document suggests that Elisabeth Grünbaum was compensated RM 820 for the jewelry, the money was never paid out (it would have been applied against a punitive tax bill levied on all Jews). Such taxes offered a way to give the seizures a legal veneer. Elisabeth Grünbaum’s jewelry had been appraised at RM 2,700 and Fritz Grünbaum’s at RM 750, but together, were “sold” for RM 850—which was a bureaucratic cover for the

¹⁰⁸ Dorotheum receipt, 9 November 1939, 31 March 1939 (D & M 000456 and STHB 000517).

theft.¹⁰⁹ The Grünbaums' property was therefore targeted by the Nazi authorities. As noted above, it would be incongruous for the authorities to seize Elisabeth Grünbaum's jewelry, and not do the same with the artworks—especially because some were coveted by Nazi leaders. Regardless whether the Nazis liked specific artworks, they would have seized them because they had value and could have been sold off to generate revenue. The Nazi agencies did not hesitate to seize and liquidate so-called “degenerate art” from Jewish collections. (But note, as I discussed above, Egon Schiele was never a “degenerate” artist and had monetary value inside the Reich).

24. **Schenker & Co. Control as Evidence of Spoliation.** Registering the property with the Property Control Office (a Nazi agency housed in the Ministry of Economy and Labor), and then placing physically in the Schenker & Co. facilities in Vienna was de-facto confiscation. Once the art was in the storage facilities of Schenker and registered with the Nazi agency that was tracking Jewish property in Vienna, it was impossible for either Elisabeth Grünbaum or her sister Mathilde Herzl Lukacs to remove the objects from the actual storage facilities. As Jews in Vienna, they had few, if any, rights and were constantly losing ground to the authorities. That Elisabeth Grünbaum was evicted from her apartment at Rechte Wienzeile 29 by early 1939 at the latest and then forced into increasingly squalid quarters (Hofzeile 27 and Kaasgrabengasse 15), and then finally, the collective Jewish residences at Werdertorgasse 5/2/4a and Marc Aurel Strasse 5/7, is one example. Indeed, after being evicted from the home that she and Fritz Grünbaum had occupied, she tried to conceal herself and live undetected on her own (what Lillie calls “a desperate search for a safe abode”)¹¹⁰; but she was captured by the Nazi authorities and sent to a collective Jewish residence. By late-1941, all remaining Jews were crammed

¹⁰⁹ “Vermögensaufstellung, Franz Friedrich Grünbaum, Elisabeth Grünbaum,” 12 November 1938 (D & M 000468 and D & M 000458).

¹¹⁰ See the English translation of Sophie Lillie's article, “Dead City” (D & M 01176).

into “collective” apartments situated in the vicinity of the Gestapo headquarters, which was located near the center of the former Jewish quarter. In the two years prior to her deportation and murder in the Maly Trostinec concentration camp near Minsk in October 1942, it would have been impossible for Elisabeth Grünbaum to remove the paintings from Schenker & Co. It is worth mentioning that Fritz Grünbaum was a known political dissident (it is listed as a reason for his “protective custody” in the extant documents from Dachau and the International Tracking Service).¹¹¹ This designation as a political opponent of the regime would have carried over to his wife, Elisabeth Grünbaum. In other words, her chances of finding accommodation with an official at the Nazified Schenker & Co. would be diminished even further.

With regard to Vienna in 1938, Sophie Lillie has written, “only a person who was politically unsuspecting to the Nazis could have had any scope of action.”¹¹² Thomas Buomberger noted with regard to Mathilde Lukacs, “... Getting in touch with the Nazis as a member of a family of deported Jews would have meant an unforeseeable risk for Mrs. Lukacs’ life.”¹¹³ Again, the risk and the improbability of success of a clandestine arrangement must be stressed. We know that the collection was not legally exported. First of all, despite an application for export on 8 September 1938, permission was never granted. As Sophie Lillie notes, once the war began on 1 September 1939, there was no way to send the works abroad.¹¹⁴ The evidence therefore indicates that Elisabeth Grünbaum did not recover the property from Schenker before she was deported and murdered.

¹¹¹ Klar Gissing (Dachau Concentration Camp Memorial) to Thomas Meyer, 26 November 2007 (DBM 05304 – DBM 05306) and Ursula Mertins (International Tracking Service) to Thomas Meyer, 24 October 2007 (DBM 05307 - DBM 05310).

¹¹² See the English translation of Sophie Lillie’s article, “Dead City” (D & M 01171).

¹¹³ Thomas Buomberger, “Memorandum in Regard to Gallery Kornfeld – Egon Schiele’s ‘Dead City III’ (previously ‘Dead City II’), 2 (DBM 04698).

¹¹⁴ See the English translation of Sophie Lillie’s article, “Dead City” (D & M 01176).

25. **Circumstantial Evidence that Mathilde Lukacs Had No Possibility of Obtaining or Recovering the Artworks.** Mathilde Lukacs was not in a position to obtain the collection during the war. She fled Austria to Belgium via Czechoslovakia with her husband Sigmund on 12 August 1938.¹¹⁵ Not only were the artworks still at Schenker & Co. after that date (see the 8 September 1938 petition for an export permit), but the circumstances of Mathilde Lukacs's flight and subsequent experiences during the war make it almost impossible that she possessed the artworks during the war. The flight across the Austrian border to Czechoslovakia was almost always harrowing in 1938—and many Austrian Jews didn't make it and were turned back. Later, as Sophie Lillie and other scholars have discussed, Mathilde Lukacs's detention in an internment camp in Belgium make it very unlikely that she would have been able to retain the collection.¹¹⁶ Also, if Mathilde Lukacs had the collection during the war, why would she have waited some ten years after the war to sell these works?

I would add that noted Schiele collector Dr. Rudolf Leopold, who possesses certain works once in the collection of Fritz Grünbaum, such as *Dead City III*, has offered the explanation that this painting, as well as the other works allegedly given up for sale by Mathilde Lukacs to Eberhard Kornfeld, were smuggled out of the German Reich by Mathilde Lukacs. Leopold's explanation is that she put the artworks in a suitcase and transported them across the border.¹¹⁷ As contradicted by the fact that Lukacs fled the Reich on 12 August 1938, and the paintings were still listed in a January 1939 inventory (among other factors), Leopold's rendition is not credible.

¹¹⁵ Jewish Community in Vienna, Complaint for Declaratory Relief, 9 May 2005 (D & M 00394).

¹¹⁶ Sophie Lillie, "Dead City" (P 0266 – P 0282).

¹¹⁷ See Dr. Rudolf Leopold interviewed in the documentary film by Otto Schwarz and Michael Bukowsky, *Lachen im Keller: Fritz Grünbaum* (2005).

26. Endemic Nazi Corruption and Schenker. Historians have recently determined that there was an extraordinary amount of corruption among Nazi leaders and functionaries in the Third Reich.¹¹⁸ It is not impossible that an employee at Schenker was bribed in exchange for relinquishing the works. Indeed, corruption at the Vienna branch of Schenker has been documented in considerable detail.¹¹⁹ The absence of a paper trail for the artworks—indicating what happened to them once they left Schenker’s custody-- would be consistent with such a scenario. If there had been an orderly handling of the artworks—e.g., they had been transferred to a state agency for liquidation—that would have been recorded in documents. Granted, we do not have all Schenker records, but it is telling that there is no document on hand concerning what happened to the artworks during the war. Again, it suggests some kind of graft or some kind of special deal. It must be stressed, however, that it is far more likely that someone who was in favor with the Nazis and Schenker would be able to engineer such an arrangement. The penalty for assisting a Jew by returning property in a non-official, clandestine deal, would have been particularly severe (one could expect capital punishment). It would have been much less risky to conclude such an arrangement with a non-Jew. But again, there would have been the risk of severe punishment, such as a concentration camp. As a result of this risk, it is almost certain that any corrupt Schenker official would have turned to someone where there was a pre-existing relationship and a high degree of trust.

27. Kieslinger’s Motive and Opportunity to Loot the Grünbaum Collection. Dr. Franz

Kieslinger had some freedom of action with regards to the artworks that he

¹¹⁸ See, for example, Frank Bajohr, *Parvenüs und Profiteure. Korruption in der NS-Zeit* (Frankfurt: S. Fischer, 2001) and Götz Aly, *Hitler’s Beneficiaries: Plunder, Racial War, and the Nazi Welfare State* (New York: Metropolitan Books, 2006).

¹¹⁹ Translation of Gabriel Anderl, Edith Blaschitz, and Sabine Litfellner, “Corruption in Forwarding Agencies in Vienna in Regard to Jewish Moving Goods – Two Case Studies,” in *The Aryanization of Personal Property* (Vienna: Historical Commission, 2002), 176-215 (D & M 01058 – D & M 01062).

encountered—especially within German territory. As indicated in his 20 July 1938 of Fritz Grünbaum’s art collection, Kieslinger was technically an independent appraiser.¹²⁰ The stamp on the document that conveys his name includes his private address (Hochstrasse 133, Perchtoldsdorf in Niederösterreich, or Lower Austria).¹²¹ According to Nazi statutes at the time, Jews were responsible for providing the state with an inventory of their property that was valued in excess of 5,000 RM. In the inventory, Kieslinger also adds a stamp at the end that states that he is an expert for medieval art at the Dorotheum auction house and that he is a member of the Austrian Institute for Historical Research. These stamps, then, convey the quasi-private and quasi-official status that Kieslinger had at the time. The result was that he served the Nazi state, but also enjoyed a certain freedom of action (what the Germans might call “Handlungsspielraum” or “room to maneuver”).

During the war, Dr. Franz Kieslinger went to work for Dr. Kajetan Mühlmann: the latter was an Austrian art historian whom I have identified in my previous scholarly works (especially *The Faustian Bargain: The Art World in Nazi Germany*, where I devote a chapter to him), as the most prolific art plunderer in history. An SS Colonel, Mühlmann led plundering agencies in Austria (1938-39), in Poland (1939-43), and the Netherlands (1940-45). Mühlmann and his agents seized hundreds of thousands of cultural objects: most were processed according to Nazi regulations (which did permit him to sell to Hitler, Göring, Himmler and other leaders), while the remaining property was processed by other Nazi agencies. But Mühlmann was also personally very corrupt. At war’s end, the Americans found artworks that he had entrusted to friends in family in a number of

¹²⁰ For more on Kieslinger, see Alexandra Caruso, “Raub in geordneten Verhältnissen,” in Gabriele Anderl and Alexander Caruso, eds., *NS-Kunstraub in Österreich und die Folgen* (Vienna: Studien Verlag), 95-109 (DBM 04652 – DBM 04664). See also Captain Jean Vlug, “Detailed Interrogation Report No. 1: 25 December 1945. Kajetan Mühlmann and he Dienststelle Mühlmann” (Amsterdam: Fine Arts Special Services, 1945), 21.

¹²¹ Dr. Franz Kieslinger, “Schätzungsgutachten” 20 July 1938 (D & M 000448 – D & M 000449).

locals in the Austrian Alps. A friend of Mühlmann's, SS General Dr. Wilhelm Höttl, told me that Mühlmann supported himself in the 1950s by selling artworks that he had in his possession. More specifically, Mühlmann had escaped from American custody in Munich in 1947 and was a fugitive. Höttl was very clear that Mühlmann was offering works that he had acquired during the war.

As noted above, Dr. Franz Kieslinger was a close associate of Dr. Mühlmann. There are strong circumstantial indications that the artworks possibly followed this trail. Despite being a convinced Nazi, Mühlmann admired modern Austrian art (he praised such work in reviews he penned in the 1920s and 1930s). Kieslinger also held Schiele in very high regard. A telling story is offered by Diethard Leopold in his book about his father, Rudolf Leopold, and his activities as an art collector. Diethold Leopold notes that in the 1950s, his father already possessed two-third of the oil paintings executed by Egon Schiele.¹²² He tells how Rudolf Leopold asked Franz Kieslinger to escort him to an auction at the Dorotheum in 1954, where the collector intended to bid on a “large Schiele model” (“grossen Schiel-Akt”). Rudolf Leopold is quoted as saying that at that time, “even to the majority of Austrian art historians—and definitely to the foreign ones, assuming they even knew Schiele to begin with—this artist was at most an interesting, but, as it was said, a *local* talent.” Rudolf Leopold continues, “I did, however, know one person who valued Schiele, namely Dr. Franz Kieslinger.” When Leopold said he planned to bid on the picture, Kieslinger responded, “That is an excellent picture.” Leopold added Kieslinger was a “generally recognized authority” and that he told Leopold after the auction, “Don’t be upset, Herr Doctor, the people who are so stupidly talking and laughing about you here, are—as far as art is concerned—idiots. I

¹²² Diethold Leopold, *Rudolf Leopold—Kunstsammler* (Vienna: Holzhausen Verlag, 2003), 17 (DBM 005852). The English translation is DBM 005853.

congratulate you, for today, you have acquired a central work of Austrian art.”¹²³

Leopold also added that Dr. Kieslinger “when he got angry could also be very blunt.”¹²⁴

But Leopold is clear about Kieslinger’s passionate support for Schiele’s art. So, it is possible that Kieslinger and Mühlmann—members of the Nazis’ art looting bureaucracy—had the motives and means to dispose of Fritz Grünbaum’s collection during the war. It should be noted that Kieslinger was never interviewed by Allied investigators after the war, despite being discussed in a postwar report on Mühlmann’s agency compiled by Dutch intelligence officer Jean Vlug (the latter worked closely with his American counterparts in the Office of Strategic Services’ Art Looting Investigation Unit that conducted extensive research into Nazi art looting).¹²⁵ The OSS agents interrogated Mühlmann and a number of other associates, but Kieslinger was not forced to account for his actions by knowledgeable Allied authorities. Indeed, Dr. Kieslinger remained so mysterious that they misspelled his name (“Kiesslering” – sic). They did note that Kieslinger worked for Mühlmann’s plundering agency in Holland, Belgium, and Italy, and that he would accompany Reichsmarschall Hermann Göring’s sister, Ilse Göring, when she visited Holland.¹²⁶ But Kieslinger remains an under-researched figure in the Nazi plundering bureaucracy.

28. Rochlitzer’s Motives, Power, and Opportunity to Loot the Grünbaum Art

Collection. Another individual who might have removed the art collection from Schenker

¹²³ Diethold Leopold, *Rudolf Leopold—Kunstsammler* (Vienna: Holzhausen Verlag, 2003), 17-18 (DBM 005852 - DBM 005853). The German original in the quotations above reads, “Selbst für die Merzahl der österreichischen Kunsthistoriker—und schon gar für die ausländischen, soweit diese Schiele überhaupt kannten—war dieser Künstler höchstens ein interessantes, aber ein, wie man sagte, bloss *lokales* Talent. Mit einemaber, der Schiele schätzte, war ich bekannt, nämlich mit Dr. Franz Kieslinger.... [Kieslinger said] Das ist doch ein ausgezeichnetes Bild... Aergern Sie nicht, Herr Doktor ... die Leute, die da so dumm über Sie reddten und lachen, sind ja, was Kunst anlangt, Idioten. Ich gratuliere Ihnen. Sie haben heute ein Hauptwerk der österreichischen Kunst erworben.”

¹²⁴ Diethold Leopold, *Rudolf Leopold—Kunstsammler* (Vienna: Holzhausen Verlag, 2003), 18 (DBM 005853). The German reads, “Wenn er zornig war, konnte er sehr derb werden.”

¹²⁵ Captain Jean Vlug, “Kajetan Mühlmann and the Dienststelle Mühlmann” (25 December 1945), Getty Research Institute, Special Collections & Visual Resources, Los Angeles, CA.

¹²⁶ Vlug, “Kajetan Mühlmann and the Dienststelle Mühlmann,” 21.

and Co. is Dr. Ludwig Rochlitzer, the official who was listed as the “Trustee” (Treuhand) of Fritz Grünbaum’s assets on 31 January 1939. I have seen no other documents that concern Rochlitzer and he remains a very enigmatic figure. But it was often the case that the individuals who were appointed by the State and who were charged with liquidating victims’ assets (for the benefit of the State—with the profits from the sale going through the Finance Ministry), had the opportunity to dispose of objects as they saw fit. In a previous expert report I authored on the fate of the Bloch-Bauer art collection, I documented how the state-appointed Trustee, Dr. Erich Führer, kept some of the works from the family for himself, while selling off the rest to museums and private collectors.¹²⁷ The point is that these trustees often had the kind of freedom of action that would not exclude Rochlitzer keeping most of Fritz Grünbaum’s collection intact.

29. **Theft by Corruption.** I would note that this theory is not inconsistent with the broader historical context surrounding the restitution of “Aryanized” property in postwar Austria. As historian Peter Böhmer and others have noted, there was a tremendous amount of corruption and profiteering among the Austrian officials who carried out the restitution of looted property. Peter Böhmer’s study of the Austrian Ministry for Securing Property and Economic Planning (Ministerium für Vermögenssicherung und Wirtschaftsplanung), documents how the officials enriched themselves and their respective political parties as they carried out the restitution program. As the back cover of the book notes, “the return of Jewish property was made more difficult by anti-Semitic views [or directions—“Weisungen”]. ‘Who ever could grabbed property—a picture of

¹²⁷ Jonathan Petropoulos, expert report on Altmann v. Austria (14 July 2005), 10-20, 35 (DBM 04210 - DBM 04215 and DBM 04225).

morality in the early Second Republic.”¹²⁸ The persistence of anti-Semitism in postwar Austria has been documented by many historians.¹²⁹ This no doubt contributed to the very problematic and inadequate restitution efforts of the Austrian authorities: a situation acknowledged in recent years by Austrians and reflected in new legislation in the late-1990s that enabled victims and heirs to renew efforts to recover stolen property.

In short, based on my past experience investigating similar cases, it is my opinion that it is likely that the Drawing entered Eberhard Kornfeld’s possession via some form of corruption.

30. Theory that Mathilde Lukacs Recovered Grünbaum Art Collection. Another possible scenario has been suggested by Jane Kallir: that Fritz Grünbaum’s art collection remained in the Schenker facilities until the end of the war and that the works were then claimed by Mathilde Lukacs on one of her visits back to Vienna in the late-1940s or early 1950s.¹³⁰ Mathilde Lukacs evidently visited Vienna again for the first time after the war in 1948, followed by visits in 1951, 1952, and 1954.¹³¹ I think this unlikely for several reasons. First, as noted above, standard practice would have been to pass the property along to the VUGESTA or another Nazi agency for liquidation once Fritz Grünbaum and Elisabeth Grünbaum were either dead or out of the country (which would have been in 1942). That this did not happen suggests that the collection left Schenker during the war: before the liquidation could be carried out. Second, Mathilde Lukacs would have had to

¹²⁸ Peter Böhmer, *Wer konnte, griff zu. “Arisierte” Güter und NS-Vermögen im Krauland Ministerium (1945-1949)* (Vienna: Böhlau, 1999). These ideas are also expressed on pp. 139-43. The German in the quote above reads, “Die Rückstellung von jüdischem Besitz wurde mit anti-semitischen Weisungen erschwert. ‘Wer konnte, griff zu’—ein Sittenbild der frühen Zweiten Republik.”

¹²⁹ See, for example, Bruce Pauley, *From Prejudice to Persecution: A History of Austrian Anti-Semitism* (Chapel Hill: University of North Carolina Press, 1992), 301-10.

¹³⁰ Jane Kallir to Sophie Lillie (19 October 2005) (KAL 0130 – KAL 0132).

¹³¹ Thomas Trenkler, “Suche nach einer verschollenen Sammlung,” in *Der Standard* (14 January 2005), (STHBY 000007).

produce a receipt or some documentation of her ownership of the property to Schenker; and Schenker, in return, would have provided Mathilde Lukacs with a receipt after handing over the works. Third, the Allies Monuments, Fine Arts and Archives officers, as well as the members of the OSS Art Looting Investigation Unit, knew that Schenker and Co. was a plundering agency. Their practice would have been to secure the artwork in Schenker's facilities and send them to one of the Central Collecting Points for review. As noted above, Fritz Grünbaum's art never passed through one of the CCP's. In other words, the extant documentation makes it highly unlikely that Kallir's scenario (which, it should be noted, she raises as a question), actually occurred. I am even more certain that neither Elisabeth Grünbaum nor Mathilde Lukacs could have removed the art from Schenker during the war.

I am aware that the attorneys for Leon Fischer and Milos Vavra have suggested that the Drawing (and other artworks from Fritz Grünbaum's collection) never entered into the possession of Mathilde Lukacs. This assertion is buttressed by questions raised by the handwriting analysis of the extant correspondence between Mathilde Lukacs and Eberhard Kornfeld (approximately 25 documents dating to the period between May 1952 and October 1957).¹³² I would note here only that it is indeed plausible that these documents were forged. In other words, Eberhard Kornfeld could well have received the artworks from another party and then later forged documents in an attempt to provide a paper trail. I am troubled by the fact that some of the documents produced by Kornfeld spelled her name without an "h," while others did not.¹³³ Furthermore, to have key documents signed by Mathilde Lukacs in pencil raises serious doubts. Pens were very important instruments in the 1950s (and before) that expressed a great deal about a

¹³² Translation of Christian Farthofer, "Handwriting Expertise," 7 November 2005 (D & M 02141 – D & M 02185).

¹³³ Compare a signature without an "h" (D & M 02178) with those with an "h" (D & M 02175). William Cohan, "Unravelling the Mystery of Dead City" in *ARTnews* (April 2008), 120.

person. As a prominent purveyor of fine arts in Switzerland in the 1950s, Kornfeld would certainly have appreciated this; and Mathilde Lukacs, described by Kornfeld as wealthy and sophisticated (“she was a good-looking woman who must have lived at a very good standard of living”), would also have thought in these terms.¹³⁴ It is highly unlikely that a lady of her station would have signed important transactional documents in pencil. In my opinion, Kornfeld does not provide a convincing explanation in his 2007 deposition.¹³⁵

I have also read the analysis of the correspondence between Mathilde Lukacs and Eberhard Kornfeld conducted by Herbert Gruber. In particular, his report referred to as “Gruber III” raises serious questions about the alleged correspondence.¹³⁶ His analysis of the 190 artworks mentioned in the correspondence raises extremely troubling questions: for example, would Eberhard Kornfeld not purchase certain artworks offered by Mathilde Lukacs in 1953 when they were clearly valuable and consistent with his business profile as an art dealer? Would he buy works from her in 1955 and 1956 that were not mentioned in their correspondence? Why does it appear that the painting *Dead City III* was purchased on both 24 April and 22 May 1956? My view of Gruber’s third supplemental report is that he is correct in stating that the “correspondence conflicts with Kornfeld’s bookkeeping and with the summary of purchases that Kornfeld provided.”¹³⁷

31. Conclusions about the Grünbaum Art Collection during the Third Reich. In my opinion, the most important aspects of this case concern the fact that Fritz Grünbaum owned the collection in March 1938 when the Anschluss occurred and that the Austrians

¹³⁴ Deposition of Dr. Eberhard W. Kornfeld, 25 May 2007, 80-81.

¹³⁵ Deposition of Dr. Eberhard W. Kornfeld, 25 May 2007, 31-34, 75—76.

¹³⁶ Herbert Gruber, “Supplemental Report of Herbert Gruber, (“Gruber III”), 13 January 2008 (DBM 05294 – DBM 05303).

¹³⁷ Gruber, “Gruber III,” 9 (DBM 05302).

passed the Annulment Act or Law in May 1946 (the Nichtigkeitsgesetz—BGBL. 106/1946) that stated that any transactions concluded under Nazi rule were null and void.¹³⁸ Therefore, Fritz Grünbaum never sold or transferred his collection in a legal manner. Even though Elisabeth Grünbaum had been granted a power of attorney in July 1938, this was hardly Fritz Grünbaum’s decision: as noted above, he had been placed in “protective custody” on 22 March 1938 and then admitted to Dachau on 24 May 1938.¹³⁹ In short, the artworks were stolen from him. My understanding is that United States’ law says that one can never have good title to stolen property.¹⁴⁰ If one can prove that the Drawing was Fritz Grünbaum’s when he was sent to Dachau in May 1938, and that it was not returned to the rightful heirs, then it should be restituted at this point.

32. Legal Impossibility of Lukacs Acquiring or Selling Grünbaum Art Collection. It is clear from the extant documents and the various expert reports that Mathilde Herzl Lukacs did not have good title to the works from Fritz Grünbaum’s collection. She did not have a court order establishing her as sole heir and there were clearly other heirs (Fritz Grünbaum’s surviving sister and Elisabeth Grünbaum’s three surviving siblings).¹⁴¹ As Dr. Kathrin Höfer has noted, “nobody may take into possession an inheritance without proper authority.”¹⁴² The only way that she would have good title, as I see it, is if her sister Elisabeth had passed title to her. But there are no documents to this effect. Both Fritz Grünbaum and Elisabeth Grünbaum died without legally binding wills. The “Erbschein” (certificate of heirship) issued by the Probate Court at Dachau

¹³⁸ For a good analysis of the implications of the Annulment Act with regard to Fritz Grünbaum’s estate, see Dr. Kathrin Höfer, “Rebuttal Expert Opinion” (29 October 2007), 5-6 (DBM 04737 – DBM 04738).

¹³⁹ Jewish Community in Vienna, Complaint for Declaratory Relief, 9 May 2005 (D & M 00380). For Fritz Grünbaum’s arrest and transfer to Dachau (and later, on 23 September 1938 to Buchenwald, followed by a return to Dachau on 24 October 1940), see the report from the archive at Bad Arolson of 20 December 2007 (DBM 05357)

¹⁴⁰ I have seen this principle—no good title to stolen property under U.S. law—articulated in many places. See for example, see attorney Constance Lowenthal quoted in Judy Dobrzynski, “For What Nazis Stole, a Longtime Art Hound,” in *New York Times* (29 November 1997), Section B, 7 (D & M 01402).

¹⁴¹ Note that Elisabeth Grünbaum had four sisters and three brothers, but only three siblings survived the war. See the family tree for Elisabeth Grünbaum (P 0332 P 0336).

¹⁴² Dr. Kathrin Höfer expert report (November 2005) (D & M 02430).

established that Elisabeth Grünbaum would have received half of Fritz Grünbaum's estate, with his blood heirs (his brother Paul Grünbaum and sister Alzbeta (or Elise or Lilli) Zozuli di Salino, nee Grünbaum) receiving the other half.¹⁴³ Obviously, if Elisabeth Grünbaum was not the sole heir, then her sister Mathilde Lukacs could not inherit the entirety of Fritz Grünbaum's property. In short, Mathilde could never have obtained ownership via a court order or via any agreement with the other heirs. Even according to Austrian law, as Dr. Kathrin Höfer has noted, one "requires proper legal authority before acquiring an inheritance"—and Mathilde Lukacs clearly never obtained such authorization.¹⁴⁴ In a sense, it is appropriate to designate her as a thief. By not obtaining a court order or the other heirs' approval to sell the works, and by not compensating them (if indeed, she trafficked in Grünbaum's artworks), she stole from them.

By withdrawing her application to be Elisabeth Grünbaum's legal heir, Mathilde Lukacs exhibited conscious knowledge that she did not have good title to the artworks from Fritz Grünbaum's collection. The key evidence here is that an attorney, Dr. Rudolf Skrein, using Mathilde Lukacs's name, formally applied on 16 June 1954 to an Austrian court to declare Elisabeth Grünbaum to be dead (therefore allowing Mathilde Lukacs to be named Elisabeth Grünbaum's legal heir).¹⁴⁵ As has been established by other experts in their reports, Mathilde Lukacs (through Skrein) subsequently withdrew this application on 16 July 1954.¹⁴⁶ These acts suggest that Mathilde Lukacs was aware that she needed a court order for her to have good title to the property or revenues associated with Fritz

¹⁴³ Probate Court Dachau, "Erbschein" (30 June 2004) (DBM 03586 – DBM 03593).

¹⁴⁴ Dr. Kathrin Höfer, "Supplemental Legal Opinion on Aspects of Law of Succession under Austrian Law for the Period from 1952 – 1956" (10 September 2007), 2 (DBM 04254).

¹⁴⁵ The intent to claim the estate is reflected in Mathilde Lukacs's argument stated in the document that Elisabeth Grünbaum was Fritz Grünbaum's "universal heir." See the translation of Mathilde Lukacs, application to Vienna Regional Court for declaration of death of Elisabeth Grünbaum, 16 June 1954 (DBM 04774 – DBM 04775); and Dr. Rudolf Skrein to the Landesgericht für ZRS, 16 July 1954 (D & M 00992 – D & M 01003).

¹⁴⁶ See, for example, Dr. Kathrin Höfer, "Rebuttal Expert Opinion" (29 October 2007), 4 (DBM 04736).

Grünbaum and Elisabeth Grünbaum's estate(s). Dr. Skrein no doubt would have explained this to her. The fact that she was unable to obtain this court order and nonetheless proceeded with the sale of the artworks in my opinion indicates bad faith. One aspect of the petition and motion for withdrawal submitted by Dr. Skrein on behalf of his client that deserves mention is that Mathilde Lukacs' signature is not found on any relevant documents. Skrein claimed to have a power of attorney to represent her, but such a document signed by Lukacs is also missing. The holes in the documentation make it possible to advance varying interpretations, including the thesis that Skrein was in fact not acting for Mathilde Lukacs, but was trying to perpetrate fraud in order to provide cover for the sale of works from the Grünbaum art collection: when he was found out, the theory would go, he abandoned his efforts. Dr. Skrein's efforts in 1954 coincide with Kornfeld's efforts to sell artworks from the Grünbaum collection. But it is not possible to say much more than this. Whether Kornfeld and Skrein collaborated on this attempted deception, or whether Mathilde Lukacs simply failed in an attempt to use the court to circumvent other family members who would have been heirs, the result was the same: the court did not recognize her claim to the Grünbaum estate.

Additionally, the purported decision of Mathilde Lukacs to sell the artworks in Switzerland raises certain questions. With Switzerland's culture of secrecy (most famously reflected in banking practices), not to mention its laws that facilitate the trafficking in stolen property (e.g., the notorious "five year" provision that granted good title after possession of an object for that period), Switzerland has long been known as the best place to sell stolen property (the country has also been at the center of the illicit trade in illegally exported antiquities).¹⁴⁷ Of course, the vast majority of sales in Switzerland

¹⁴⁷ Wenger Plattner expert report on Swiss Law (D & M 02554). See also Gunnar Schnabel and Monika Tatzkow, *Nazi Looted Art. Handbuch Kunstrestitution Weltweit* (Berlin: Proprietas Verlag, 2007), 301 (DBM 04747). The translation

did not involve stolen property, but the country certainly would have been the leading choice for someone with concerns about good title. For Mathilde Lukacs living in Brussels, there were more convenient venues for a sale.

33. Kornfeld's Sale of Grünbaum Works from Grünbaum Art Collection. In

contradiction to the statement made by Dr. Kornfeld that he did not know at the time that the works were connected to Fritz Grünbaum, the evidence overwhelmingly indicates otherwise: that Dr. Kornfeld knew that the Drawing (and others) came from Fritz Grünbaum's collection.¹⁴⁸ First of all, Fritz Grünbaum was, as Dr. Kathrin Höfer has noted, "a renowned art collector."¹⁴⁹ It is inconceivable that Eberhard Kornfeld could sell 110 of his works in the mid-1950s and not know that Fritz Grünbaum was an earlier owner. It should also be remembered that Fritz Grünbaum was a celebrity in the German speaking lands in the interwar period. A cabaret performer, comedian and songwriter, film actor, and author of numerous books, Fritz Grünbaum was a truly famous Viennese personality.¹⁵⁰ That the city of Vienna has square named after him, Fritz Grünbaum Platz, is telling in this regard. His ownership of the drawing would have given it a certain cachet; indeed, it took a special effort to suppress his ownership of the drawing.

Furthermore, Eberhard Kornfeld produced a detailed catalogue for the 1956 sale.¹⁵¹ As Eberhard Kornfeld wrote to Otto Kallir just before the sale, in a 5 September 1956 letter, "The catalogue has been prepared in great detail and all the graphic sheets in the

is DBM 04754. For the illicit trade in antiquities in Switzerland, see Peter Watson, *Sotheby's: The Inside Story* (New York: Random House, 1997), 11, 126, 183-87.

¹⁴⁸ Eberhard Kornfeld statement, 13 March 1998, (D and M 00125 – D & M 00135).

¹⁴⁹ Dr. Kathrin Höfer expert report (November 2005) (D & M 02418).

¹⁵⁰ Note that some of Fritz Grünbaum's songs are listed in the WorldCat database (DBM 04038).

¹⁵¹ Gutekunst & Klipstein, Egon Schiele. Katalog zur Ausstellung Gutekunst & Klipstein 1956 (D & M 00634 – D & M 00659).

exhibition will be reproduced.”¹⁵² Eberhard Kornfeld offered to send him smaller format reproductions of most of the works in the sale prior to the publishing of the catalogue: the two dealers therefore were clearly on good terms and shared information about the works in question. Otto Kallir was physically in Switzerland in September 1956, and while it is unclear to me whether he met with Kornfeld, it seems most likely. Kornfeld wrote to Kallir on 14 September 1956, when the latter was staying at the Hotel Schweizerhof in Lucerne, “I would be very pleased to be able to greet you here [at the Gutekunst & Klipstein gallery in Bern] next Tuesday, all the more so because we can use the opportunity to discuss the matter of the subsequent delivery of the Kollwitz-book.”¹⁵³ Indeed, the two men had undertaken a publishing venture together concerning the graphic works of Käthe Kollwitz.¹⁵⁴ In short, both Eberhard Kornfeld and Kallir had independent means of knowing that the Schieles purchased by Kallir came from Fritz Grünbaum’s collection. With their good relationship over the years (up until Kallir’s death in 1978), it is extraordinarily unlikely that they would not have discussed the Grünbaum provenance at some point. Kallir’s longtime colleague, Hildegard Bachert, said that Kallir did ask where Kornfeld got *Dead City III*.¹⁵⁵ This strikes me as a credible statement. Kornfeld’s response in his 25 May 2007 deposition that he and Kallir “never spoke about it [the provenance of the many Schiele’s that the latter purchased in 1956]” does not seem consistent with the context.¹⁵⁶

¹⁵² Eberhard Kornfeld to Otto Kallir, 5 September 1956 (KAL 0106). The German reads, “Der Katalog ist sehr detailliert bearbeitet, und alle Blätter der ganzen Ausstellung werden reproduziert.”

¹⁵³ Eberhard Kornfeld to Otto Kallir, 14 September 1956 (KAL 0111). The German original reads, “Ich würde mich freuen, Sie nächsten Dienstag bei uns begrüßen zu dürfen, umso mehr, als wir bei dieser Gelegenheit noch die Angelegenheit noch die Angelegenheit einer Nachlieferung des Kollwitzbuches besprechen könnten.”

¹⁵⁴ Dr. August Klipstein, *The Graphic Work of Käthe Kollwitz. Complete Illustrated Catalogue* (New York: Galerie St. Etienne, 1955) (KAL 0337 – KAL 0340). Note that while Kallir’s gallery is listed as the publisher, the copyright is held by Klipstein & Co., Bern.

¹⁵⁵ William Cohan, “Unravelling the Mystery of Dead City” in *ARTnews* (April 2008), 119.

¹⁵⁶ Deposition of Dr. Eberhard W. Kornfeld, 25 May 2007, 122.

34. **Kornfeld’s Awareness of Holocaust-Era Stolen Art.** As the expert report of Wenger Plattner attests, Eberhard Kornfeld was legally responsible to raise questions about property that passed through Germany or occupied countries during the war (Ammon vs Royal Dutch, 1954).¹⁵⁷ And, as a professional art dealer in Switzerland, he would have been keenly aware of the issue of stolen art being laundered through the neutral Alpine country. For starters, there was the much publicized Inter-Allied Declaration against Acts of Dispossession committed in Territories under Enemy Occupation or Control of January 1943 (aka “the London Declaration”), where the Allies put people in occupied and neutral countries on notice about trafficking in looted property.¹⁵⁸ Additionally, the Swiss Federal Council’s Robbed Property Order of 10 December 1945 put dealers on notice. During the 1930s and 1940s, Kornfeld had been the President of the Art Dealers Association in Switzerland (Kunsthandelsverband der Schweiz or KHVS), an association of prominent dealers (many of whom trafficked in looted works), that, according to the Bergier Commission, “was grappling with ... the emigration of Jewish and/or foreign competitors.”¹⁵⁹ This would have afforded him considerable knowledge of the issues surrounding Nazi looted art. From 1946 to 1948 the Allies also conducted protracted negotiations with Swiss representatives regarding looted gold obtained by the Swiss from Nazi Germany, and such), there were a number of high profile legal cases in Switzerland in the early 1950s that involved the restitution of looted art.¹⁶⁰ Famous examples include Theodor Fischer and Emil Buhle’s trial, as well as one involving the Neupert Gallery.¹⁶¹ In fact, Fischer, who traded with the Nazis and passed on looted Impressionist artworks

¹⁵⁷ Wenger Plattner expert report on Swiss Law (D & M 02551).

¹⁵⁸ For the Inter-Allied Declaration against Acts of Dispossession committed in Territories under Enemy Occupation or Control of 5 January 1943 see DBM 04282 – DBM 04284.

¹⁵⁹ Esther Tisa Francini, Anja Heuss, and Georg Kreis [the “Bergier Report”], *Raubgut – Fluchtgut. Der Transfer von Kulturgütern in und über die Schweiz 1933 – 1945 und die Frage der Restitution* (Zurich: Chronos Verlag, 2001), 63-64 (DBM 05095 – DBM 05096). The translation is DBM 05109 – DBM 05110.

¹⁶⁰ Wenger Plattner expert report on Swiss Law (D & M 02552 - D & M 025553). See also William Z. Slany (U.S. State Department), *U.S. and Allied Efforts to Recover and Restore Gold and Other Assets Stolen or Hidden by Germany during World War II* (Washington, DC: Department of State Publication, 1997).

¹⁶¹ Wenger Plattner expert report on Swiss Law (D & M 02551).

to industrialist Emil Bührle, received compensation from the Swiss government when he returned Bührle his money. By taking such actions the Swiss government sent a message to the country's art dealers that they could get away with selling stolen property if they were sufficiently discreet and clever about it. But the point remains that Eberhard Kornfeld knew about the problem of Nazi looted art and that, to borrow from the ruling of *Ammon v. Royal Dutch*), "one could not guiltlessly be oblivious to the risk connected to transactions with goods from Germany or occupied countries..."¹⁶²

Additionally, Eberhard Kornfeld certainly would have also been aware of the extraordinary plunder of artworks from Viennese Jews. It so happened that the Austrian capital was home to a number of wealthy Jews who had remarkable art collections (see, for example, Sophie Lillie's study of the fate of Jewish collections such as the Rothschilds, Bondys, and Bloch-Bauers: her study, which includes extensive inventory lists, runs over 1,400 pages and is still far from a comprehensive documentation).¹⁶³ Also, it was widely known that Viennese Jews had been great patrons of Austrian modernists such as Schiele and Klimt, and that many had perished in the Holocaust (Lillie has written another piece on the tragic fate met by many of the early collectors of Schiele, including Dr. Heinrich Rieger, Oskar Reichel, Karly Maylander, and Fritz Grünbaum).¹⁶⁴ According to the Bergier report (volume 1), during the Third Reich Gutekunst & Klipstein held "*Emigrantenauktionen*" (emigrant auctions—or assets left behind by Jews fleeing Nazi persecution).¹⁶⁵ While these sales were legal, they also brought home the reality of the Nazi persecution in a very direct way to Eberhard

¹⁶² Wenger Plattner expert report on Swiss Law (D & M 02551)

¹⁶³ Sophie Lillie, *Was einmal War. Handbuch der enteigneten KunstsamMathilde Lukacsungen Wiens* (Vienna: Czernin Verlag, 2003).

¹⁶⁴ Sophie Lillie, "A Legacy Forlorn: The Fate of Egon Schiele's Early Collectors," in Renée Price, ed., *Egon Schiele: The Ronald S. Lauder and Serge Sabarsky Collections* (New York: Prestel, 2005), 111-34 (NG 0033 – NG 0066).

¹⁶⁵ Esther Tisa Francini, Anja Heuss, and Georg Kreis [the "Bergier Report"], *Raubgut – Fluchtgut. Der Transfer von Kulturgütern in und über die Schweiz 1933 – 1945 und die Frage der Restitution* (Zurich: Chronos Verlag, 2001), 164 (BDM 05100). The translation is DBM 05113.

Kornfeld. Similarly, Nazi dealer Karl Haberstock, who played a role in the liquidation of artworks confiscated from Viennese Jews and later during the war trafficked in stolen artworks, also approached Gutekunst & Klipstein and discussed selling off modernist works that had been taken from German state collections. Because the Nazi regime passed a law in May 1938 legalizing such sales, the purged works have never been subject to restitution. More importantly, such a sale never came off at Gutekunst & Klipstein (scholars have suggested that the outbreak of war was the primary reason for this).¹⁶⁶ The point is, however, that Kornfeld had numerous reasons to be highly sensitive to the issue of Nazi looted art.

In short, in order to act as a good faith purchaser according to Swiss law at the time, Eberhard Kornfeld was legally obliged asked about the origins of 60 or so works by Schiele that he supposedly acquired from Mathilde Lukacs.

35. **The Significance of Schiele's Painting *Dead City III*.** An analysis of the provenance of *Dead City III* as understood prior to 1998 also casts doubts upon the veracity of Eberhard Kornfeld's statements. The first catalogue raisonné of Schiele's works by Otto Kallir, completed in 1930, listed the provenance of the painting as follows (with the most recent owner listed first): Fritz Grünbaum, Dr. Alfred Spitzer, Arthur Roessler, and a "private collector" (who purchased the work from the artist).¹⁶⁷ In the 1956 catalogue associated with the Gutekunst & Klipstein sale, Eberhard Kornfeld cited the Nirenstein catalogue

¹⁶⁶ Esther Tisa Francini, Anja Heuss, and Georg Kreis [the "Bergier Report"], *Raubgut – Fluchtgut. Der Transfer von Kulturgütern in und über die Schweiz 1933 – 1945 und die Frage der Restitution* (Zurich: Chronos Verlag, 2001), 206-08 and 325-26 (DBM 05103 and DBM 05105). The translation is DBM 05116 and DBM 05117. See also Jonathan Petropoulos, *The Faustian Bargain: The Art World in Nazi Germany* (New York: Oxford University Press, 2000), 84. Also, Gunnar Schnabel and Monika Tatzkow, *Nazi Looted Art. Handbuch Kunstrestitution Weltweit* (Berlin: Proprietas Verlag, 2007), 68-69 (DBM 04744). The translation is DBM 04753.

¹⁶⁷ Otto Nirenstein, *Egon Schiele: Persönlichkeit und Werk* (Berlin/Vienna: Peter Zsolnay Verlag, 1930), 68 Werkverzeichnis 94 (D & M 00721).

and listed the same line of ownership—with Fritz Grünbaum as the most recent owner.¹⁶⁸ If, in fact, Kornfeld obtained the painting from Mathilde Lukacs in 1956, it is highly problematic that he would not have included her in the list of previous owners. At a minimum, he needed to designate her as a “private collector” (or some other anonymous attribution). Not to do so violated the conventions of the art trade. It bears repeating, however, that according to the provenance that Kornfeld published in 1956, he himself purchased the painting *Dead City III* from Fritz Grünbaum. In his May 2007 deposition, Kornfeld testified that at the time that he published the exhibition catalogue and sold *Dead City III* and other works by Schiele in 1956 he had never heard of Fritz Grünbaum.¹⁶⁹ This statement does not seem credible to me. In short, I can only feel scorn and outrage at the way that Eberhard Kornfeld has acquitted himself with regard to Fritz Grünbaum’s art collection.

It also bears mentioning that in Jane Kallir’s 1990 catalogue raisonné, she provides a provenance that states that Kornfeld purchased *Dead City III* from Fritz Grünbaum: there is no mention of Mathilde Lukacs in this volume (or in the 1998 edition). Additionally, among all the records produced from the Galerie St. Etienne (the leading gallery of Schiele in the United States, if not the world), I have seen no mention of Mathilde Lukacs; this includes all of Jane Kallir’s note cards for the works purchased by Otto Kallir in 1956. Therefore, prior to the seizure of *Dead City III* by New York District Attorney Morgenthau in late 1997, both Eberhard Kornfeld and Jane Kallir represented to the world that Kornfeld had purchased the work from Fritz Grünbaum. Considering that Kornfeld was the purchaser (and then vendor) of these works, and Kallir one of the

¹⁶⁸ Gutekunst & Klipstein, Egon Schiele. Katalog zur Ausstellung Gutekunst & Klipstein 1956 (D & M 00634 – D & M 00659).

¹⁶⁹ Deposition of Eberhard W. Kornfeld, 25 May 2007, 109.

world's leading experts on Schiele, the inaccuracy of their statements is especially disappointing.

Jane Kallir testified that when she first heard in January 1998 that *Dead City III* had been seized by the New York District Attorney, her partner, Hildegard Bachert called Kornfeld to "ask" from whom he had obtained the picture.¹⁷⁰ Jane Kallir, then first heard of Mathilde Lukacs in January 1998.¹⁷¹ It is troubling that the author of the definitive catalogue raisonné would make this inquiry for the first time 42 years after it had been sold to her grandfather. But the fact remains that until January 1998, not one purchaser of the works sold by Kornfeld in 1956 was told about Mathilde Lukacs; not one work every carried Lukacs' name in the provenance; and no mention of Lukacs ever appeared in the Kallir records. Furthermore, Kornfeld concealed all records until 2005 (or later) and apparently has still not arranged for handwriting experts to analyze the actual records.

36. Otto Kallir's Knowledge of the Grünbaum Art Collection. As noted above, Otto Kallir knew that the Schieles he bought from Kornfeld had once been in the possession of Fritz Grünbaum. Otto Kallir and Fritz Grünbaum knew each other in pre-Anschluss Vienna (Jane Kallir testified that the Morgan Library in New York provided her with correspondence between the two men).¹⁷² Fritz Grünbaum a major collector of Expressionism and Kallir, the proprietor of the Neue Galerie in Vienna, was probably the most important dealer of Schiele's work in the interwar period. Fritz Grünbaum was such an important art collector that there were articles on his art published in the 1920s: e.g., the article, "Fritz Grünbaum as Collector" that appeared in the magazine *Die Bühne*

¹⁷⁰ Jane Kallir deposition, 9 May 2007, P 148 L 15.

¹⁷¹ Jane Kallir deposition, 9 May 2007, P 152 L 9.

¹⁷² Jane Kallir deposition, 9 May 2007, P 18 L 4.

on 26 March 1925 where he was identified as having a passion for “modern masters” including Oskar Kokoschka and “younger compatriots” [which would have included Schiele].¹⁷³ And, as noted above, Fritz Grünbaum loaned Otto Kallir 21 works by Schiele in 1928 for the exhibition organized by the Neue Galerie at the Hagenbund.¹⁷⁴ Note that in this correspondence about the loan, Fritz Grünbaum reported that he is Munich performing, but that he was willing to loan Otto Kallir the works by Schiele. Fritz Grünbaum then permitted Otto Kallir to go to his apartment and pick up the works from his sister-in-law. This, in my opinion, suggests considerable familiarity: to allow a dealer to enter one’s home when one is not there and remove artworks reflects a high level of trust and a close relationship. Fritz Grünbaum’s loans constituted just over one-quarter of the works in the 1928 exhibition curated by Otto Kallir; and indeed, Fritz Grünbaum is listed by name in Otto Kallir’s catalogue as the owner of 21 such works.¹⁷⁵ Additionally, in the first of Kallir’s first catalogue raisonné of Schiele’s work that he published in 1930, Fritz Grünbaum is listed as the owner of a number of works. It is even likely that Kallir, as the most important dealer of Schiele’s work in Vienna, sold Fritz Grünbaum the Drawing in the first place, although the extant documentation is silent on where Fritz Grünbaum acquired it. However, as restitution expert Thomas Buomberger notes, “Three paintings from the Grünbaum collection were also listed in the Nirenstein inventory of June of 1930, (including the painting ‘Dead City I,’ late III, inventoried as item No. 94 – Nirenstein inventory”).¹⁷⁶

¹⁷³ Paul Stefan, “Fritz Grünbaum als Sammler” in *Die Bühne* (26 March 1925) (DBM 05091 – DBM 05092). The phrase in German reads, “Die Liebe dieses Samler gehört besonders neuen Meistern. Er besitzt kostbare Blätter, besonders von französische Impressionisten, aber auch Kokoschka und selbst noch jüngeren Landesleute sind vertreten.”

¹⁷⁴ See the documents from the Austrian Gallery provided by Monika Meyer to Ray Dowd (D & M 02413).

¹⁷⁵ For the catalogue of the Schiele memorial exhibition at the Hagenbund in 1928, see D & M 02675 – D & M 02703.

¹⁷⁶ Thomas Buomberger, “Memorandum in Regard to Gallery Kornfeld – Egon Schiele’s ‘Dead City III’ (previously ‘Dead City I’), 2 (DBM 04697).

The evidence shows that Kallir knew that he was buying Fritz Grünbaum's art and that he knew what had happened to Fritz Grünbaum. Fritz Grünbaum was famous and they were acquainted. Kallir also was very well-connected in Austrian émigré circles in the United States and kept up on news about his former compatriots (his FBI file shows that he was particularly active in pro-Habsburg circles).¹⁷⁷ As noted above, Kallir was probably the most knowledgeable person in the world at the time about the location of Schiele's work. He had a passion that fueled his knowledge (note also that Kallir had first written about Schiele's art in 1922 when he was employed at the Galerie Würthle in Vienna—a key gallery at that time selling the artist's works—and that he published his path-breaking study on Schiele in 1930, the same year that he completed his doctoral dissertation at the University of Vienna).¹⁷⁸ Kallir could not possibly have bought so many of Fritz Grünbaum's works from Eberhard Kornfeld—including very well-known and easily identifiable paintings like *Dead City III* (which, as noted above, listed Grünbaum in the provenance in the 1956 auction catalogue and cited Kallir's catalogue raisonné as a source)—and not known that he was acquiring works from Fritz Grünbaum's collection.

37. Kallir's Problematic Reputation. The evidence clearly demonstrates that Otto Kallir was well-aware of the issue of Nazi art plundering. For example, himself had been fortunate to be able to sell his Vienna gallery to Dr. Vita Künstler just before he emigrated, but he knew many others who had not been able to mitigate the losses due to theft. While in Paris in between his flight from Austria and arrival in the United States in September 1939, Kallir purchased several works from Dr. Oskar Reichel (more on this

¹⁷⁷ See, for example, the report by E. C. Sauer on Otto Kallir (2 June 1942), where he writes that according to a Dr. Cassirer, "Kallir has great influence with the Archduke" [the heir to the Habsburg throne] (DBM 03125 – DBM 03127). See also the translation of Fanny Kallir's diary: for example, the entries for 2 September 1939 and 6 October 1939 (DBM 04763 and DBM 04770).

¹⁷⁸ Otto Nirenstein, *Egon Schiele: Persönlichkeit und Werk* (Berlin/Vienna: Peter Zsolnay Verlag, 1930) (D & M 00663 – D & M 00929). Jane Kallir, *Saved From Europe* (New York: Galerie St. Etienne, 1999), 16 (D & M 02064). See also Otto Kallir, "A Personal Report," in Renée Price, ed., *Egon Schiele: The Ronald Lauder and Serge Sabarsky Collections* (Munich: Prestel, 2005), 67 (DBM 05777).

below). Later, in March 1948, in connection with a trade for artworks by Schiele (which he acquired for works by French artist Georges Rouault), he wrote to the other party in the transaction, art dealer J. B. Neumann, “In consideration of the fact that many objects looted by the Nazis are being brought over here, you have assumed all responsibility that the Schiele works came from perfectly reliable sources, and that they were in possession of the previous owner since before the war.”¹⁷⁹

Kallir himself was in Vienna in 1938 when the Nazis invaded. Dr. Kallir exhibited great savvy with regard to the art in his possession in Vienna in the late-1930s. In addition to being able to transfer his Neue Galerie to Dr. Vita Künstler, he was also able to export works from Vienna. In order to accomplish this, he needed export permissions, which he indeed received. Extant documents show artworks entering Switzerland in September 1938—although his applications for the export permits appear to pre-date the Anschluss by just a few days in early March 1938.¹⁸⁰ It is nonetheless remarkable that Kallir, as a Jew, managed to achieve the physical transfer of these artworks. It is also striking that the permits bear the signature of Otto Demus, from the Federal Monuments Office: Demus had also inventoried the Grünbaum collection at the Schenker & Co. storehouse on 8 September 1938.¹⁸¹ After the war, Demus headed the Federal Monuments Agency and executed a policy of requiring émigrés to relinquish artworks to the Austrian state in exchange for export permits: a practice that was deemed wrong (and offered grounds for restitution) by the Austrian government in 1998.

¹⁷⁹ Otto Kallir to J.B. Neumann, 3 March 1948 (DBM 04420).

¹⁸⁰ “Ansuchen der Ausfuhrbewilligung,” 10 March 1938 (but with a customs stamp for Switzerland of 10 September 1938), (DBM 05127 – DBM 05128).

¹⁸¹ “Ansuchen um Ausfuhrbewilligung,” 8 September 1938 (D & M 000579 – D & M 000580).

It bears mentioning that Kallir prompted an investigation by the FBI during World War II and that a number of charges were leveled against him: from selling artworks to Hitler (a Waldmüller painting to owning Hitler's etchings to having \$200,000 of the Rothschilds' money).¹⁸² The documentation provided by the Austrian National Gallery offers more details documenting Kallir's role in selling Ferdinand Waldmüller's *Young Girl*: Dr. Bruno Grimschitz, the Nazi-appointed Director of the Austrian National Gallery (and himself a Nazi deeply complicit in the expropriation of artworks from Jews) served as the courier, and Reich Minister for People's Enlightenment and Propaganda, Dr. Joseph Goebbels, evidently purchased the painting with the intent of giving it to Hitler.¹⁸³ This documentation suggests that Kallir knew full-well that the painting was going to Hitler: a letter dated 13 April 1938 from a member of the family that was selling the work to Kallir says explicitly that the painting is going to Hitler.¹⁸⁴ Considering that the Anschluss had taken place one month earlier and Austrian Jews were being brutally persecuted and dispossessed at this time, the sale of this artwork to Hitler raises certain ethical questions.¹⁸⁵ The documents are inconclusive about whether Kallir personally profited from the transaction: he was an intermediary transferring money to Mrs. A. von Vivenot (she and her son expressed dismay about not receiving her money promptly).¹⁸⁶

¹⁸² See the wartime reports in Otto Kallir's file in the records of the Federal Bureau of Investigation; note that the reports date from 1941 and 1942 (DBM 03115 – DBM 03299).

¹⁸³ Otto Kallir to A. von Vivenot (17 April 1938) (DBM 03800). More generally, see the report and attached documents by Michael Nemeč and Herbert Gruber, "The Waldmueller Sale on Commission of Otto Kallir," 14 June 2007 (DBM 03771 – DBM 03803).

¹⁸⁴ R. ? [signature illegible] to Otto Kallir, 13 April 1938 (DBM 03675). For an English translation of the document, see DBM 03795.

¹⁸⁵ For the persecution of Austrian Jews (including the expropriation of cultural property) that commenced directly after the Anschluss in mid-March 1938, see the scholarly literature by Hans Safrian, Lynn Nicholas, Evan Bukey, David Cesarini, Jonathan Petropoulos, and others in DBM 04532 – DBM 04604 and DBM – 04797 – DBM 04986.

¹⁸⁶ Otto Kallir to A. von Vivenot (17 April 1938) (DBM 03800).

Such questions are raised not only in the extant FBI files concerning Kallir, but also in the research into Kallir's "connections" to "dealers of looted art."¹⁸⁷ In particular, his relationships with Dr. Bruno Grimschitz, Dr. Friedrich Welz, and Dr. Wolfgang Gurlitt raise serious issues: all three men were deeply complicit in the expropriation of artworks from persecuted Jews and worked to implement the Nazi leaders' policies. There is no doubt that Otto Kallir's conduct gave rise to rumors and accusations about his business ethics. While I regard him as an important proponent of Austrian modernism and a highly knowledgeable connoisseur/art historian, Kallir engaged in some questionable business practices. His name has surfaced in connection with other cases: for example, the recent claim for a painting by Oskar Kokoschka (*Two Nudes*) involving Dr. Claudia Seger-Thomschitz and the Museum of Fine Arts, Boston.¹⁸⁸ Dr. Seger-Thomschitz is an heir to Dr. Oskar Reichel, a prominent Viennese art dealer, who had business closed down by the Nazis in November 1938. By February 1939 Oskar Reichel, who remained in Austria with his wife and certain family members, had sold two paintings by Kokoschka paintings to Kallir, then living in Paris. The Reichel family suffered greatly during the war (one son died in a concentration camp and Oskar Reichel himself died of "natural causes" in 1943).¹⁸⁹ Although the painting *Two Nudes* was never confiscated by Nazi authorities, the heirs allege that there was an element of duress underlying the sale.

Dr. Otto Kallir had close connections to other émigré dealers who have been implicated in controversial transactions involving Nazis and the Nazi state. Perhaps most notably,

¹⁸⁷ "Connections Between Otto Kallir and Dealers of Looted Art," (n.d.) (DBM 03519 - DBM 03523). Note also that Welz, Buchholz, Gurlitt, and Valentin are listed as problematic dealers in the OSS Art Looting Investigation Unit's Final Report (1946) (DBM 03804 – DBM 03805).

¹⁸⁸ Museum of Fine Arts, Boston v. Dr. Claudia Seger-Thomschitz (U.S. District Court, District of Massachusetts, Case 1:08-cv-10097). Dr. Seger-Thomschitz alleges that Kallir purchased Kokoschka's painting *Two Nudes* in early 1939 from Dr. Oskar Reichel, a Jewish physician in Vienna, who transferred the painting under duress. Kallir then sold the painting to another dealer who in turn sold it to Sarah Blodgett in 1947 or 1948 (and Blodgett bequeathed it to the MFA, Boston).

¹⁸⁹ Arabella Yip and Ronald Spencer, "Untouched by Nazi Hands, but Still..." in *The Wall Street Journal* (28 February 2008).

Curt Valentin (1902- 1954) helped Dr. Kallir import artworks from Austria when Kallir was establishing himself in New York in 1939.¹⁹⁰ Valentin was a close associate of Karl Buchholz, a very problematic Berlin art and book dealer who collaborated with the Nazi authorities in the liquidation of so-called “degenerate” artworks purged from German state collections. Buchholz sold off many such works on behalf of the Nazi state.¹⁹¹ In November 1936, Curt Valentin also received permission from the President of the Reich Chamber for the Visual Arts (a National Socialist corporatist body to which all individuals working in the art world were required to join) to sell artworks abroad; Valentin did so until he emigrated to the United State in 1937.¹⁹² It is notable that Valentin received this permission from the Nazi organization, if only because he was Jewish. It is also significant that Valentin operated a branch of Buchholz’s Berlin art gallery in New York called the Buchholz Gallery-Curt Valentin and did so from 1937 to 1954.¹⁹³

Both Valentin and Buchholz were implicated in a number of transactions that raised ethical questions: selling off the “degenerate” works from German state collection was legal, due to a German law passed in May 1938, but it was controversial (and has remained so today).¹⁹⁴ Curt Valentin made purchases at the auction of “degenerate” works from German state collections held at the Fischer Galerie in Lucerne on 30 June 1939: this auction was boycotted by many others in the art world because they feared that

¹⁹⁰ See the translation of Fanny Kallir’s diary: for example, the entries for 2 September 1939 (DBM 04764).

¹⁹¹ Andreas Hüneke, “On the Trail of Missing Masterpieces: Modern Art from German Galleries,” in Stephanie Barron, ed., *“Degenerate Art”: The Fate of the Avant-Garde in Nazi Germany* (New York: Abrams, 1991), 121-33.

¹⁹² Reinhardt on behalf of the President of the Reichskammer der bildenden Künste (Adolf Ziegler) to Curt Valentin, 14 November 1936, Jane Wade Papers, Archives of American Art, microfilm reel #2322.

¹⁹³ Andreas Hüneke, “On the Trail of Missing Masterpieces: Modern Art from German Galleries,” in Stephanie Barron, ed., *“Degenerate Art”: The Fate of the Avant-Garde in Nazi Germany* (New York: Abrams, 1991), 129.

¹⁹⁴ Some have regarded the works sold off as part of the “degenerate” art purge of German state collections as “looted” (even though this has not been recognized by courts). One is a biographer of MoMA Director Alfred Barr, Alice Goldfarb Marquis: see her letter to the editor “Nazi Loot Found its Way to New York’s Modern Museum,” in *New York Times* (9 October 1994).

the Nazi government would use the profits to buy arms.¹⁹⁵ The Director of the Museum of Modern Art, Dr. Alfred Barr, for example, refused to attend the auction (but he purchased five such works from Valentin). Again, these sales were technically legal, but ethically suspect. On 29 May 1944, the U.S. Alien Property Custodian seized the stock of the Buchholz Gallery from the Lincoln Warehouse and retained it until war's end; whereupon Curt Valentin re-acquired many of the artworks by purchase in 1945.¹⁹⁶

Curt Valentin and Eberhard Kornfeld were also well-acquainted, as shown in documents from the archives of the Museum of Modern Art. Correspondence from the years 1953 and 1954 shows a very close business connection, with hundreds of artworks changing hands in just those two years. When Valentin died in mid-1954, Eberhard Kornfeld wrote his associate that the Curt Valentin Gallery in New York: "I have been so very touched of [sic] the death of Curt Valentin and I wish to express you [sic] my deepest sympathy. If I may be able to help you in any way, please let me know. Mr. Valentin bought a few weeks before his death the following items and asked us to send them to New York: Kirchner Strassenszene, Kandinsky, Blatt aus Klänge, Kollwitz, Mutter mit totem Kind. If you prefer not to keep this lot, I should be willingly ready to take it back. With kind regards and all good wishes...."¹⁹⁷ Curt Valentin wrote Kornfeld on 20 November 1953, "I think the prices are catastrophic in most instances.... I wish I could have been present at the auction—I think I would have bought everything!"¹⁹⁸ In

¹⁹⁵ Stephanie Barron, "The Galerie Fischer Auction," in Stephanie Barron, ed., *"Degenerate Art": The Fate of the Avant-Garde in Nazi Germany* (New York: Abrams, 1991), 140.

¹⁹⁶ See the provenance for one of the works that was confiscated in the "Buchholz seizure": August Macke's *Lady in a Park* at <http://moma.org/collection/provenance/items/16.56.html>. See more generally, Godula Buchholz, *Karl Buchholz: Buch- und Kunsthändler im 20. Jahrhundert* (Cologne: Drumont Verlag, 2005).

¹⁹⁷ Eberhard Kornfeld to Jane Wade, 28 September 1954, in the Curt Valentin Papers, VII.A1, Museum of Modern Art Archives, New York.

¹⁹⁸ Curt Valentin to Eberhard Kornfeld, 20 November 1953, in the Curt Valentin Papers, VII.A1, Museum of Modern Art Archives, New York.

evaluating the evidence, one must keep in mind this context of challenging business conditions in order to understand the comportment of many dealers.

38. **Efforts of Grünbaum Heirs to Recover Artworks.** That said, it is clear that relatives of Fritz Grünbaum and Elisabeth Grünbaum did make efforts to pursue the Grünbaum estate. Paul and Francis Reif, Fritz Grünbaum's first cousins (whom he apparently referred to as nephews), did file documents with the German government in the 1950s as they tried to claim some of Fritz Grünbaum's royalties and intellectual property in Germany (Paul Reif had composed songs with Fritz Grünbaum, including the hit "Anna, Stop All this about Jack Smith").¹⁹⁹ According to Paul Reif's widow, Rita Reif, Paul and his mother Elise Fritz "also wrote letters to people they knew in Austria or met on return visits there."²⁰⁰ In 1963, a German court declared Paul and Francis Reif to be "the only known survivors of Fritz Grünbaum; however, this ruling was reversed in 1998."²⁰¹ Paul Reif also wrote to the Foreign Claims Settlement of the United States in 1964 advancing his claim at the heir to Fritz Grünbaum.²⁰² Paul Reif's widow, Rita Reif, later conducted research in an attempt to advance a claim on works from the Grünbaum estate, and this included talking with Otto Kallir and asking her colleague at the *New York Times*, art

¹⁹⁹ American League of Authors and Composers from Austria to Paul Reif, 8 July 1964 (D & M 0095 – D & M 0097). Paul Reif to Josef Weinberger Ltd., 29 December 1964 (D & M 0098). See also William Cohan, "Unravelling the Mystery of Dead City" in *ARTnews* (April 2008), 118.

²⁰⁰ Rita Reif, Affidavit, 24 February 2006, 19. Rita Reif also says they started searching "after the war" and that she and Paul went to Vienna in 1955 to advance research about the fate of Fritz Grünbaum's estate. See Rita Reif's affidavit, 2 January 1998 (D & M 02818) and her statement of 5 January 1998 (D & M 02831).

²⁰¹ Judith Dobrzynski, "16 Other Works by Schiele May have a Clouded Past" (15 January 1998) (MOMA 00029). Paul and Francis Reif were declared heirs by a German court in 1963 (although this decision was later reversed in 1998). See Tim Reif to Steven Ringer, 1 April 1998 (D & M 02771 - D & M 02772). See also the statement by art dealer Scott Ellicott of 2 January 1998 who testified that Paul Reif endeavored to track the Grünbaum works by Schiele in the 1960s and early 1970s (D & M 02814).

²⁰² Paul Reif to Foreign Claims Settlement Commission of the United States, 3 July 1964 (D & M 0090 – D & M 0094).

critic Hilton Kramer, if he would make inquiries with Dr. Rudolf Leopold about the Schiele's in his collection.²⁰³

Fritz Grünbaum's sister, Lilli Zozuli, also undertook efforts to pursue the estate. In a letter she wrote to Paul Reif dated 13 January 1964, she told about a voluminous correspondence with a Viennese lawyer (whose name she does not provide) about the estate; this lawyer told her that the sisters of Elisabeth Grünbaum in Brussels had presented themselves as heirs.²⁰⁴ Of course, this was not the case. This lawyer lied to Lilli Zozuli. Such fraud only increased the challenges for the rightful heirs to pursue a claim. Additionally, the Viennese authorities told prospective heirs in 1963 that Elisabeth Grünbaum had no property and that "there will no be an estate proceeding for inheritance."²⁰⁵ While it appears that the Lilli Zozuli, as well as Paul and Francis Reif, did not accept such answers as final, there is no doubt that the Austrian state created bureaucratic roadblocks that impeded their progress in pursuing the estate.

It was very difficult for heirs to track down the Drawing after it came into possession of Eberhard Kornfeld. While Kornfeld listed Fritz Grünbaum as the owner of *Dead City III* in his 1956 catalogue, he did not mention Grünbaum in the provenance for the other works.²⁰⁶ When the Drawing was exhibited at Otto Kallir's Galerie St. Etienne in 1957, there was no provenance information in the catalogue.²⁰⁷ Subsequent publications, such as the traveling exhibition of Schiele's work in 1960 and 1961, only listed Kallir and the

²⁰³ For examples of Rita Reif's efforts to advance a claim on property from the Grünbaum estate, see her notes from the late-1990s (D & M 01134 - D & M 01148). See also Rita Reif's affidavit from 8 January 1998 supplied to District Attorney Robert Morgenthau and the affidavit of 24 February 2006, 19-21.

²⁰⁴ Lilli Zozuli to Paul Reif, 13 January 1964 (D & M 0084 - D & M 0089).

²⁰⁵ Bezirksgericht Innere Stadt Wien (District Court of Central Vienna), "Todfallsaufnahme" for Elisabeth Grünbaum, 14 August 1963 (D & M 0064 - D & M 0071).

²⁰⁶ See the Gutekunst & Klipstein catalogue for the exhibition, 8 September - 6 October 1956 (P 0051 - P 0098).

²⁰⁷ Galerie St. Etienne, *Egon Schiele: Watercolors and Drawings* (January - February 1957), 17, object # 28 (KAL 0266).

Galerie St. Etienne in the provenance.²⁰⁸ And, as noted earlier, Jane Kallir did not identify the Grünbaum link with regard to the Drawing in her catalogue raisonné of 1990 (or the second edition in 1998).²⁰⁹

It is unsurprising and understandable that it should have taken heirs as long as it did to locate the Drawing. Mr. Vavra's circumstances in Prague are very clear: it was not possible for insurance clerk (now retired) to pursue a claim in the West while living under Communist rule. Mr. Fischer, it appears, was not confirmed by a court as an heir until 2002.²¹⁰ Well into the mid-1990s, it was common for victims and heirs to be passive or completely ignorant about claims. The heirs of Fritz Grünbaum began to pursue works and make claims just about the time that other cases came to light, beginning in 1998.²¹¹ Some, like *Altmann v. Austria*, have been resolved, but others are still pending. In short, there is no extraordinary delay in pursuing this claim. It is also important to keep in mind that it was not only Fritz and Elisabeth Grünbaum who were victims of the Nazis; their entire families were practically wiped out during the Holocaust.

39. Public Awareness of Nazi Looted Artworks. That said, there was more knowledge in the art world about the issue of Nazi looted art, and this awareness dated back to the time of the war itself. The knowledge of Kallir and Kornfeld that they gained from their contact with émigrés has been discussed above. The U.S. government also took steps to alert dealers to the complex of issues surrounding looted art: for example, the American

²⁰⁸ Institute of Contemporary Art, Boston, *Egon Schiele, 1890 – 1918* (Boston: Institute of Contemporary Arts, 1960), 63 (KAL 0330).

²⁰⁹ Jane Kallir, *Egon Schiele: Complete Works* (1st edition, New York: Abrams, 1990; exp. Ed. New York: Thames and Hudson, 1998), object 1974 (P 0331 and STHB 000122)

²¹⁰ Estate Assignment Certificate, 12 September 2002 (D & M 01280)

²¹¹ See, for example, the efforts of Kathleen and Rita Reif in 1998, at a time when they were designated legal heirs of Fritz and Elisabeth Grünbaum: this includes her correspondence with the Museum of Modern Art in New York (STHB 000122 – STHB 000519).

Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas (also known as the “Roberts Commission” after its Chairman, Supreme Court Justice Owen J. Roberts), sent circulars in 1945 on the subject to “museums, art and antique dealers, and auction houses.” This warning included the observation, “It is, of course, obvious, that no clear title can be passed on objects that have been looted from public or private collections abroad.”²¹² The U.S. State Department tasked Ardelia Hall to alert members of the art world to these issues, and she was extraordinarily energetic in her work throughout the 1950s and 1960s.

There was also considerable coverage of the issue of Nazi art looting in the press. Journalist Janet Flanner covered the topic in the pages of *The New Yorker* in a celebrated 1947 article (as well as in her 1957 book, *Men and Monuments*).²¹³ Former OSS officer and member of the Art Looting Investigation Unit James Plaut wrote a piece, “Hitler’s Capital: Loot from the Master Race,” that appeared in *The Atlantic* in 1946.²¹⁴ Other key figures in the Allies’ restitution effort also wrote memoirs, including Thomas Carr Howe’s *Salt Mines and Castles: The Discovery and Restitution of Looted European Art* (1946) and James Rorimer’s *Survival: The Salvage and Protection of Art in War* (1950).²¹⁵ That Howe became the director of the San Francisco Legion of Honor and Rorimer later headed the Metropolitan Museum of Art in New York only increased the visibility of these books, which recounted both the Nazis’ plundering operations, and also the challenges of restitution work. Indeed, dozens of Americans who had served as

²¹² American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas, Circular to Museums, Art and Antiques Dealers, and Auction Houses (n.d.), in NARA, RG 59 Entry 62D-4, State Department (Ardelia Hall), Box 1.

²¹³ Janet Flanner, “Annals of Crime: The Beautiful Spoils,” in *The New Yorker* 40 (22 February 1947); and Janet Flanner, *Men and Monuments* (New York: Harper and Row, 1957).

²¹⁴ James Plaut, “Hitler’s Capital: Loot from the Master Race,” *The Atlantic* (October 1946), 75-80.

²¹⁵ Thomas Carr Howe, *Salt Mines and Castles: The Discovery and Restitution of Looted European Art* (Indianapolis: Bobbs-Merrill, 1946); and James Rorimer, *Survival: The Salvage and Protection of Art in War* (New York: Abelard, 1950).

Monuments Officers assumed leading positions in U.S. museums in the postwar period: this phenomenon has recently been documented by the scholarship of Robert Edsel.²¹⁶ But again, the fact remains that there were not only many people in the art world with first hand knowledge of Nazi art looting and the challenges of restitution, but also widespread knowledge. Even the *New York Times* ran articles on the subject: to wit, Milton Esterow's November 1964 piece, "Europe is Still Hunting Its Plundered Art."²¹⁷ Esterow made an important observation when he noted, "From Greece to California, hundreds of art scholars, museum directors, private galleries, and police organizations, including Interpol, the international police organization, are watching for the reappearance of works stolen from museums, churches, libraries, galleries and private collections."²¹⁸

It is also important to remember that from the late-1940s through to the 1990s, when the issue emerged in a more public way, certain victims of Nazi persecution did pursue artworks looted from them and their families. For example, the heirs of Paul Rosenberg, a French dealer who had emigrated to the United States in 1940, endeavored to find missing works: they worked with the French government's restitution agencies, interacted with Ardelia Hall at the U.S. State Department, and networked with art dealers around the world. There was a steady stream of restitution cases throughout the postwar period that should have served to put members of the art world on alert. The subject of

²¹⁶ Robert Edsel's list of Monuments Officers who assumed positions in the American museum establishment can be found at http://www.rescuingdavinci.com/HelpSolve/list_cultins.aspx.

²¹⁷ Milton Esterow, "Europe is Still Hunting Its Plundered Art," in *New York Times* (16 November 1964) (DBM 05255).

²¹⁸ Milton Esterow, "Europe is Still Hunting Its Plundered Art," in *New York Times* (16 November 1964) (DBM 05255).

looting and restitution was also treated in law journals, such as the *American Journal of International Law*.²¹⁹

While there was widespread knowledge within the art world from the 1950s and 1990s of the issues surrounding Nazi looted art, there was also a willful disregard for the subject on the part of most art dealers and museum officials. In the United States, curators and collectors focused on acquiring artworks in a spirit that I would characterize as unbridled greed. With virtually no physical damage suffered during the War, the United States had emerged as by far and away the wealthiest country in the world. It is axiomatic that art follows money, and this was indeed the case in the post-1945 when the vast majority of the country's museums came into existence and built their collections. Members of the art trade were only too happy to assist American curators and collectors in this regard. Ethical considerations with regard to looted art fell by the wayside. One might draw certain parallels between the art world then and the housing and mortgage industries in more recent years. Regardless of whether one accepts this comparison, the fact remains that there was ample information about looted art available to members of the art world in the decades after World War II, and at the same time, there were laconic efforts to recover and retribute such works.

40. **Acquisition and Sale of Drawing by David Bakalar.** Consistent with this information, it is my opinion that David Bakalar should have been more vigilant about the provenance of the Drawing in question when he acquired the work in 1963. By this point, Bakalar was already an experienced collector: as evidenced in the 25 July 1960 article in *Time* magazine, he was an exceedingly wealthy and well-educated man (a bachelor's degree

²¹⁹ "Restitution of Identifiable Property to Victims of Nazi Oppression," in *Supplement to the American Journal of International Law* 44 (1950), 39-67.

from Harvard and a doctorate from MIT).²²⁰ He had spent some of this money on a burgeoning art collection beginning in “his mid-thirties” (born in 1925, Bakalar would therefore have been 39 when he purchased the Drawing).

Bakalar testified that he believed that he bought the Drawing from Kallir (he stated that he knew that he had met him and believed that the owner of the Galerie St. Etienne was the one handled the actual sale).²²¹ Bakalar also stated “I knew enough that when you buy a painting or sculpture you ask for the provenance.... I can’t imagine that Dr. Kallir would have sent me – sold me something without providing a provenance....”²²² Later, he stated, “I would find it difficult to imagine that I didn’t ask for a provenance and get a provenance from Dr. Kallir, but I have no record of it.”²²³ But not only did Bakalar not retain any document about the work’s provenance for his records, when asked “at the time you purchased it, do you recall where you believed the drawing ... came from?”; he replied, “I have no idea.”²²⁴ For someone who appeared to understand the proper practice about documenting an artwork’s provenance, Bakalar’s answers about what he did and knew are troubling.²²⁵ Bakalar testified that he purchased a second drawing by Schiele from Kallir, probably at the same time, and he also had no recollection of its provenance.²²⁶ Considering that Bakalar is highly intelligent, has been a very successful businessman, and that he understands that need for obtaining an explanation of provenance when buying an artwork, his comments with regard to the Drawing defy comprehension. At a minimum, Bakalar’s comments are at odds with assertions in the complaint (paragraph 37), where he alleged, “At the time of the purchase, Otto Kallir

²²⁰ Anonymous, “The Yankee Tinkerers,” in *Time* (25 July 1960) (DBM 05659 – DBM 005667). See also the deposition of David Bakalar (12 October 2005), 6.

²²¹ Deposition of David Bakalar (12 October 2005), 12.

²²² Deposition of David Bakalar (12 October 2005), 12. Bakalar also speaks to this issue on pp. 15-16.

²²³ Deposition of David Bakalar (12 October 2005), 16.

²²⁴ Deposition of David Bakalar (12 October 2005), 16.

²²⁵ Deposition of David Bakalar (12 October 2005), 13, 16.

²²⁶ Deposition of David Bakalar (12 October 2005), 16.

advised plaintiff that the Drawing had been acquired from Gutekunst and Klipstein in Switzerland.”²²⁷ In his 12 October 2005 deposition, Bakalar professed complete ignorance about the origins of the work (other than he bought it from the Otto Kallir and the Galerie St. Etienne). My assessment of the documents leads me to conclusion that David Bakalar was not diligent with regards to researching or trying to understand the provenance of this artwork that he acquired.

41. **Sotheby’s Sale of Drawing in 2005.** When the Drawing was consigned to Sotheby’s in November 2004, the experts in their employ should have also raised questions about its provenance.²²⁸ There were, to employ the parlance of provenance researchers, several “red flags” that should have elicited closer scrutiny by Sotheby’s experts. For one, the name Eberhard Kornfeld should have raised concerns. As noted above, Kornfield was listed in both German and Swiss official reports as a dealer who trafficked in looted artworks. Second, all works by Schiele should attract the attention of provenance specialists: as noted earlier, it is widely known that his work was initially collected by Austrian Jews, many who suffered persecution at the hands of the Nazis. Third, that Jane Kallir’s catalogue raisonné had a provenance stretching back to 1956 (Gutekunst & Klipstein) constituted yet another clear “red flag.” It is problematic to publish a provenance of an Austrian artist who died in 1918 with an account that commences in 1950s Switzerland—especially with regards to Schiele and the fate of so many of his patron. As noted earlier, the problems with the provenance of *Dead City III* that were revealed in 1998 should have made experts particularly mindful of works that came from the Gutekunst & Klipstein sale of 1956.

²²⁷ Deposition of David Bakalar (12 October 2005), 32.

²²⁸ For the date of the consignment of the Drawing, see the deposition of David Bakalar (12 October 2005), 27.

Sotheby's evidently did conduct research on the Drawing for a three month period. Lucian Simmons, a Senior Vice-President and World-Wide Head of Restitution at Sotheby's coordinated the effort.²²⁹ He and his colleague Elizabeth Gorayeb contacted Jane Kallir, Robert Holzbauer of the Leopold Museum in Vienna, and others who might have knowledge about the Drawing.²³⁰ Sotheby's withdrew the Drawing from a sale scheduled to take place in New York in November 2004 in order to conduct more research.²³¹ This research took place, and it included reading Thomas Buomberger's account of Kornfeld obtaining the work from Mathilde Lukacs. However, it bears noting that according to Lucian Simmons, Sotheby's never asked Eberhard Kornfeld for the original provenance documents.²³² When they consulted art historian Sophie Lillie about the matter, she stated that she had "concerns over the ethical situation of the sale by Mathilde Lukacs in 1956."²³³ However, Sotheby's proceeded to go ahead with the sale in London in February 2005.²³⁴

42. **Conclusion.** For all of the above reasons, the overwhelming evidence demonstrates that the Drawing by Egon Schiele was in the collection of Fritz Grünbaum and was seized by the Nazi state after the Anschluss in 1938. Once the Drawing was registered with the Nazi authorities through the inventory prepared by Dr. Franz Kieslinger (a Nazi himself and an art plunderer), and placed in the Schenker & Co. warehouse (a Nazified company that collaborated in the regime's looting programs), and in light of the provisions of the Reich Flight Tax and the "Gildemeester-Aktion," which made it impossible for Jews to take-back property entrusted to agents of the state, the Drawing was confiscated by the

²²⁹ Deposition of Lucian Simmons, 27 August 2007, P 24 L 24.

²³⁰ Deposition of Lucian Simmons, 27 August 2007, P 25 – P 26, P 48. See also Isabel von Klitzing to Lucian Simmons and Elisabeth Gorayeb, 20 August 2004 (STHB 000141 – STHB 000143)

²³¹ Deposition of Lucian Simmons, 27 August 2007, P 27 – P 28.

²³² Deposition of Lucian Simmons, 27 August 2007, P 60.

²³³ Deposition of Lucian Simmons, 27 August 2007, P 66.

²³⁴ Deposition of David Bakalar, 12 October 2005, 31. Deposition of Lucian Simmons, 27 August 2007, P 30.

Nazi state. If the Drawing was in fact given to Mathilde Lukacs after the war, it is clear that she could not have good title to it, nor apparent authority to convey title to anyone else.²³⁵ The evidence shows that Eberhard Kornfeld, as the president of the Swiss Art Dealers' Association and an experienced professional in the heart of Europe who had dealt with émigrés from Nazi persecution, had extensive knowledge of the problems associated with Nazi art looting. The evidence also shows that Dr. Otto Kallir, as the probably most knowledgeable authority on Egon Schiele, and as a former acquaintance of Fritz Grünbaum (whom he had sold artworks), knew full well the Drawing in question and the other works by Schiele that he bought from Eberhard Kornfeld in 1956 hailed from Fritz Grünbaum's collection. The evidence shows that both Eberhard Kornfeld and Dr. Otto Kallir consciously concealed information about the provenance of the Drawing and other works from the Fritz Grünbaum collection. This deception made it exceedingly difficult for the heirs of Fritz and Elisabeth Grünbaum to track the Drawing and make a claim for restitution. Now that the history surrounding the Drawing has been clarified to the current extent, the Drawing should be returned to the heirs of Fritz Grünbaum.

²³⁵ See the translation of Mathilda Lukacs/Dr. Rudolf Skrein to Vienna Regional Civil Court, 21 June 1954 (DBM 04774 – DBM 04775).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 25 March 2008.

A handwritten signature in black ink that reads "Jonathan Petropoulos". The signature is written in a cursive style with a large initial "J".

Jonathan G. Petropoulos

Claremont, California

EXHIBIT A

March 2008

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Director of Center for the Study of the Holocaust, Genocide, and Human Rights, Claremont McKenna College, 2007-present.

Director of the Gould Center for Humanistic Studies, Claremont McKenna College, 2001-2007.

Founding Associate Director of the Center for the Study of the Holocaust, Genocide, and Human Rights, Claremont McKenna College, 2003-2007.

Life Member, Clare Hall, Cambridge University (U.K.), 2005 – present.

Visiting Fellow, Clare Hall, Cambridge University (U.K.), 2004 – 05.

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

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

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

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

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

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

Lecturer on History, Harvard University, 1990-1992

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

EDUCATION

Ph.D. Harvard University, Modern European History, 1990. Adviser: Professor Charles S. Maier.

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

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

PUBLICATIONS

Monographs:

Royals and the Reich: The Princes von Hessen in Nazi Germany (New York/London: Oxford University Press, 2006. Paperback, July 2008).

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

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

Anthologies:

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

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

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

Scholarly Articles:

"The Art World in Nazi Germany: Choices, Rationalization, and Justice," in Frank Nicosia and Jonathan Huener, eds., *The Arts in Nazi Germany* (New York/Oxford: Berghahn Press, 2006), 135-64.

"The Nazi Kleptocracy: Reflections on Avarice and the Holocaust," in Dagmar Herzog, ed., *Lessons and Legacies VI* (Evanston, IL: Northwestern University Press, 2006), 29-38.

"The Gray Zone of Denazification and Postwar Justice," in Jonathan Petropoulos and John Roth, eds., *Gray Zones: Ambiguity and Compromise During and After the Holocaust* (New York/Oxford: Berghahn Press, 2005), 325-38.

"The Polycratic Nature of Art Looting," in Gerald Feldman and Wolfgang Seibel, eds., *Networks of Persecution: The Holocaust as Division-of-Labor-Based Crime* (New York/Oxford: Berghahn Books, 2004), 103-17.

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

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

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

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

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

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

"German Laws and Directives Bearing on the Appropriation of Cultural Property in the Third Reich," in Elizabeth Simpson, ed., *The Spoils of War: The Loss, Reappearance, and Recovery of Cultural Property During and After World War II* (New York: Harry Abrams, 1996), 106-111.

"The Primacy of *Kulturpolitik*: Tolerance, Hegemony, and Subsumption in Interwar Austria as a Background to the Artist in Exile," in John Czaplicka, ed., *Emigrants and*

Exiles: A Lost Generation of Austrian Artists in America, 1920-1950 (Vienna/New York: Österreichische Galerie, 1996), 71-100.

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

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

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

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

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

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

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

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

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

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

Journalistic Articles:

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

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

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

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

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

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

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

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

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

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

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

Book Reviews and Review Essays:

“Provenance Research as History: Reconstructed Collections and National Socialist Art Looting” (Review essay) in *Contemporary Austrian Studies* 14 (2006), 373-81.

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

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

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

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

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

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

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

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

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

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

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

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

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

RELATED ACADEMIC WORK

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

Expert Witness in a number of legal cases, including *Altmann v. Austria* (6 paintings by Gustav Klimt); *Rosner et. al. v. U.S.A.* (the Hungarian "Gold Train"); and *Kann v. Wildenstein* (medieval manuscripts looted by the Nazis), *Cassirer v. Thyssen-Bornemisza Museum* (painting by Camille Pissarro), 2000-present; *U.S. v. Leopold Museum* (Egon Schiele painting), 2006-present.

Administrative Director and Board Member of The Project for the Documentation of Wartime Cultural Losses, a not for profit organization created in 1998 for the purpose of gathering, centralizing and making available information relating to works of art, archives, and other types of cultural property displaced as a consequence of war, 6/98 – present.

Consultant: at Los Angeles County Museum of Art. Helped write panel texts and brochure for exhibition, "The Bloch-Bauer Klimts," April-July 2006.

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

(which won the College Art Association's Alfred H. Barr Award for Museum Scholarship in 1993 and the George L. Wittenborn Award for outstanding museum exhibition of the year). Full time position, Summer 1989 and Summer 1990. Part-time September 1989-May 1991.

Co-Editor for series, "Interdisciplinary German Cultural Studies" at the Verlag Walter de Gruyter GmbH & Co. (Berlin and New York), 2005-present. Along with two colleagues, review and edit manuscripts for series.

Consultant for Stuart Eizenstat in preparation of his "Testimony on the Status of Art Restitution Worldwide," before the Subcommittee on Domestic and International Monetary Policy, Trade, and Technology Committee on Financial Services, U.S. House of Representatives, Washington, DC, 27 July 2006

Scholarly Associate (Wissenschaftliche Mitarbeiter) at Künstlerhaus Wien. Worked with curator Jan Tabor in preparation of exhibition *Kunst und Diktatur* (March-August 1994): helped arrange loans from collections in the United States, located illustrations for catalog, consulted on provenance of exhibits. Part time position December 1993-April 1994.

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

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

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

GRANTS AND AWARDS

Dean of Faculty, Summer Research Grant, Claremont McKenna College, 2006.

Wiener Library, Honorable Mention for the Fraenkel Prize for *Royals and the Reich*, 2005.

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

Visiting Fellowship, Wolfson College, Cambridge University, 2004-2005 (declined).

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

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

Alexander von Humboldt Foundation, fellowship for 2000-01.

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

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

Holocaust Educational Foundation, Research Grant, summer 1998.

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

Summer Research Grant, Loyola College, August 1997.

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

Summer Research Grant, Loyola College, June-August 1996.

Junior Faculty Sabbatical, Loyola College, July 1995-January 1996.

Enhancing Classroom Teaching (for trip to Holocaust sites in Eastern Europe), Loyola College, June 1995.

Holocaust Educational Foundation, for research into pedagogy of Holocaust, June 1995.

German Academic Exchange Service (DAAD) Research Grant for Recent PhDs, August 1993-January 1994.

Selected as "Young Leader" by the American Council on Germany, August 1993.

Grant from Austrian Foreign Office, Vienna, for research in Austria, summer 1992.

Milton Fund, Harvard University, for research in Austria, summer 1992.

German Academic Exchange Service (DAAD), for study and research in the Federal Republic of Germany, 1987-1988.

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

Harvard University Committee on Undergraduate Education Distinguished Teaching

Award, 1988-89 and 1989-90.

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

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

BOARDS AND PROFESSIONAL ASSOCIATIONS

Chair, Richard M. Hunt and Guido Goldman Fellowships, American Council on Germany (2003-present); American Association of Museums' Task Force on Nazi-Era Provenance (2003-present); Board member of the War Documentation Project (1997-present); Advisory Board Member of the Commission on Art Recovery (London) (2000-present); Scholarly Board (Wissenschaftliches Beirat) for the Archive of the Obersalzberg (Berchtesgaden) (2003-present); Nominating Committee for Conference Group for Central European History (within American Historian Association) (2000-2001). Chair, Fritz Stern Dissertation Prize, German Historical Institute (2001); Treasurer of the Friends of the German Historical Institute (1996-2001). Member of the following organizations: American Council on Germany; German Studies Association; American Historical Association; College Art Association.

FILM PROJECTS, DOCUMENTARIES, AND TELEVISION APPEARANCES

Stolen Timbre: The Lost and Found Rhapsody of Stradivarius (feature length film on Stradivarius violen stolen by Nazis, made by Masayo Sodeyama and Manon Banta, 2006).

Hitler's Favourite Royal (hour-long documentary on Prince Charles Edward von Sachsen-Coburg und Gotha made by Channel 4 Films, UK), 2006.

Rape of Europa (feature length film on Nazi art looting made by Actual Films), 2005-06.

Klimt: Adele's Last Will (one-hour documentary made by Laurence Uebersfeld and a French team on the Bloch-Bauer Klimts), 2005-06.

Adele's Wish (directed by Terrence Turner, 2007).

Portrait of Adele (directed/written by Ilana Linden, 2006).

The Art Sleuths (one-hour documentary made by British production company), 2006.

Stealing Klimt (feature length film made by Gilonne d'Origny and a British production company), 2005-06.

Private Life of a Masterpiece: Vermeer's Allegory of Painting (episode of BBC series), 2005.

CNN/Comcast Local Edition (Claremont) (interview concerning Bloch-Bauer Klimts), 26 January 2006.

The Hungarian Gold Train (Israeli documentary film), 2005.

The Twentieth Century (PBS documentary film series), 2002.

Segment on *The Faustian Bargain* (Bayerischer Rundfunk program, *Kulturreport*), 11 March 2001.

Biographical feature, *Window on America* (production of Worldnet, Voice of America), 1999.

Biography: Hermann Göring (A&E Television), 1998.

SPEAKING ENGAGEMENTS

Keynote address: "Hidden Children in Occupied Greece," Sephardic Temple Tifereth Israel, Los Angeles, CA, 19 February 2008.

Panel Discussion, after screening of film, *Rape of Europa*, Los Angeles County Museum of Art, Los Angeles, CA, 24 March 2007.

Lecture: "Nazi Art Looting," at The Desert Museum, Palm Springs, CA, 19 December 2006.

Lecture: "Royals and the Reich," The University Club, New York, NY, 9 November 2006.

Lecture: "Royals and the Reich," Fairfield University, Fairfield, CT, 8 November 2006.

Paper: "Prince zu Waldeck und Pyrmont: Prince Waldeck und Pyrmont: Context, Career, and Consequences," at *Lessons and Legacies*, Claremont, CA, 5 November 2006.

Paper: "The British Royal Family and the Hessens," at conference, Anglo-German Royal Kinship, 1760-1914, German Historical Institute, London, UK, 30 October 2006.

Panel Moderator and symposium organizer, "The Bloch-Bauer Klimt Paintings: Their History and Wider Significance," Los Angeles County Museum of Art, Los Angeles, CA, 6 May 2006.

Lecture: "Recent Developments Concerning Nazi Art Looting," CMC Woman's Forum, Claremont, CA, 2 May 2006.

Lecture: "Royals and the Reich," Wordstock Book Fair, Portland, OR, 23 April 2006.

Lecture: "Recent Developments Concerning Nazi Art Looting," Indianapolis Museum of Art, Indianapolis, IN, 20 April 2006.

Lecture: "The Bloch-Bauer Klimt Paintings," Los Angeles County Museum of Art, LA, CA, 11 April 2006.

Lecture: "The Bloch-Bauer Klimt Paintings," University Synagogue, Brentwood, CA, 9 April 2006.

Lecture: "Royals and the Reich," Pasadena Senior Citizens' Center, Pasadena, CA, 2 March 2006.

Moderator and panel organizer: "The International Military Tribunal at Nuremberg Sixty Years Later," Claremont McKenna College (Athenaeum), Claremont, CA, 22 February 2006.

Lecture: "Recent Developments Concerning Nazi Art Looting," Pasadena Senior Citizens' Center, Pasadena, CA, 28 January 2006.

Lecture: "Expressionism and the Third Reich," German Historical Institute, Washington, DC, 11 November 2006.

Lecture: "Royals and the Reich," Boston University Faculty Seminar, Boston, MA, 9 November 2005.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Lecture: “Nazi Art Looting and Postwar Efforts at Restitution,” Benefit for American Friends of the Israel Museum held at Christies’, Beverly Hills, CA, 4 March 2003.

Chair and Commentator, “Daniel Goldhagen and His Critics: The Vatican and the Holocaust,” Claremont McKenna College, Claremont, CA, 5 February 2003.

Paper: “Reflection on the Presidential Advisory Commission on Holocaust Assets,” at conference, Commissioning History: The Work of Historical Commissions in Germany, Austria and the United States, the D-Day Museum, New Orleans, 21 November 2002.

Comment: on papers concerning memoirs during World War II, Pomona College, Claremont, CA, 16 November 2002.

Paper: "Greed and the Nazi Kleptocracy," at Lessons and Legacies, University of Minnesota, Minneapolis, MN, 1 November 2002.

Lecture: "Royals and the Reich: The Princes of Hessen in Nazi Germany," at The Athenaeum, Claremont McKenna College, 24 October 2002.

Lecture: "Adolf Hitler and Art," Williams College, Williamstown, MA, 3 October 2002.

Commentator: on panel, "New Approaches to the History of the Third Reich and the Holocaust," American Historical Association conference, San Francisco, 5 January 2002.

Abe Kanof Annual Lecture: "The Faustian Bargain: The Art World in Nazi Germany and Beyond," at the North Carolina Museum of Art, Raleigh, NC, 8 April 2002.

Lecture: "Nazi Art Looting," at The Desert Museum, Palm Springs, CA, 21 March 2002.

Lecture: "Nazi Art Looting," at Iowa State University, Ames, Iowa, 28 January 2002.

Commentator: on panel, "New Approaches to the History of the Third Reich and the Holocaust," American Historical Association conference, San Francisco, 5 January 2002.

Paper: "Recent Developments in Researching Nazi Looted Art" for panel, "The Crime of the Century: Researching Nazi Era Provenance," Western Art Museums Association, Palm Springs, 11 October 2001.

Keynote speaker: "Arno Breker and Sculpture during the Third Reich," at symposium on 20th century German figurative sculpture, Henry Moore Gallery, Leeds, UK, 23 June 2001.

Lecture: "Researching Looted Art," at symposium of provenance researchers and museum curators at the Alte Pinakothek, Munich, 18 May 2001.

Participant: round-table symposium convened by the U.S. Consulate in Munich on compensation to slave and forced laborers by German industry, Munich, 19 April 2001.

Lecture: "Nazi art looting: A Transatlantic Perspective," at Washington University in St. Louis, 8 March 2001.

Lecture: "Nazi Dealer Karl Haberstock," at the Armory in Augsburg, co-sponsored by the University of Augsburg and the Municipal Paintings Collection, 8 February 2001.

Lecture: "Biographical Approaches to researching Looted Art," part of a series on the political economy of the Holocaust at the Technical University of Vienna, 18 December 2000.

Speaker and co-organizer: symposium convened by filmmakers who are producing a PBS documentary on looted art called *The Rape of Europa*, Washington, DC, 11 November 2000.

Member of U.S. delegation and adviser to Deputy Secretary of the Treasury Stuart Eizenstat at the Vilnius Forum on Holocaust Cultural Property, Vilnius, Lithuania, 2-5 October 2000.

Commentator: panel "Intermediary Agencies and Spoliation," at conference, "Networks of Persecution: The Holocaust as a Division-of-Labor Based Crime" at the University of Konstanz, 27-29 September 2001.

Participant : round-table discussion of museum officials and researchers concerning Holocaust era looted art at the National Archives, College Park, MD, 16 August 2000.

Lecture: "Recent Developments Concerning Art Looting," sponsored by the American Council on Germany, Manhattan, 19 June 2000.

Testimony on looted cultural property before the Select Committee on Culture, Media, and Sport, United Kingdom House of Commons, London, U.K., 18 May 2000.

Paper: "Recent Trends in Research into Looted Art," American Museum Association, Baltimore, MD, 16 May. 2000.

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

Paper: "The History of Art Looting in World War II: The Implications for Locating Works Still Missing," at conference, *Holocaust Research and Holocaust Studies in the 21st Century* at The U.S. Holocaust Memorial Museum, Washington, DC, 15 December 1999.

Respondent: "Panel on Teaching Innovation," Presidential Inauguration Symposium, Claremont McKenna College, 13 October 1999.

Lecture: "The History of Nazi Art Looting: Tracking Works Still Missing" at The Marion Cook Athenaeum, Claremont McKenna College, 29 September 1999.

Paper: "Arno Breker and the Third Reich--From Seduction to Denial," at symposium, "Kultur und Staatsgewalt: Formen und Folgen der Kulturpolitik im Dritten Reich und in der DDR," Technische Universität, Dresden, 4 June 1999.

Lecture, "The Art World in Nazi Germany," at The Art Seminar Group, Baltimore, MD, 4 May 1999.

Keynote speaker: "Looted Art and World War II" at the U.S. Foundation for the World Federation of Friends of Museum, Baltimore, MD, 23 April 1999.

Paper: "Crossing Disciplinary Boundaries: History and Art History," at German Studies Forum, Duke University, Durham, NC, 16 April 1999.

Keynote Speaker: "Looted Art of World War II," at the Memorial Art Gallery, Rochester, NY, 14 April 1999.

Paper: "Researching and Writing About Holocaust-Era Art Looting, Recovery, and Restitution," at a symposium of the National Archives and Records Administration, "Records and Research Related to Holocaust-Era Assets," College Park, 4 December 1999.

Paper: "An Overview of Nazi Art Looting during World War II" at the U.S. Department of State organized, "Washington Conference on Holocaust-Era Assets," Washington, DC, 1 December 1999.

Paper: "'People Turned to Ashes, Their Property Did Not': Plundering and the Pursuit of Profit during the Holocaust," at the German Historical Institute symposium, "The Genesis of Nazi Policy," University of Florida, Gainesville, FL, 11 April 1998.

Scholar in Residence, Beth El Synagogue, Fairfield, CT, 27 February - 1 March 1998.

Paper: "Karl Haberstock: Kunsthändler der Nazi-Führer," at conference "Überbrückt: Ästhetische Moderne und Nationalsozialismus: Kunsthistoriker und Künstler, 1925-1937," at Hamburger Bahnhof--Museum für Gegenwart, Berlin, 29 November 1997.

Lecture and Panel Discussion: "The Nazi Conspiracy and the Market for Stolen Art," at the Metropolitan Museum of Art, New York, NY, 22 October 1997.

Paper: "Business as Usual: Switzerland, the Commerce in Artworks during and after World War II, and National Identity," at the German Studies Association Conference, Washington, DC, 26 September 1997.

Paper: "Museum Director Ernst Buchner--Compromise, Corruption, and Rehabilitation," at Washington Area Germanists' Seminar, Washington, DC, 28 April 1997.

Paper: "From Seduction to Denial: Arno Breker's Engagement with National Socialism," at German Studies Association Conference, Seattle, 12 October 1996 and at College Art Association, New York, 14 February 1997.

Chase-Crowe Lecture: "The Faustian Bargain: The Cooptation of the Artistic Professions in Nazi Germany," at Northwestern University, 3 February 1997.

Comment: on panel "Redefining the Past? Vergangenheitspolitik and Historians in Germany," at German Studies Association Conference, Seattle, 14 October 1996.

Chair and Commentator, for session "Artistic Interactions in Exile," at symposium "Emigrants and Exiles: A Lost Generation of Austrian Artists in America," at Northwestern University, 20 April 1996.

Co-organizer, Chair and Commentator: for symposium, "German Studies as Cultural Studies," at Davidson College, Davidson, N.C., 17-18 March 1995.

Lecture: "Anti-Modernism, Anti-Semitism, and the Essence of National Socialism," Davidson College, Davidson, N.C., 16 March 1995.

Paper: "German Laws and Directives Bearing on the Appropriation of Cultural Property in the Third Reich," at The Spoils of War, New York, 20 January 1995.

Paper: "Holocaust Denial: a Generational Typology," at Lessons and Legacies III: Memorialization, Representation and Teaching the Holocaust, Dartmouth College, 23 October 1994.

Paper: "The Radical Right in Germany and Austria," at the United States Institute of Peace, Washington, DC, 18 July 1994.

Panel participant: "Should One Exhibit National Socialist Art in Museums Today?," at Künstlerhaus Wien, Vienna, 15 April 1994.

Lecture: "Kunst als Politik in Nationalsozialismus," at the Institut für Neuere Geschichte, Ludwig-Maximilian Universität, Munich, 24 November 1994.

Participant: "Differenzen in der Bearbeitung des Nationalsozialismus, des Antisemitismus und des Holocaust in Österreich, in der Bundesrepublik und in der DDR. Zeitgeschichtlich Forschung im Vergleich," at Schloss Leopoldskron, Salzburg, 7-10 November 1993.

Paper: "Teaching the Holocaust in an Interdisciplinary Manner: Confronting the Holocaust as Hoax Phenomenon," at the German Studies Association Conference, Washington, DC, 10 October 1993.

Paper: "The Politics of Art Collecting in the Third Reich," Minda de Gunzburg Center for European Studies, Harvard University, Cambridge, MA, 18 December 1991.

Conference participant: XIII American-German Young Leaders' Conference (sponsored by the American Council on Germany and the Atlantik Brücke), Richmond Virginia, 19-26 August 1991.

Lecture: "Germania and Genocide: The World View of National Socialist Leaders as Expressed Through Their Art Collections": public lecture at Davidson College (Davidson, North Carolina, 14 March 1991).

TEACHING EXPERIENCE

Claremont McKenna College

History of European Aristocracy Since 1750 (Hist. 180e), Fall 2003.

Germany since 1740 (Hist. 146), Spring 2000, Spring 2004.

The Rise of Modern Europe (Hist. 76), Fall 2001, Fall 2002.

The Culture of Fascism (Hist. 145), Spring 2000.

Culture and Politics in Europe, 1880-1918 (Hist. 142), Spring 2000.

Freshman Honors Seminar on World War II (Hist. 100), Fall 1999.

Culture and Society in Weimar and Nazi Germany (Hist. 139), Fall 1999, Fall 2001, Fall 2002, Spring 2003.

Researching the Holocaust (Hist.180), Spring 2002, Spring 2003, Spring 2004.

Loyola College in Maryland:

Modern Civilization (HS 101), Spring 1994 through Fall 1998.

Honors Program: The Modern World (HN 280), Spring 1997 and Spring 1998.

The Creation of Modern Germany, 1770 to the Present (HS 318), Spring 1994, Fall 1996, and Fall 1998.

The Holocaust and the USA (HS 716--graduate course), Fall 1996.

Culture and Politics in Fin-de-Siècle Europe (HS 310), Fall 1994 and Spring 1998.

Nazi Germany and the Holocaust (HS 478), Spring 1995, Fall 1997.

Hitler and the Third Reich (HS 410), Spring 1996.

Historical Methods (HS 400), Spring 1996.

Harvard University:

History of Germany, 1890-1900 (History E-1575), Spring 1993.

The Culture of Fascism in 20th Century Europe (History 1506), Spring 1992.

Culture and Politics in Weimar and National Socialist Germany (History 90S), Fall 1992.

SERVICE

Claremont McKenna College

Chair, Committee for Rhodes and Marshall Scholarships, 1999-2001.

European Union Center, Claremont McKenna College delegate, 1999-present.

Phi Beta Kappa Committee, 1999-present.

Board of Trustees College Advancement Committee, 2001-present.

Committee on Appointments, Promotions, and Tenure, 2001-present.

Study Abroad Committee, 2002-2003.

Campus Center Committee, 2002-present.

Fulbright Committee, 2002-present.

Administration Committee, 2005-present.