

PRESIDENTIAL ADVISORY COMMISSION ON HOLOCAUST ASSETS IN THE UNITED STATES

Edgar M. Bronfman, Chair

Kenneth L. Klothen, Executive Director

FAX COVERSHEET

THIS IS A TRANSMITTAL OF 6 PAGES.

PLEASE CALL IF INCOMPLETE.

To: Shirley Sagawa, 456-6244

From: Gene Sofer
Deputy Director
Phone: (202) 371-6400 x 459

RE: Per our conversation.
Thanks.
Gene



PRESIDENTIAL
ADVISORY COMMISSION
ON HOLOCAUST ASSETS
IN THE UNITED STATES

PRESIDENTIAL ADVISORY COMMISSION ON HOLOCAUST ASSETS IN THE UNITED STATES

Edgar M. Bronfman
Chairman

Kenneth L. Klorben
Executive Director

To: Shirley Sagawa, Office of The First Lady
From: Gene Sofer *LS*
Re: Presidential Receipt of the Report of the Presidential Advisory Commission on Holocaust Assets in the United States
Date: November 30, 2000

Per your request, I have proposed several reasons to have a White House event to recognize the delivery of the report of the Presidential Advisory Commission on Holocaust Assets in the United States and have attached a summary of the Commission's findings and recommendations.

- As I mentioned to you, when the First Lady spoke to Chairman Bronfman, she expressed her interest in sponsoring the Foundation, which is the Commission's major policy recommendation. The event would provide her with the opportunity to take a leadership role in the enactment of the Foundation.
- The Clinton Administration has an outstanding record in this area that deserves recognition. It had made justice for Holocaust victims a pillar of U.S. foreign policy and has negotiated several settlements that have resulted in the transfer of almost \$10 billion from those who profited from the Holocaust to its victims. In so doing, the administration has never lost sight of the moral dimension of the Holocaust.
- The event is an opportunity to demonstrate continued U.S. leadership on this issue to the world.
- Several of the Commissioners, including Ira Leesfield, are known to the President and have already expressed their interest in such an event to White House staff.



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Kenneth L. Klorthen
Executive Director

To: Shirley Sagawa, Office of The First Lady
From: Gene Sofer
Re: Summary of the Report of the Presidential Advisory Commission on Holocaust Assets in the United States
Date: November 30, 2000

The Presidential Advisory Commission on Holocaust Assets in the United States was created with unanimous bipartisan support in the Congress and signed into law by President Clinton on June 23, 1998. The 21-member Commission is chaired by Edgar M. Bronfman, is charged by statute to study and develop a historical record of the collection and disposition of the assets of Holocaust victims if such assets came into the possession or control of the Federal government; "review comprehensively any research" by others "to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States;" and "submit a final report to the President that shall contain any recommendation for such legislative, administrative, or other action as it deems necessary or appropriate." The President then "shall submit to the Congress any recommendations" that he "considers necessary or appropriate."

The United States has been and remains a leader in international efforts to secure justice for Holocaust victims. The Commission's work continues this country's quest for the truth, and demonstrates that the United States has asked of itself no less than it has asked of the international community. Thus, the Commission's very existence is significant, helping our country, in President Clinton's words, to "begin this new millennium standing on higher ground."

The fundamental finding of the Commission is that the United States performed in an unprecedented and exemplary fashion in attempting to assure the restitution of the assets of victims of the Holocaust.

Nevertheless, in the case of assets recovered by our Armed Forces in Europe a number of factors intervened to limit restitution, including: (1) the chaotic situation in post-war Europe as the United States tried to demobilize and Europe grappled with the results of the war; (2) U.S. concerns about the cost of continued involvement in European affairs; (3) the strategic desire to rebuild Germany and Austria and reconstitute them along democratic lines; and (4) the developing Cold War. In the case of assets frozen by the Federal government in the United States, bureaucratic delays and complex procedures to release those assets to victims and the desire to maximize the amount of assets available to cover war-related claims by U.S. citizens and companies also limited restitution.

The Commission also concluded groundbreaking agreements with the museum community, the banking community, and the Library of Congress regarding best practices to be followed in the identification, recognition, and restitution of Holocaust assets to their rightful owners.

The Commission identified a number of policy initiatives that are intended to maintain U.S. leadership in the effort to achieve justice for Holocaust victims and their families. The Commission believes there must be an ongoing Federal role in implementing these initiatives. For that reason, it has proposed the creation of a Federally sponsored public/private Foundation to serve as an institutional focal point and coordinator of efforts that will involve the private sector, the states, individuals here and abroad, as well as the Federal government.

An abbreviated version of the recommendations follows:

A. The President should urge Congress to establish a Foundation to promote further research and education in the area of Holocaust-era assets and restitution policy and to promote innovative solutions to contemporary restitution policy issues. The Foundation should be authorized to accept private contributions as well as appropriated funds, and should sunset after 10 years. Contributions to the Foundation should be tax deductible. The President should request Congress to provide a one-time appropriation adequate to fully carry out the Foundation's functions.

Specifically, the Foundation should undertake the following, among other purposes:

1. Provide centralized repositories for research and information about Holocaust-era assets.
 - The Foundation should be responsible for the compilation and publication of a report that integrates, synthesizes, and supplements as necessary the research on Holocaust-era assets prepared by various countries' commissions on the Holocaust.
 - The Foundation should review the degree to which foreign governments have implemented the principles adopted at international conferences and should encourage the signatories that have not yet implemented those principles to do so.
 - The Foundation should provide for coordinated and centralized dissemination of information about restitution programs.
2. Promote the development of tools to assist individuals and institutions to determine the ownership of Holocaust victims' assets.
 - The Foundation should make grants to encourage the creation and expansion of mechanisms to assist claimants in obtaining speedy resolution of claims. Such grants should not be used for attorneys' fees.
 - The Foundation should encourage the use of alternative dispute resolution (ADR) by making grants to enable claimants who cannot otherwise afford such services to make use of them. Such grants should not be used for attorneys' fees.

- The Foundation should provide a grant to an appropriate institution or institutions to establish and maintain a computerized, searchable database of Holocaust victims' claims for the restitution of personal property, giving consideration to the long-term sustainability of the database.
- To implement its agreement with the American Association of Museums and the Association of Art Museum Directors, the Foundation should cooperate with the museum community to provide for the establishment and maintenance of a searchable central registry of Holocaust-era cultural property in the United States, beginning with European paintings and Judaica. The Foundation should support the museum community in its efforts to implement full disclosure of Holocaust-era provenance research.
- The Foundation should regularly publish lists of Holocaust-era artworks returned to claimants by museums in the United States.
- The Foundation should cooperate with an appropriate institution to fund grants to museums, libraries, universities, and other institutions holding Holocaust cultural property for the conduct of satisfactory provenance research. These awards are to be conditioned on the recipients' acceptance of the standards for provenance research developed in accordance with these recommendations.
- The Foundation should fund a cross-match of records developed by the 50 states of unclaimed property from the Holocaust era that has escheated against databases of victims' names. The results should be widely publicized to enable people with legitimate claims to seek return of their assets.

3. Work with the private sector to develop and promote common standards and best practices for research on Holocaust-era assets.

B. The Federal government should promote the review of Holocaust-era assets in federal, state and private institutions, and the return of such assets to victims or their heirs.

- Building on the Commission's work with the Library of Congress, the National Gallery of Art, and the Army museums, the President should require other federal institutions, including military bases and other installations maintained by the Department of Defense, to inspect their holdings for Holocaust-era assets.
- The President should require the Department of Defense to develop, in concert with veterans' service organizations, a program to assets that may have been taken by former members of the armed forces as war souvenirs.
- In light of the success of the Commission's pilot project regarding dormant financial assets, the Federal government should encourage states to automate, in a uniform manner, records of unclaimed property from the Holocaust era that has escheated to them, or that is otherwise the subject of their regulatory jurisdiction.

- The Federal government should encourage private institutions holding Holocaust-era assets to make diligent attempts to locate the rightful owners or their heirs and return any assets for which legitimate claims can be established.

C. The Federal government should preserve archival records of the Holocaust era and facilitate research into such records.

D. The Department of Defense should be prepared to address similar issues regarding the control of national and individual property in future conflicts. It should also review training to sensitize deploying forces to these issues.

E. The United States should continue its leadership to promote the international community's commitment to addressing asset restitution issues.

F. The President should urge Congress to pass legislation that removes impediments to the identification and restitution of Holocaust victims' assets.

To: Shirley Sagawa
Re: Accomplishments of the Clinton Administration in Holocaust
Restitution Matters
Date: July 18, 2006

Particularly in light of the recent attacks on the First Lady, it is appropriate to review the Clinton administration's record on issues of Holocaust restitution.

The Clinton Administration, more than any previous American administration, has made it a fundamental policy of the United States to seek the truth about the role of all the world's countries in the Holocaust era and to effect both material and moral restitution for Holocaust victims. President Clinton was the first American president to make restitution a principle of the foreign policy of the United States, and the first to appoint an official commission to investigate our own country's actions in handling the assets of Holocaust victims.

Highlights of the administration's accomplishments include:

- Putting high level officials in charge of the United States' efforts, including a Special Envoy for Holocaust Issues at the State Department, and the Deputy Secretary of the Treasury.
- Brokering a settlement on behalf of slave and forced laborers that created a fund of approximately **\$5 billion** paid by the Government of Germany and German companies to be used for relief for former laborers and other Nazi victims, as well as activities designed to promote Holocaust remembrance and tolerance. The creation of the fund was accompanied by a forthright statement of **apology by the President of Germany** for his country's perpetration of Nazi crimes. Because several private lawsuits in U.S. courts had been dismissed, this fund will provide a remedy to people who had been unsuccessful in court.
- Pressing Swiss banks to recognize their complicity in depriving Holocaust victims of their assets by hindering the access of victims' heirs to dormant accounts after World War II, resulting in the creation of a **\$1.25 billion** compensation fund. The United States also successfully pressed the Swiss government to acknowledge its mistreatment of refugees from the Nazis during the war years.
- Assuring the inclusion in the German fund approximately **\$100 million** for victims and their heirs who had been unable to collect on Holocaust era insurance policies, thus reinforcing the work of the international commission on insurance claims headed by

former Secretary of State Eagleburger.

- Drawing international attention to the need to return looted art works, and negotiating a set of principles to be followed by museums, galleries and art dealers to promote the return of looted art to its rightful owners and their heirs.
- Focusing international attention on the need to restitute communal property of religious communities in the countries of Eastern Europe and the former Soviet Union, and mediating a dispute between the world Jewish community and Poland regarding the return of Jewish communal property in Poland.
- Pressing other countries and the private sector both in the U.S. and abroad to open their archives relevant to the Holocaust era so that research and claims documentation will be easier, and appointing the Nazi War Criminal Records Interagency Working Group to search government files for and declassify all kinds of Holocaust-era documents.
- Making clear to the new government of Austria, by recalling our Ambassador for consultations, that the United States would not tolerate any turning away from that country's commitment to restitution for victims of Austrian collaboration with the Nazis.
- Publishing two studies of Nazi gold, and appointing the Presidential Advisory Commission on Holocaust Assets in the United States, charged with studying America's role in the handling of the assets of Holocaust victims and recommending policy initiatives to the President to rectify any injustices that U.S. policy caused.

Significantly the Chairman of the Presidential Advisory Commission, Edgar Bronfman, attributes the President's attention to the importance of the Commission's work to the commitment and urging of the First Lady.

POTENTIAL ACTION STEPS:

Three Hasidic communities are searching for the fate of their dynastic libraries and seeking their return. It is likely that the documents that could establish the fate of these libraries are in Eastern European countries, particularly Russia, that have been dragging their feet on opening their archives and providing unrestricted access to scholars and claimants.

An event in Brooklyn that would announce an intervention with President Putin urging him to open Russian archives, or the convening of an international conference on archival access (already suggested by the Nazi War Criminal Records Interagency Working Group and the Presidential Advisory Commission) would highlight the First Lady's deep

involvement in these issues.

Also, making the whole area of Holocaust assets restitution the topic of a Presidential radio address, highlighting the recommendations of the Presidential Advisory Commission, would similarly draw attention to the administration's admirable record in this area.

PRESIDENTIAL ADVISORY COMMISSION ON HOLOCAUST ASSETS IN THE UNITED STATES

Edgar M. Bronfman, Chair

Kenneth L. Klothen, Executive Director

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PLEASE CALL IF INCOMPLETE.

To: Shirley Sagawa, Office of the First Lady
456-6244

**From: Gene Sofer
Deputy Director
Phone: (202) 371-6400 x 459**

RE:

Dear Shirley... Per our conversation. If you need
more please let me know.

Thanks again.

Gene



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PRESIDENTIAL ADVISORY COMMISSION ON HOLOCAUST ASSETS IN THE UNITED STATES

Edgar M. Bronfman
Chairman

Kenneth L. Klorhen
Executive Director

October 4, 2000

The Honorable Ted Stevens
Committee on Appropriations
United States Senate
S-128, The Capitol
Washington, D.C. 20510

Dear Ted:

As you may recall, I wrote to you in September when I thought that the Agriculture Appropriations bill was moving toward resolution.

In that letter, I thanked you for the help and support that you have provided to the Presidential Advisory Commission on Holocaust Assets in the United States, which I am privileged to chair, and went on to remind you that, as a result of your efforts, the Fiscal Year 2000 Senate Agriculture Appropriations bill contained an additional \$1.4 million to help the Commission complete its work.

I now understand that the provision concerning the Commission on Holocaust Assets has been dropped by the conferees because it was non-Agriculture related, but has not been assigned to another subcommittee.

These funds are critically important to us, and I hope that the Commission can count on your continued support to see that the Holocaust assets provision is inserted in a relevant bill where it can be adopted by both Houses.

We continue to make significant progress on several fronts: collaborating with officials in several states on a pilot project using technology to match unclaimed property lists with the names of Holocaust victims; working with museum directors to develop rigorous standards for provenance research and full disclosure of that research; discussing with the Library of Congress how it can best identify books in its collection that were looted by the Nazis from victims of the Holocaust; and consulting with the representatives of 17 similar Commissions established throughout the world to develop ways to integrate our research so that we can ultimately arrive at a comprehensive history of this important topic.

Again, I want to assure you that the Commission will meet its statutory deadline and submit our report on schedule.

Thank you again for your continued support of the Commission and its work.

Sincerely,

Edgar M. Bronfman /kjp

Edgar M. Bronfman
Chair



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Committee on Appropriations
United States Senate
S-128, The Capitol
Washington, D.C. 20510

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Sincerely,

Edgar M. Bronfman /kjp

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Chair

IV. RECOMMENDATIONS

The Presidential Advisory Commission on Holocaust Assets in the United States makes the following recommendations to the President of the United States, pursuant to the Commission's statutory mandate:

A. The President should urge Congress to establish a Foundation to promote further research and education in the area of Holocaust-era assets and restitution policy and to promote innovative solutions to contemporary restitution policy issues. The Foundation should be authorized to accept private contributions as well as appropriated funds, and should sunset after 10 years. Contributions to the Foundation should be tax deductible. The President should request Congress to provide a one time appropriation adequate to fully carry out the Foundation's functions.

The Foundation should coordinate its activities with governmental and nongovernmental organizations and individuals and provide that any of its responsibilities that are ongoing at the time of the Foundation's sunset will devolve to another entity.

Specifically, the Foundation should undertake the following, among other purposes:

1. Provide centralized repositories for research and information about Holocaust-era assets.
 - The Foundation should be responsible for the compilation and publication of a report that integrates, synthesizes, and supplements as necessary the research on Holocaust-era assets prepared by various countries' commissions on the Holocaust.
 - The Foundation should review the degree to which foreign governments have implemented the principles adopted at the Washington Conference on Holocaust-Era Assets and the Vilnius International Forum on Holocaust-Era Looted Cultural Property, and should encourage the signatories that have not yet implemented those principles to do so.
 - The Foundation should provide for coordinated and centralized dissemination of information about restitution programs, working with such organizations as the Conference on Material Claims Against Germany and others.
2. Promote the development of tools to assist individuals and institutions to determine the ownership of Holocaust victims' assets.
 - The Foundation should make grants to encourage the creation and expansion of mechanisms -- including publicizing the availability of such resources -- to assist

claimants in obtaining speedy resolution of claims. Such grants should not be used for attorneys' fees.

- The Foundation should encourage the use of alternative dispute resolution (ADR) by making grants to enable claimants who cannot otherwise afford such services to make use of them. Such grants should not be used for attorneys' fees.
- The Foundation should provide a grant to an appropriate institution or institutions to establish and maintain a computerized, searchable database of Holocaust victims' claims for the restitution of personal property, giving consideration to the long-term sustainability of the database.
- To implement the agreement with the American Association of Museums and the Association of Art Museum Directors, the Foundation should cooperate with the museum community to provide for the establishment and maintenance of a searchable central registry of Holocaust-era cultural property in the United States, beginning with European paintings and Judaica. This registry, with uniform standards for data inclusion and completeness, will make all object and provenance information accessible by Internet search from a single site. Museums should disclose all currently known object and provenance information as soon as practicable and continue to supplement this information as it becomes available. Congress should provide funds to assist in the establishment and maintenance of the registry.
- The Foundation should support the museum community in its efforts to implement full disclosure of Holocaust-era provenance research, beginning with European paintings and Judaica.
- The Foundation should regularly publish lists of Holocaust-era artworks returned to claimants by museums in the United States.
- The Foundation should cooperate with an appropriate institution, such as the Institute for Museum and Library Services, to fund grants to museums, libraries, universities, and other institutions holding Holocaust cultural property for the conduct of satisfactory provenance research. These awards are to be conditioned on the recipients' acceptance of the standards for provenance research developed in accordance with these recommendations.
- The Foundation should fund a cross-match of records developed by the 50 states of unclaimed property from the Holocaust era that has escheated against databases of victims' names, including the database of victims maintained by Yad Vashem, the Holocaust Martyrs' and Heroes' Remembrance Authority in Israel and others. The results should be widely publicized to enable people with legitimate claims to seek return of their assets.

3. Work with the private sector to develop and promote common standards and best practices for research on Holocaust-era assets.

- The Foundation should promote and monitor banks' implementation of the suggested best practices developed in conjunction with the New York Bankers Association.
- The Foundation should monitor the implementation of the Commission's agreement with the museum community regarding full disclosure.
- In cooperation with the private sector, the Foundation should promote the development of common standards and best practices for research by U.S. corporations into their own records concerning the circumstances under which they did business in Germany in the period preceding December 1941.

B. The Federal government should promote the review of Holocaust-era assets in federal, state and private institutions, and the return of such assets to victims or their heirs.

- Building on the Commission's work with the Library of Congress, the National Gallery of Art, and the Army museums, the President should require other federal institutions, including military bases and other installations maintained by the Department of Defense in the United States and abroad, to inspect their holdings for Holocaust-era assets. In the event that an asset located in a federal institution is found to be a looted asset for which no claim by a legitimate owner is known, the asset should be left where it is located and its history acknowledged with immediate appropriate public notice and recognition that remains in place until such time as a successful claim is made with respect to that asset. The federal institution should make diligent attempts to identify the rightful owner or his heirs and return the asset.
- The President should commend the Library of Congress for recognizing the unique provenance of the books it received from the Jewish Cultural Reconstruction (JCR) as well as other items that were looted by the Nazis. The Library has agreed to establish a "virtual library" of JCR titles and related books to enable the public to search for JCR and related items on-line; to examine the volumes in person in the Library's African and Middle Eastern Reading Room; to catalogue any of the remaining books that have been identified as belonging to this collection; to develop a collection "name" field to aggregate all the records for the JCR collection within the virtual library; to make this list of titles available to agencies, organizations and individuals involved in the restitution of Holocaust-era assets; and to reconstitute any of these volumes upon establishment of a legitimate claim. Finally, the Library will include selected volumes from the collection of JCR and related books in a major permanent exhibition of the Library's international treasures, scheduled to open in February 2001. In addition, the Library will mount a display in 2002 to mark the 50th anniversary of the completion of the JCR's work.

- The Foundation should urge other libraries in receipt of books from the JCR to follow the example of the Library of Congress with regard to the identification and recognition of those books that remain in their collections.
- The President should commend the National Gallery of Art for its research into the provenance of Holocaust-era art in its collection. In the event that an asset located in the National Gallery is found to be a looted asset for which no claim by a legitimate owner is known, the asset should be left where it is located and its history acknowledged with immediate appropriate public notice and recognition that remains in place until such time as a successful claim is made with respect to that asset. The National Gallery should make diligent attempts to identify the rightful owner or his heirs and return the asset.
- The President should require the Department of Defense to develop, in concert with veterans' service organizations, a program to promote the voluntary return of victims' assets that may have been taken by former members of the armed forces as war souvenirs.
- In light of the success of the Commission's pilot project regarding dormant financial assets, the Federal government should encourage states to automate, in a uniform manner, records of unclaimed property from the Holocaust era that has escheated to them, or that is otherwise the subject of their regulatory jurisdiction.
- The Federal government should encourage private institutions holding Holocaust-era assets to make diligent attempts to locate the rightful owners or their heirs and return any assets for which legitimate claims can be established.

C. The Federal government should preserve archival records of the Holocaust era and facilitate research into such records.

- The Federal government should establish an appropriately funded and comprehensive preservation initiative with regard to Holocaust-era records under its control.
- The Federal government should establish and maintain maximum public access to national archives containing documents and other materials related to Holocaust-era assets by providing Federal funds to support the development and publication of research guides and finding aids for Holocaust-era materials by the National Archives and Records Administration (NARA) and other federal and nonfederal institutions.
- The Nazi War Criminal Records Interagency Working Group (IWG) should be fully funded to continue its operations until January 2005.

D. The Department of Defense should be prepared to address similar issues in future conflicts.

- The Department of Defense should review existing policies, orders, directives and regulations governing the control of and accountability for the national and individual property that may come under U.S. Military control when the military is deployed on operations in foreign countries to ensure that such policies, orders, directives, and regulations are both adequate and appropriate. The Department of Defense should establish or enhance such policies, orders, regulations, and directives as required to ensure their efficacy.
- The Department of Defense should review the training provided to U.S. service members and Department of Defense civilians regarding the handling, control and accountability of property of foreign governments and their nationals that U.S. forces may encounter during operational deployments. Such training -- especially pre-deployment training -- should sensitize deploying forces to the moral and legal imperatives associated with the proper handling and safeguarding of national and personal assets consistent with operational requirements.
- The Department of Defense should be encouraged to work cooperatively with the Foundation and other relevant institutions to develop or refine training for U.S. service members and Department of Defense civilians to prepare U.S. forces to meet the challenges and responsibilities while deployed on operational missions overseas when they encounter national and/or individual property. Such training should ensure that deploying U.S. forces understand and can apply the critical lessons learned from their actions during World War II.

E. The United States should continue its leadership to promote the international community's commitment to addressing asset restitution issues.

- The United States should establish as a factor in its bilateral relations with nations to which the United States restituted looted assets the identification and publication of information regarding the degree to which the governments of those nations restituted such assets to the rightful owners or their heirs.
- The President should maintain the positions of Special Envoy for Holocaust Issues at the State Department with the rank of Ambassador and Special Representative of the President and Secretary of State for Holocaust Issues. The Office of Holocaust Issues at the State Department should be maintained with adequate resources to assist these positions.
- The President should instruct the Special Envoy for Holocaust Issues at the State Department to continue to encourage foreign governments to make their archives open and accessible and to cooperate with the worldwide archival reproduction program of

the United States Holocaust Memorial Museum, as well as to restitute communal and personal property in a nondiscriminatory way.

F. The President should urge Congress to pass legislation that removes impediments to the identification and restitution of Holocaust victims' assets.

- The President should urge Congress to amend the Federal Immunity from Seizure Act to provide that an importer of Holocaust-era cultural property seeking immunity from seizure of that property must provide notice of the application to a designated organization representing Holocaust victims and/or their heirs. The application for immunity should state that the works for which immunity is sought are not the subject of a claim listed on the comprehensive claims database proposed in these recommendations.
- The President should urge Congress to amend the National Stolen Property Act to preclude as a defense in a forfeiture action involving the Act that the Holocaust-era art or cultural property lost its status as stolen property (a) when it was recovered by law enforcement or military authorities or (b) when title was transferred in a country whose laws provide that stolen property loses its status as such when a sale or transfer occurs.
- The President should urge Congress to reopen the claims process for victims and their heirs whose property was vested in the Alien Property Custodian but not returned. Congress should authorize the Foreign Claims Settlement Commission to adjudicate any such claims and should provide an appropriation adequate to fund any awards.

V. ACKNOWLEDGMENTS

Many agencies and officials of the Federal government have assisted the Commission. The Commission thanks current members of Congress who have consistently supported its efforts and recognizes the contribution of former Senator Alphonse D'Amato to its creation. The Commission thanks the National Archives for providing work space for our research staff and for the unflagging support of its staff, especially Michael Kurtz and Greg Bradsher. The Commission is grateful to Secretary of the Army Louis Caldera and Assistant Secretary P.T. Henry for their generosity in providing ample work space, computer equipment and other support at Ft. McNair for our staff. We also thank Secretary of the Treasury Lawrence Summers, Attorney General Janet Reno and Director of the FBI Louis Freeh for detailing expert employees to the Commission. The Commission also recognizes the role of Robert G. Waite and William H. Kenety V of the staff of the Office of Special Investigations, Department of Justice in providing us with the results of their research on Jewish books and looted art.

The Commission appreciates the many individuals and organizations in the private sector whose efforts contributed to our work: United Airlines; the Samuel Bronfman Foundation, Inc.; Joseph E. Seagram & Sons, Inc.; the late Dan Dutko and Bill Simmons of the Dutko Group; Ron Birch and Birch, Horton, Bittner and Cherot; Joseph A. Rieser, Jr. and Reed, Smith, Shaw and McClay; Ernst & Young; Abbe Lowell and O'Melveny & Meyers; Stephen E. Herbits and the Herbits Group; Stephen Tractenberg, President, The George Washington University; Sandra K. Stuart and Clark & Weinstock, Inc.; Professor Arthur Kirsch, The George Washington University; Professor James Pustejovsky, Brandeis University; and Professor Ben Schneiderman, University of Maryland. The

Commission also thanks Professor Egon Mayer, the Graduate Center, City University of New York, for providing the staff with the results of his research on Kurt Becher. Finally, the Commission is grateful to Barbara S. Kraft for her careful reading of its manuscripts and her valuable editorial advice.

**FINDINGS AND RECOMMENDATIONS
OF
THE PRESIDENTIAL ADVISORY
COMMISSION ON HOLOCAUST ASSETS
IN THE UNITED STATES**

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I. INTRODUCTION

A. The Creation of the Presidential Advisory Commission on Holocaust Assets in the United States

The Presidential Advisory Commission on Holocaust Assets in the United States was created by P.L. 105-186, which was passed with unanimous bipartisan support in the Congress and signed into law by President Clinton on June 23, 1998.¹ The 21-member Commission, chaired by Edgar M. Bronfman, is charged by statute to:

- "conduct a thorough study and develop a historical record of the collection and disposition of the assets [of Holocaust victims]² if such assets came into the possession or control of the Federal government, including the Board of Governors of the Federal Reserve System and any Federal Reserve bank;"
- "review comprehensively any research" by others "into the collection and disposition" of assets of Holocaust victims "to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States;" and
- "submit a final report to the President that shall contain any recommendation for such legislative, administrative, or other action as it deems necessary or appropriate." The

¹ For a list of the members of the Commission, see Appendix A.

² For purposes of the Commission's work, we have defined "victim" to mean an individual who was deprived of his or her civil or political rights on the basis of race, religion, ethnicity, disability, or sexual orientation. We have defined "Holocaust-era assets" to mean assets that were in existence between 1933 and 1945, whether or not they belonged to victims, as defined above. "Victims' assets" is a more limited category comprised of Holocaust-era assets that belonged to those victims.

President then "shall submit to the Congress any recommendations" that he "considers necessary or appropriate."³

Research into the historical catastrophe known as the Holocaust serves several purposes. By documenting the actual events, it helps to create an irrefutable record that forever locates that period in world history. By revealing previously unknown details, it assists in extending some measure of justice to those scarred by the crimes against humanity committed by the Nazis and their collaborators. By promoting analysis and confronting the question "Why?," historical investigation helps all nations and societies decipher lessons for the future conduct of human affairs. For these reasons, the international community has found many ways to support and promote Holocaust-era research.

The Commission believes that a review of the American historical record is important because Americans should know how their government dealt with the assets looted from victims of the Nazis that came into its possession. Such an accounting is consistent with the moral imperative to remember, and learn from, the darkest period in modern times. This work may also ultimately assist some victims or their heirs to recover property stolen from them years ago. Thus, the Commission's very existence is significant, helping our country, in President Clinton's words, to "begin this new millennium standing on higher ground."⁴

³ The U.S. Holocaust Assets Commission Act of 1998, 22 USC 1621 (note). For the full text of the statute, see Appendix B.

⁴ Remarks by President Clinton to the World Jewish Congress's "Partners in History: A Tribute," The Grand Ballroom, The Pierre Hotel, New York, New York, September 11, 2000.

This document sets forth the critical findings of the Commission regarding the collection and disposition by the United States of the assets of Holocaust victims, and the Commission's policy recommendations based on those findings.

B. The Commission's Work

The findings grow out of the Commission's consideration of extensive original historical research (contained in the Staff Report to the Presidential Advisory Commission on Holocaust Assets in the United States), as well as the Commission's hearings and participation in conferences and meetings, the professional expertise and personal experience of the Commissioners, and other information-gathering efforts.⁵

The Commission considered the Staff Report and deliberated over findings and policy recommendations over the course of nine meetings. At these meetings, the Commissioners sought to advance the understanding of the U.S. government's handling of the assets of victims of the Holocaust by planning and setting the parameters of the research effort. They met with experts on archival research, on tracking financial assets, and on how best to secure the release of classified documents. The Commission appreciates the extremely helpful presentations by Michael Kurtz, Assistant Archivist for Records Services at the National Archives and member of the Nazi War Criminal Records Interagency Working Group, and Irwin Nack, Investigative Counsel with the New York State Banking Department. The Commission consulted the Departments of State, Treasury and Justice, the New York State Holocaust Claims Processing Office, the Conference on Jewish Material Claims Against Germany, and the comptrollers of the State and City of New York, among others.

⁵ For a complete listing of the activities of the Commission, see Appendix C.

The Commissioners also reviewed research papers prepared by the staff and grappled with a wide range of policy recommendations.

In addition to its regular working meetings, the Commission held a hearing on art and cultural property in New York City on April 12, 2000. The hearing brought together experts from the museum community, the art trade and organizations that assist victims in making their claims for cultural property looted from their families. It facilitated a dialogue on the responsibilities of the art world toward victims, their heirs, and the public.⁶

The Commission benefited from the results of the London Conference on Nazi Gold (December 1997) and the Washington Conference on Holocaust-Era Assets (December 1998), and participated in the Stockholm International Forum on the Holocaust (January 2000) and the Vilnius International Forum on Holocaust Era Cultural Assets (October 2000). In addition, Commission staff held meetings abroad and in Washington with representatives and scholars from Argentina, Australia, Austria, Belgium, the Czech Republic, Estonia, France, Germany, Hungary, Israel, Latvia, Lithuania, Mexico, the Netherlands, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

The Commission staff also convened a panel of outside experts to comment on the draft report. In September 2000, Dr. Jeffrey Clarke of the Center of Military History, Professor Marion Deshmukh of George Mason University, Professor Gerald Feldman of the University of California, Berkeley, Professor Peter Hayes of Northwestern University, Dr. Martin Dean of the United States Holocaust

⁶ Presidential Advisory Commission on Holocaust Assets in the United States, Hearing on Art and Cultural Property, New York, NY, April 12, 2000.

Memorial Museum, author Lynn Nicholas, Professor Jonathan Steinberg of the University of Pennsylvania, and Dr. Elizabeth White of the Justice Department's Office of Special Investigations reviewed the staff draft and offered recommendations.

In addition to overseeing the preparation of the historical report, the Commission worked to develop suggested "best practices" for banks and corporations that should govern those entities' conduct of their own investigations. Because the overwhelming majority of foreign assets were originally on deposit in New York State, the Commission worked with the New York Bankers Association and several of its members to encourage them to develop best practices to assure the transparency of the research into various assets of those who may have become victims of the Holocaust. Those assets include: (1) dormant bank accounts; (2) interest and dividend payments that might have accrued to shareholders or bondholders; and (3) dormant safe deposit boxes. These discussions have resulted in a set of suggested best practices that can be endorsed by banking associations and followed by individual banks.

The Commission, the Association of Art Museum Directors (AAMD), and the American Association of Museums (AAM) agreed that the museum community would affirm its commitment to a series of standards to govern provenance research about art from the Holocaust era, including full disclosure and publication of that research on the Internet in a central and accessible registry. Commissioners and staff also held discussions with representatives of the art trade, including the Art Dealers Association of America and Christie's Auction House, and hope to conclude a similar agreement before the Commission's mandate expires.

The Commission has contributed to ongoing art provenance research in two ways: (1) through the posting on its website of two American intelligence reports on the Hermann Goering and Adolf Hitler collections; and (2) through the development of a database for outstanding claims for certain items of art and cultural property collected between 1952-1956 by Ardelia Hall, the Arts and Monuments Advisor in the Department of State. Hall initially proposed that the claims be published in leading U.S. art magazines, but this plan was never implemented and only a few experts are aware of the information she collected. This information has not been widely consulted in the last 45 years.

Posting this database in a searchable form on the Internet will help museum officials to research the provenance of works in their collections and help claimants recover lost or stolen art works. The Commission's database could become the first step toward the realization of the more comprehensive claims database it recommends below.

Finally, the Commission wishes to acknowledge the extraordinary contribution of members of the staff.⁷ Their dedication and hard work multiplied their talents as historians, policy analysts, diplomats and managers. Because of their unique work as a team, the Commission believes that the goal of expanding the world's knowledge and understanding of the role of the United States in its management of Holocaust-era assets has been well met. The Commission here thanks each of them for their efforts.

⁷ For a list of staff contributing to the Commission's work, see Appendix D.

C. The Historical Context

There has been an increased focus on the Holocaust and its consequences in recent years. Many factors have contributed to this heightened awareness, including the intransigence of Swiss banks, the activities of European insurance companies, the recognition of the experiences of slave and forced laborers, the fall of communism and the commitment to democratic and open societies in formerly communist countries. There is also a general sense that the closing of the millennium demands that Western society seeks to effect the maximum measure of justice possible for the victims of Nazi crimes. As a result, many governments, non-governmental organizations, businesses, and individuals began or renewed efforts to grapple with aspects of their records regarding the collection and restitution of the assets of Holocaust victims.

Research has helped to shed light on this history. The United States carried out pioneering studies on the role of the neutral countries in supporting the German war effort and on the fate of gold looted by the Nazis from central banks and individuals.⁸ Policymakers from countries as diverse as Argentina, France, Lithuania, and Sweden realized the importance of revisiting painful episodes from their pasts if history was to be properly served. Numerous other countries in Europe and Latin America convened commissions to examine the records of their governments, banks, and other institutions.⁹ In 1997, many of these countries gathered for the London Conference on Nazi Gold, and the following year the United States convened the Washington Conference on Holocaust-Era Assets, the

⁸ U.S. Department of State, Preliminary Study on U.S. and Allied Efforts To Recover and Restore Gold and Other Assets Stolen or Hidden by Germany During World War II, coordinated by Stuart E. Eizenstat and prepared by William Z. Slany (Washington, DC: US Government Printing Office), May 1997; U.S. Department of State, U.S. and Allied Wartime and Postwar Relations and Negotiations with Argentina, Portugal, Spain, Sweden, and Turkey of Looted Gold and German External Assets and U.S. Concerns About the Fate of the Wartime Ustasha Treasury, coordinated by Stuart E. Eizenstat and prepared by William Z. Slany (Washington, DC: US Government Printing Office), June 1998.

⁹ For a list of countries and commissions addressing the issue of assets of Holocaust victims, see Appendix E.

first major international gathering to address the fate of the entire spectrum of looted assets, including art and cultural property.¹⁰ The Stockholm International Forum on the Holocaust, held in January 2000, and the Vilnius International Forum on Holocaust Era Looted Cultural Assets, held in October 2000, were the latest major meetings of concerned nations to reflect the continued commitment of the world to focus attention on the Holocaust and increase efforts to recognize the scope of its crimes.

The United States has been and remains a leader in these international efforts. The work of the Presidential Advisory Commission continues this country's quest for the truth, and demonstrates that the United States has asked of itself no less than it has asked of the international community.

The Commission's goal is to describe, as completely and as clearly as the documentary evidence permits, the record of the United States government in dealing with victims' assets during the Holocaust and subsequent years. The Commission is not a restitution commission charged with locating and returning assets. Rather, Congress directed it to write the history of the collection and disposition of assets that came into the possession and control of the Federal government of the United States. In so doing, the Commission is mindful of the point emphasized more than 40 years ago by the Conference on Jewish Material Claims Against Germany that "the compensation sought was for material losses suffered by Nazi victims and was not in reparation for moral wrongs inflicted. Those wrongs were irreparable in their totality...."¹¹

¹⁰ Nazi Gold: Transcript of The London Conference (London: The Stationary Office), 1997; Proceedings of the Washington Conference on Holocaust-Era Assets (Washington, DC: US Government Printing Office), 1998.

¹¹ Five Years Later. Activities of the Conference on Jewish Material Claims Against Germany, 1959.

While the Commission has focused its recommendations to the President on themes that directly address aspects of our government's record in handling the assets of Holocaust victims, it does not believe that the examination of the role of the United States during the Holocaust era should be limited to the topics addressed by the Commission. Fortunately, the work of research, remembrance and education -- without limitation as to scope -- is being conducted by other institutions both within and outside the Federal government. The work of the Congress, the National Archives and Records Administration, the Office of Holocaust Issues in the Department of State, the President's Special Envoy on Holocaust Issues, the Office of Special Investigations of the Department of Justice, the Inter-Agency Working Group on the Declassification of Nazi Era Documents, the U.S. Holocaust Memorial Museum, and many private organizations, individual scholars and advocates all contribute to a broader understanding of the Holocaust and America's role during that period.

D. Overview of the Commission's Findings

The Commission has concluded that United States forces in Europe made extraordinary efforts to locate, safeguard, identify and restitute assets taken by the Nazis and their collaborators from victims of the Holocaust. Because of the enormity of Nazi crimes, the undertaking by U.S. agencies to preserve, protect, and return looted assets was unparalleled in history and willingly carried out by a victorious power committed to righting the wrongs of a defeated enemy regime. U.S. military and civilian personnel encountered a myriad of obstacles under the very difficult circumstances prevailing in postwar Europe. Their achievements were nothing short of heroic.

Nevertheless, the restitution policy formulated in Washington, D.C. and implemented in the countries in Europe occupied by the United States could never fully address the unimaginable dimension and complexity of restituting assets to victims of the Holocaust. For the most part, the inadequacies in

both policy and implementation reveal that U.S. authorities were driven by necessity. They were often unable to restitute all of the victims' assets under their control because of practical concerns that commingled with conflicting interests, priorities and political considerations. Restitution competed with, and was often subordinated to, the desire to bring American troops home, the need to rebuild devastated European economies and provide humanitarian assistance to millions of displaced persons, and the Cold War. These shortcomings can be partially explained as an unintended consequence of adherence to international legal principles, but the Commission's research has also revealed that, when it came to assigning scarce manpower and resources, the United States accorded a relatively low priority to restoring the looted assets and lost property rights of individual victims and their heirs.

With respect to many types of assets, the United States followed international legal tradition and undertook only to restore property to national governments, which it assumed would be responsible for satisfying the claims of their citizens. When the United States recognized that this arrangement excluded those who no longer had a nation to represent their interests, or who had fallen victim to the ruthless efficiency of Nazi genocide and whose property had been rendered heirless and unidentifiable, it designated certain "successor organizations" to sell heirless and unclaimed property and apply the proceeds to the care, resettlement, and rehabilitation of victims. This innovation seemed to present an attractive alternative to the difficult and resource-intensive job of tracing individual ownership, but its adoption led many assets to be too hastily labeled as heirless or unidentifiable, with the result that they were assigned to the successor organizations, rather than returned to their rightful owners. This approach had a particularly negative impact on the ability to

identify and restitute assets that had been taken from Roma and Sinti, homosexual, and disabled victims, who had no international organizations representing their interests.

Far more regrettable is the United States' failure to adequately assist victims, heirs, and successor organizations to identify victims' assets, instead relying upon them to present their own claims, often within unrealistically short deadlines, with the result that much victim property was never recovered. Even when property was returned to individual owners or their heirs, it was often only after protracted, expensive, and insensitive administrative proceedings that yielded settlements far less than the full value of the assets concerned.

While the overall record of the United States is one in which its citizens can legitimately take pride, even the most farsighted and best-intentioned policies intended to restitute stolen property to its country of origin failed to realize the goal of returning property to the victims who suffered the loss. Indeed, there remain today many survivors or heirs of survivors who have not had restored to them that which the Nazis looted. And, in large part, it will remain forever impossible to return the actual assets stolen from them over 50 years ago.

The uniqueness of the Holocaust does not negate its ability to offer lessons for the behavior of government in other contexts, and the Commission also believes that it is important that these findings lead our government to develop policies to promote the preservation and restitution of the assets of victims of persecution associated with future armed conflicts.

It is an enduring strength of American democracy that we can look honestly at the results of our actions, address their implications, and assess accountability and responsibility. In setting forth the following findings, the Commission does not imply that failures of policies to accomplish their goals are attributable to bad motives on the part of any official, agent or institution of the United States. Where combinations of policy and circumstance led to results that can be improved upon now, the Commission suggests ways to achieve these improvements. Where new facts have come to light that argue for changes in policy, the Commission proposes appropriate changes. The findings that are associated with particular policy recommendations are meant to locate those recommendations in the historical context and not to mechanistically quantify or assign dollar values to perceived historical shortcomings in U.S. policy making or implementation.

The Commission believes that this history, viewed as a whole, suggests that a series of actions to be taken now are appropriate to provide a modicum of justice to Holocaust victims and their heirs. It is the desire to do justice, we believe, that animates American policy in this area, including this Commission's recommendations.

II. FINDINGS

A. Implementation of Restitution Policy in Europe

1. Victims' assets were restituted to countries and organizations, not individuals.

United States authorities generally restituted those victims' assets that came under U.S. control to the national government of their country of origin or to international relief or successor organizations,

rather than to the individual owner or heir. This was a pragmatic but flawed solution to the idealistic aim of returning stolen assets to individuals.

"External restitution," as it was known, refers to the process whereby U.S. authorities returned certain categories of assets -- cultural property, securities, machinery, heavy agricultural and industrial equipment, locomotives, rolling stock, barges, transportation equipment, and communication and power equipment -- found in Germany or Austria to the governments of the countries from which they were stolen. Assets were restituted once the country of origin could be identified, and missions sent by other governments helped to identify assets that were subject to restitution. In cases where assets were restituted in this manner, the recipient government bore the responsibility to locate the rightful owner and to reconstitute the property turned over to it by U.S. authorities. The Commission has found no evidence that the United States monitored the recipient countries' compliance with these responsibilities.

a) Currencies were returned to the government of issue.

One anomaly in the external restitution process involved currencies. Currencies that appeared to have been seized by Germany in defeated countries were returned to the government of issue rather than to the country from which they were seized. In most cases it was impossible to establish whether currencies were looted or acquired legitimately from a country before or during the period of German occupation. This policy precluded the restitution of this type of asset to individual victims or successor organizations because, by definition, any currency could be restituted to the government of issue.

There were two exceptions to this broad policy: first, the Soviet Union received Hungarian, Romanian, Bulgarian, and Finnish currencies; and second, the currency held in the Melmer account of looted victims' assets recovered from the Merkers mine was turned over to the Inter-Governmental Committee on Refugees (IGCR).

b) Victims' assets were turned over to humanitarian organizations.

In cases where assets were restituted or released to successor or relief organizations, individual concerns were not ignored; they were, however, subordinated to collective needs. Property that was identified as having been looted from Jews or Jewish communal institutions, but was heirless and unclaimed, was released to the Jewish Restitution Successor Organization (JRSO). The JRSO was the only successor organization designated by U.S. authorities to claim heirless Jewish property.

The United States, as a signatory to the Paris Reparations Agreement (January 1946), turned over all captured "non-monetary" gold in its possession to an agency known successively as the Inter-Governmental Committee on Refugees (IGCR), the Preparatory Commission for the International Refugee Organization (PCIRO), and, finally, the International Refugee Organization (IRO). A general humanitarian impulse, intersecting with fiscal concerns noted by the Department of State, influenced the American decision to adopt a broad definition of "non-monetary" gold as valuable personal property (other than cultural property) that had been looted by the Nazis and was unidentifiable, so that the IGCR might amass the sums necessary to address the needs of refugees and displaced persons. These decisions channeled needed funds to the refugee organization and also had the effect of decreasing the financial burden on the United States of supporting the refugees.

2. German officials were entrusted with restitution responsibilities.

U.S. officials repeatedly emphasized that in Germany the administration of restitution to victims ("internal restitution") should be handled by Germans. This policy caused delays in restitution to individual claimants. Not surprisingly, many Germans who "owned" property that might have been looted hesitated before acceding to claims brought against "their" property. By the end of the war, victims' assets permeated the German economy. The first *Länder* (German state) representatives charged with drafting restitution legislation knew as early as 1946 that such laws would prove unpopular and refused to enact measures that reflected the U.S. Government's insistence on a presumption of duress (i.e., U.S. authorities presumed that any transfer of property from persecutees from September 15, 1935 to May 8, 1945 was done under duress). In 1949, German "owners" sought to delay proceedings evidently because they believed the severity of the law would soon be mitigated after the establishment of the Federal Republic of Germany in May of that year. Many German citizens affected by the laws believed that the U.S. Military Government would ultimately amend them, so they undertook efforts to delay any restitution. Some Germans in possession of Aryanized property waited until the last possible moment to respond to restitution notices and then requested postponements of hearings.

In addition, some German restitution officials formerly had served the defeated Reich; U.S. authorities relied on the problematic denazification process to identify them. American Property Division officers in Bavaria and Baden-Württemberg noted in 1949 that there was resistance to restitution laws. American officials were aware that cases involving influential people were being postponed and that the restitution program might follow along the lines of denazification -- the more prolonged the procedure, the more favorable the decision for the person in possession of Aryanized

property. Procedural obstacles and the dragging out of the restitution process forced some claimants to settle for less than they were due and discouraged others from seeking restitution at all.

3. Strict deadlines created a narrow window for claims and some victims' assets were therefore transferred to Germany and Austria.

United States Military Law 59, promulgated in November 1947, provided the legal basis for internal restitution. The law enabled persecutees to demand the return of property that had been transferred during the Nazi regime. It also defined the procedure for implementing the restitution of identifiable property in the U.S. Zone in Germany. Military Law 59 promised "full and speedy" recovery, but the regulations adopted by the Office of Property Control undercut both. Strict adherence to the December 31, 1948 deadline for filing petitions for restitution (extended to May 1, 1949 for incomplete submissions) together with the lengthy, cumbersome, and expensive procedures prevented many rightful owners from asserting their rights. United States officials consistently endeavored to wrap up operations as quickly as they could -- sometimes to the detriment of the restitution process. The U.S. Military Government placed the burden of initiating and proving claims on the victims and their heirs, who were struggling to survive and rebuild their shattered lives. The last of the collecting points was closed in 1952 and unrestituted assets, including identifiable cultural property of known national origin, were transferred to the governments of Germany and Austria. Some of these objects were later found to belong to victims.

4. Austrian officials were entrusted with restitution responsibilities.

Austria held a unique position in the postwar period. In signing the Moscow Declaration (November 1, 1943) the Allies stated their intention to regard Austria as the "first free country to fall victim to Hitlerite aggression," and to "see re-established a free and independent Austria." They declared, however, that Austria -- despite its status as a "liberated" nation -- still had "a responsibility, which

she cannot evade, for participation in the war" at the side of Nazi Germany. Because of the Moscow Declaration, Austria held a very ambiguous postwar status as both a victim and a victimizer.

"Internal restitution" efforts in Austria differed from those in Germany. In Germany, American officials initially directed internal restitution, but in Austria a new democratically elected government was responsible for enacting and implementing internal restitution policy. The Austrian government began to pass legislation concerning internal restitution soon after the end of the war, but it was created piecemeal and took years to complete. Although the Allied powers maintained a supervisory role they entrusted Austrian bureaucrats, many of whom had served the German Reich, with the task of restituting victims' assets that had been Aryanized while Austria was a part of the Reich (1938-1945).

The Allies also sought to ensure that Austria fulfilled its obligation to return property looted from victims as the occupation ended. They could, by unanimous consent, annul legislation passed by the Austrian parliament. In the early 1950s, for example, when the Austrian parliament attempted to weaken certain aspects of the restitution legislation (allowing Aryanizers to reclaim enterprises already restituted, for instance), the Allied Commission objected. The Austrian parliament, therefore, never enacted this "Reacquisition Law," as it was known.

Austrian authorities were directed to return property to former owners, or grant compensation when restitution was "impossible." Austrian control over the slow and restrictive restitution process impeded the return of assets to victims.

5. Political considerations impeded the restitution process.

Cold War political considerations that first became paramount in the late 1940s sometimes resulted in inconsistent restitution policy. A great deal of cultural property was restituted to the Soviet Union, but there were cases where cultural property was not returned to Eastern bloc countries. The decisions to place artworks that clearly came from Hungary in trust with the Austrians and not to return library collections and cultural objects to the Baltic states are examples of this. The fact that Hungary, Romania, and Bulgaria were former Axis countries and that treaties between them and the U.S. were not concluded for several years delayed restitution substantially.

6. Problems at central collecting points and government warehouses impeded identification of victims' assets.

Military and civilian guards were not always able to prevent the theft of victims' assets from temporary repositories and central collecting points. The U.S. armed forces had strict and sensible regulations against theft, but security at some facilities was lax or unavailable at times. Because property control officers did not always take detailed inventories, it was impossible for them to determine the extent of theft. Inventory and valuation of assets at central collecting points differed from facility to facility and were hindered by the lack of appointed experts to review asset collections. Troop redeployment, supply shortages, damaged facilities, and lack of transportation also resulted in collections that were left unguarded and unprotected.

The huge amount of assets in Germany overwhelmed the skeletal staff charged with their protection. The Monuments, Fine Arts, & Archives (MFA&A) section of the U.S. Army, charged with locating and preserving cultural property, was particularly understaffed. The Office of the Military Governor, United States (OMGUS) was forced to rely on German civilians to do much of the accounting and

sorting of assets. More consistent and thorough inventories would have made restitution more practicable and would have facilitated more precise valuation of looted assets.

Better policy implementation in Germany and Austria would have prevented identifiable victims' assets from being stored in disorganized and poorly secured military warehouses and facilities where they were occasionally subject to theft and requisitioning by U.S. servicemen and civilian employees. The 1945 "Gold Train" episode -- in which American troops captured a train loaded with assets taken largely from the Hungarian Jewish community -- shows in concrete terms some of the effects of inadequate personnel, inadequate security, and a lack of command sensitivity to the restitution of victims' assets.

B. Implementation of Restitution Policy in the United States

1. Claims procedures for restitution were flawed.

a) The Alien Property Custodian prolonged adjudications.

Pursuant to a series of Executive Orders issued in 1941 and 1942, any property within the United States owned or controlled by a designated enemy country or national thereof could be transferred or vested in the Alien Property Custodian (operating within the Executive Office of the President), as the Custodian deemed necessary for the national interest. No exception was made for assets belonging to foreign nationals who were victims of the Holocaust. After the war, and until April 1955, a Holocaust victim could file a claim for the return of property taken by the Alien Property Custodian. Because of the expense and difficulty in filing, as well as for other reasons, many victims did not submit claims before the deadline and therefore did not recover their frozen assets. Others did not recover the full value of their assets.

In the treatment of a claimant as victim there appears to have been no noticeable relaxation of applicable rules or procedures. In some cases the process was sufficiently prolonged that the initial claimant died while the claim was still pending. In those circumstances, the Alien Property Custodian conducted additional investigations of each heir and cases that might have been on the brink of conclusion were further delayed. In 1953, a Senate Judiciary Subcommittee delving into the activities of the Office of Alien Property (OAP) sharply criticized the agency for lack of good business practices in the way it conducted its own affairs and handled the assets under its control. The report particularly singled out the "inefficient and dilatory" manner in which claims were processed. Of approximately 15,000 title claims only about 6,000 had been processed. The average length for resolving a claim in 1952 was 46.6 months and the average over the entire period was 31.7 months.

b) Victims' assets may have been used to pay U.S. war claims.

During the war assets of some Holocaust victims were caught up in the freezing mechanisms of the U.S. Treasury Department. Although clear distinctions were drawn between foreign nationals considered enemies and those considered non-enemies, among enemy assets no distinction could be drawn between victims and perpetrators until after the war. In 1946, special provisions were made for the return of vested property to those who had been persecuted during the war. After 1946, when German and Japanese assets were vested, a special effort was made not to vest the assets of those who had been persecuted. Nevertheless, compensation for U.S. assets lost in Europe took precedence over compensation for foreign-owned assets frozen in the United States. Congress regarded frozen German assets as a source from which to pay U.S. war claims for damages suffered by American businesses and individuals. The U.S. War Claims Commission received more than

\$200 million from liquidated German and Japanese assets. Thus, U.S. war claims were paid in part by German assets that likely included victims' assets.

2. Restitution efforts of recipient countries were not monitored.

There is evidence that the United States assumed that its western allies to which it restituted looted assets would return those assets to their rightful individual owners (or the heirs of those owners).

There is little contemporaneous documentation of efforts by the recipient countries to effect individual restitution and no documentation that the United States monitored the process. None of the national historical commissions consulted by the Commission reported having found evidence of inventories of assets received by their governments from the United States, or of agreements with the United States to effect individual restitution.

3. Duty was assessed on victims' assets.

The International Refugee Organization of the United Nations was required to pay customs duties of at least \$120,000 between 1949 and 1952 on assets brought into the United States to be sold for the benefit of refugees, thereby reducing the funds available to care for those displaced persons.

4. The \$500,000 lump sum settlement of Office of Alien Property claims was inadequate.

Attempts by representatives of victims to achieve a settlement of heirless Office of Alien Property claims began in 1948. At that time, legislation was introduced that valued those claims at \$3 million based on extensive research into OAP records by the Jewish Restitution Successor Organization (JRSO), the organization responsible for material claims on behalf of Jewish victims and their heirs. This legislation met with resistance. It was not until October 1962 that Congress amended the Trading with the Enemy Act to authorize the payment of \$500,000 out of the War Claims Fund to the

JRSO. According to former officials, the JRSO reluctantly accepted the \$500,000 as a lump sum settlement of all claims it made for unclaimed property vested in the Office of Alien Property.

C. Agreements Negotiated by the Commission in the Public and Private Sectors

1. The Library of Congress has agreed to recognize the provenance of certain books in its collection that had been looted by the Nazis.

As a result of its research into the history of the Jewish Cultural Reconstruction, Inc. (JCR), a successor organization created in 1947 to preserve cultural assets of the Jewish people, the Commission learned that between July 1, 1949 and January 31, 1952 the JCR transferred approximately 158,000 items to libraries in the United States. Among the libraries that received books were Harvard University, Johns Hopkins University, New York University, the University of Iowa, Brandeis University, Hebrew College, and the Jewish Institute of Religion. Several of these are able to identify the books that they received. Others are not.

According to documents examined by the Commission and passed on to the Library of Congress, the JCR sent 5,708 books and periodicals to the Library, of which 107 were defined by the JCR as rare. The Commission also suspected that other items looted by the Nazis had made their way to the Library of Congress through other channels.

On August 6, 1999 Commission staff met with James H. Billington, Librarian of Congress, to alert him to the presence of these books and to discuss appropriate steps to identify and recognize the existence of these books. The Commission and the Library agreed that it would not be feasible to sample the Library's entire collection of over 25 million volumes, thus precluding the possibility of

estimating the number of looted books that ended up in the general collection. Instead, they agreed to sample the Library's Hebraic collection of approximately 165,000 volumes -- the most likely recipient of JCR books -- to try to determine how many JCR books were still in that collection in the Library of Congress.

This procedure sampled the approximately 125,000 items in the Hebraic collection that could have been looted because they were published before 1945 and were in Europe between 1933 and 1945. The survey revealed that nearly 2,300 of the 125,000 items came from the JCR, while 200 more were clearly looted from Jewish victims of the Holocaust and came to the Library by other means.

This effort yielded several important results. First, it added considerably to the Library's own knowledge of the origins of its Hebraic collection. Until the Commission instigated this exercise, the Library believed that it had few books and periodicals of this nature. The Library now knows that it holds at least 2,300 items from the JCR in its Hebraic collection, and it is reasonable to assume that additional books in other languages were placed in other collections throughout the library.

Second, contrary to what had been previously thought, many of the items received from the JCR are important examples of Hebraica, including numerous Rabbinic texts, *machzors* (holiday prayer books used on the Jewish New Year and Day of Atonement) and other religious volumes. Notably, researchers found nearly all of the 107 books that were designated for the Library of Congress on the JCR's rare book list. The Library also possesses secular items from the JCR, such as a Yiddish translation of Thomas Mann's *Magic Mountain*, that have important historical value.

Finally, the sampling revealed that many of the items received from the JCR did not have the commemorative bookplate that the JCR requested receiving institutions to affix, although the Library still has the bookplates it received 50 years ago from the JCR.

To recognize the unique provenance of the JCR books and other items that were looted by the Nazis, the Library has agreed to establish a "virtual library" of JCR titles and related books.¹² This virtual library will allow the public to search for JCR and related items on-line and to examine the volumes in person in the Library's African and Middle Eastern Reading Room. The Library will also give priority to cataloging any of the remaining books that have been identified as belonging to this collection.

Additionally, the Library is developing a collection "name" field, which will serve to aggregate all the records for the JCR collection within the virtual library. This step will enable users to click on a single link that will lead them to every title in this special collection. The Library will also make this list of titles available to agencies, organizations and individuals involved in the restitution of Holocaust-era assets and will restitute any of these volumes upon establishment of a legitimate claim. The Library will also insert a copy of the original JCR bookplate in each volume from which it was omitted.

The Library will include selected volumes from the collection of JCR and related books in a major permanent exhibition of the Library's international treasures, scheduled to open in February of 2001.

¹² For the letters of agreement obtained by the Commission, see Appendix F.

The captions used in this section of the exhibit will highlight the unique history of the volumes displayed. Finally, the Library will mount a display of JCR books in the African and Middle Eastern Reading Room in 2002 to mark the 50th anniversary of the completion of the JCR's work.

2. The National Gallery of Art has agreed to return a painting to its rightful owners.

Shortly after the Commission began operations, its staff contacted National Gallery of Art director Earl A. Powell, III, about obtaining access to the Gallery's documentation for its Holocaust-era art, i.e., works in the collection created before 1945, acquired after 1932 and which were or could have been in Europe between those dates. Members of the Commission staff met with Gallery staff on June 21, 1999 to share information and to facilitate Commission access to research resources beyond those already available on the Gallery's website.

In February 2000, Commission staff suggested that the Gallery add a "provenance" search field to its website database to allow those using the site to search proper names in the chain of title of Holocaust-era works in the Gallery collection. Because provenance information had already been incorporated into the collection's database, the Gallery was able to quickly add this feature. The "provenance" search feature was unveiled at the Commission's meeting on February 29.

In April 2000, Mr. Powell and his staff met with members of the Commission's Committee on Art and Cultural Property and Commission staff to discuss policies for disclosure of Holocaust-era art of incomplete or questionable provenance and to demonstrate the National Gallery's provenance research procedures.

The National Gallery of Art currently has in its possession 12 paintings that were looted during the World War II era. Of these, 11 were restituted to their original owners after the war. There is evidence that Frans Snyder's *Still Life with Fruit and Game* was looted and not restituted to its rightful owner. The Gallery's investigation into the painting's history revealed that the donor had purchased the work from Baron von Pollnitz, a Luftwaffe officer, who received the painting from Karl Haberstock, a principal Nazi art dealer. There are indications that the painting may have come from the collection of the Stern family in Paris that was confiscated by the Nazis. There are no documents that prove how Haberstock acquired the painting.

At the urging of the Commission, the National Gallery of Art had agreed to mount a plaque reflecting the doubtful provenance of this painting. Subsequently, having seen the painting and its provenance on the Gallery's website, the Stern family made a claim for the painting. The Gallery has agreed to return the painting to the family.

3. The Commission has identified dormant bank accounts and other unclaimed property of Holocaust victims in the United States, and significant members of the banking industry have agreed to endorse suggested best practices for the investigation of bank records regarding such accounts.

To determine whether banks in the United States held accounts of Holocaust victims that became dormant and escheated to the states, the Commission conducted a pilot project matching the names of a limited list of Holocaust victims with a list of escheated property maintained by the State of New York.

In the United States, dormant accounts do not remain in the possession of the bank but rather escheat to the state in which the bank is located. Consequently, the Commission matched the names of Holocaust victims from Holland and Belgium, as well as a list of respondents to the German census

of 1939 that required Jews to report their property, against the names of account holders whose accounts had escheated to the State of New York. The Office of the Comptroller of New York State created this database as a public service at the Commission's request.

This procedure matched nearly 400,000 names with over a million unclaimed property records and yielded eighteen matches of names of victims with dormant bank accounts in the State of New York. A preliminary search has revealed that the value of these accounts ranges from a few dollars to five thousand dollars.

The Commission has also sought to assess whether people who ultimately became victims of the Holocaust held stocks and bonds issued by American companies. Therefore, the Commission conducted another cross match, comparing the list of Dutch, Belgian and German victims against a database comprised of lists of escheated property from 48 states and the District of Columbia maintained by ACS Unclaimed Property Clearinghouse, Inc., a third-party storage and automation facility operating under contract with many states.¹³ ACS performed this cross match as a public service at the Commission's request. The results of this cross match are still preliminary, but indicate that other unclaimed property belonging to Holocaust victims can be identified.

Overall, the demonstration confirmed the need for the use of more sophisticated software that is sensitive to the differences in spelling and pronunciation of common names if the cross match is to capture all of the potential matches and eliminate any false matches. Because the Commission was unable to research each match in depth or to ensure that the databases used were complete, the

number of matches obtained should be viewed as a floor, not a ceiling. The Commission's pilot project was intended to demonstrate the feasibility and value of conducting a comprehensive cross match using more complete lists of victims' names and escheated property. That effort was successful, and the Commission hopes to broaden the search for such accounts by repeating this exercise with more comprehensive lists and the participation of more states.

To facilitate additional searches for dormant accounts, the Commission, in discussions with The Chase Manhattan Bank, Citigroup, Inc. and HSBC Bank USA held under the auspices of the New York Bankers Association, has reached an agreement defining suggested best practices to be used by banks when they search for Holocaust assets. These suggested best practices have been unanimously approved by the New York Bankers Association, which has made a significant commitment to assisting in the identification of Holocaust-era assets.¹⁴

Although both the operation of state-abandoned property laws and the wartime freezing of foreign-owned assets make it most likely that information about Holocaust victims' assets originally deposited in banks will be found in state or federal archives, banks themselves may have information that can assist in identifying or clarifying the fate of such assets.

Under these suggested best practices, banks will first define the universe of accounts to be located to include any account opened at the bank or any of its predecessors in interest before 1945 by a

¹³ California and Indiana did not participate in the database cross-match.

¹⁴ For the letters of agreement obtained by the Commission, see Appendix F.

depositor whose address at any time between 1933 and 1945 was in Germany, or a European country occupied by or allied with Germany, and that went dormant after 1933.

Banks will then review all Records (defined as any recording in any form of information about an account in the defined universe) that could contain any information about such accounts, including but not limited to transactional customer records, abandoned property procedures and records, safe deposit box procedures and records, and escheatment procedures and records.

Banks will examine applicable document retention policies, both current and contemporaneous, for possible sources of Records and, notwithstanding the provisions of such policies, determine whether transactional customer records (paper, microfilm, microfiche) exist and review whatever records of the bank and its predecessors in interest still exist. If Records exist, banks will collect and review them and attempt to identify accounts in the defined universe. Records will be maintained in a segregated file.

Banks will contact outside counsel and accounting firms that worked for the bank and its predecessors in interest from 1933 to the present to determine if they have any Records. They will collect and review any such Records and attempt to identify accounts in the defined universe. These Records (or copies thereof) will be maintained in the same file.

Any identification of an account in the defined universe will be reported to the appropriate unclaimed property official of the state to which the account would have escheated. The bank will report

publicly on the conclusions of its review, including to the extent possible the number and value (but not the identity of the account holder) of any accounts identified.

The Commission believes that once such a comprehensive search has been completed in accordance with these practices, banks should not be required to make repetitive individual searches.

4. The museum community has agreed to full disclosure of Holocaust-era works and their provenance.

Holocaust-era cultural property -- that is, works created before 1945, transferred after 1932 and before 1946, and which were or could have been in continental Europe between those dates -- is found in museums, libraries, galleries, and private collections in the United States.

As early as 1946, the State Department notified museums and other institutions that stolen art was entering the country, but in the years following the war it was not the standard practice for museums, collectors, and dealers to investigate the provenance of works they acquired. At the same time, few families whose assets were stolen had the information or the resources -- financial or psychological -- to locate and pursue claims for lost property.

Although U.S. law provides that good title cannot be conveyed to stolen property, if the current possessor of a stolen work can successfully argue that a claimant's action to recover it is time-barred under a statute of limitations, the goal of restitution can be defeated. Another potential impediment to restitution was raised in a U.S. Government effort to reconstitute Holocaust-era art by means of a

forfeiture action, *United States v. Portrait of Wally*.¹⁵ In that case, a federal district court in New York held that U.S. forces charged with recovering stolen items were acting on behalf of the true owners and that such recovery prohibited continued treatment of the item as stolen property. Nothing in the Commission's research indicates that the U.S. Army was acting on behalf of owners or their heirs.

While most claims for restitution of looted cultural property have been successfully resolved, the process of resolution has sometimes required lengthy and expensive litigation. Because survivors are generally in the last years of their lives, any delays are prejudicial. Claimant and museum representatives agree that alternative dispute resolution mechanisms for such claims would be beneficial.

American museums have committed themselves to provide public access to information about Holocaust-era works in their collections. At the Commission's hearing in New York on April 12, 2000 several museum directors reaffirmed their policies for disclosure of provenance for Holocaust-era works in their collections. The policies were developed separately by the individual museums, and therefore differed in scope and methodology.

In an effort to forge a common policy in response to the Commissioners' concerns, the directors present agreed to full disclosure, which means: (1) all Holocaust-era works will be identified and disclosed and all provenance information in the possession of the museums regarding those works

¹⁵ 105 F. Supp. 288 (S.D.N.Y. 2000).

will be disclosed; (2) such provenance information will be disclosed, even where there are no known gaps; and (3) provenance research by museums will be a continuing process with additional information disclosed as it becomes known. They also agreed to restitution where claims are clearly established. Indeed some museums, notably the Seattle Art Museum, the North Carolina Museum of Art and the Denver Art Museum have returned valuable works in their collections to the heirs of the original owners. The Boston Fine Arts Museum recently settled a claim under a part purchase, part donation agreement with the heirs that allowed the museum to keep the painting. Members of the Commission noted that gaps in provenance do not create a presumption that a work was looted but merely present an opportunity for claimants to come forward with the understanding that they would have to meet the burden of proof currently required by law.

Following discussions with individual museums and their representatives, the American Association of Museums (AAM) and the Association of Art Museum Directors (AAMD), the Commission finds that the museum community is committed to full disclosure as that term is defined above. The Commission acknowledges the commitment of the museum community to full disclosure and restitution as set forth in the letters from the AAM and the AAMD.¹⁶ The Commission recognizes that provenance research is difficult, costly and time consuming, often involving access to records that are hard to obtain or that may be nonexistent, and that few, if any, museums have the resources now to accomplish this.

The museum community has begun to develop tools to achieve full disclosure and will participate in the process of creating a searchable central registry of Holocaust-era cultural property held by

American museums, beginning with European paintings and Judaica. This searchable central registry will allow interested parties to access the pool of available information from one Internet site. By taking these steps, the museum community has greatly enhanced the search for truth and justice.

The Commission is also holding continuing discussions with other representatives of interested parties involved in the art trade with the aim of initiating a process that will result in the creation of parallel standards for the conduct of those parties.

III. THE CONTEXT OF THE COMMISSION'S RECOMMENDATIONS

A research effort of this scope inevitably identifies new avenues of inquiry that must be left for others to pursue. A number of areas that have been investigated preliminarily by the Commission's staff merit further research. These include:

- the disposition of the assets seized by the Nazis from the Roma and Sinti, disabled or homosexual victims of the Holocaust that came into the possession or control of United States authorities;
- the impact of the Cold War on American policy, including when and how Cold War considerations entered into specific restitution decisions, such as those relating to the return of assets from the Hungarian Gold Train, and the restitution of various libraries to the Baltic states;

¹⁶ For the letters of agreement obtained by the Commission, see Appendix F.

- the effect of the creation of the State of Israel during the period in which restitution was being implemented, and its development's effect on decisions regarding the disposition of unidentifiable victims' assets;
- the possibility that looted art from Europe was trafficked through Latin America to the United States both during and after the war, thus escaping the scrutiny of the U.S. Customs Service;
- the possibility that Switzerland became, after the war, a haven for looted art that eventually found its way into American collections;
- the effects of currency reform and exchange controls on restitution; and
- the percentage of victim gold in Reichsbank gold bars.

In addition to identifying such corollary inquiries, the Commission staff also decided in several instances that further research on particular topics addressed in its report could not be justified because of time and resource constraints. This was particularly the case where the archival records in the United States were incomplete and supplementary information was believed to be available in foreign archives, access to which is often more restricted than in the United States.

Perhaps the most significant example in the area of necessary compromise between research goals and the time and resources available to complete them came in the area of valuation of victims' assets that passed through U.S. hands. The question "How much was, and is, it worth?" appears simple, but is in fact extremely complex. Important but highly technical and difficult questions relating to the effects of currency reform and exchange controls affect the answer. Moreover, in many cases the U.S. documents are inadequate to specify the exact identity or quantity of assets

handled (as in descriptions of stocks and securities by their height in inches), making valuation a guessing game at best.

In all of these areas, and others, further research may yield additional valuable information. The Commission believes that an evaluation of the likely returns on further investment in such research should be made, particularly in light of recent developments signaling the opening of access to important new archival sources, primarily in Russia and other countries of the former Soviet Union.

The single most important research task that remains to be undertaken -- and one that the Commission firmly believes must be completed -- is the integration of this Commission's research findings and those of all the other historical commissions that have been at work on related issues. Such an effort, complex and expensive though it may be, must be made in order to get the full benefit of the extraordinary scope of Holocaust research that has been completed around the world in recent years.

At its first meeting, the Commission determined that research by others into the way victims' assets were handled by the nonfederal sectors was only in its infancy, and that therefore the greatest contribution the Commission could make to this effort was to promote the adoption of standards and best practices that agencies of state and local governments, and private institutions and companies, should follow to pursue their own research into the three asset categories of gold, non-gold financial assets, and art and other cultural property. Because gold was almost exclusively the responsibility of the Federal government, the Commission focused on the role of banks and state governments in handling the accounts (and later escheated assets) of Holocaust victims, and the role of museums, art

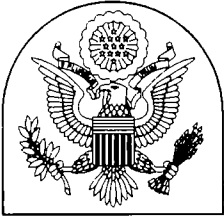
dealers, auction houses and collectors in transactions involving cultural property that may have been taken from those victims.

Matching records of escheated property with names of victims has demonstrated that additional research has the potential to identify specific assets and their original owners. This could not have been accomplished without the cooperation offered by the New York State Comptroller's Office in automating its unclaimed property records, and by the states and ACS Unclaimed Property Clearinghouse, Inc. The groundbreaking agreement with the New York Bankers' Association establishes benchmarks for banks all over the country that will enable government officials, potential claimants, scholars, and other interested parties to judge the commitment of those institutions to identify Holocaust-era assets that may have belonged to victims. The resultant uniformity and transparency in research methodology will be an aid to scholarship as well as to the restitution process.

In the area of best practices, additional standards still need to be developed -- for example, for the art trade and for business enterprises whose securities may have been owned by Holocaust victims. A means of monitoring and publicizing compliance with the standards that are developed must also be devised. Where databases are needed, they have to be maintained. Technical assistance resources must be made available.

If coordination of all of these tasks is to be accomplished, two conditions must be met. First, there must be a single institutional focus to coordinate this agenda to prevent the dissipation of responsibility and loss of priority that is the inevitable result of many discrete projects spread among

several much larger entities with different missions. Second, the Federal government must continue to provide leadership to assure that these tasks are accomplished. This is not to say that all of these tasks can or should be undertaken by the Federal government -- indeed many can only be accomplished by nonfederal entities. The Commission addressed the fundamental question of how the Federal government can best lead and support efforts to be made by a range of institutions, public and private. In fashioning its recommendations to the President, the Commission has made the answer to this question its highest priority.



PRESIDENTIAL
ADVISORY COMMISSION
ON HOLOCAUST ASSETS
IN THE UNITED STATES

PRESIDENTIAL ADVISORY COMMISSION ON HOLOCAUST ASSETS IN THE UNITED STATES

Edgar M. Bronfman
Chairman

Kenneth L. Klothen
Executive Director

11/28

Dear Shirley,

I understand that Edgar Bronfman spoke to Mrs. Clinton about the Commission's report, especially the recommendation that a Foundation be established to continue to work on these issues. Our policy recommendations are laid out in the attached document.

Edgar believes that the First Lady wants to be helpful in creating the Foundation. We can discuss this tomorrow at lunch.

Ed

**FINDINGS AND RECOMMENDATIONS
OF
THE PRESIDENTIAL ADVISORY
COMMISSION ON HOLOCAUST ASSETS
IN THE UNITED STATES**

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I. INTRODUCTION

A. The Creation of the Presidential Advisory Commission on Holocaust Assets in the United States

The Presidential Advisory Commission on Holocaust Assets in the United States was created by P.L. 105-186, which was passed with unanimous bipartisan support in the Congress and signed into law by President Clinton on June 23, 1998.¹ The 21-member Commission, chaired by Edgar M. Bronfman, is charged by statute to:

- "conduct a thorough study and develop a historical record of the collection and disposition of the assets [of Holocaust victims]² if such assets came into the possession or control of the Federal government, including the Board of Governors of the Federal Reserve System and any Federal Reserve bank;"
- "review comprehensively any research" by others "into the collection and disposition" of assets of Holocaust victims "to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States;" and
- "submit a final report to the President that shall contain any recommendation for such legislative, administrative, or other action as it deems necessary or appropriate." The

¹ For a list of the members of the Commission, see Appendix A.

² For purposes of the Commission's work, we have defined "victim" to mean an individual who was deprived of his or her civil or political rights on the basis of race, religion, ethnicity, disability, or sexual orientation. We have defined "Holocaust-era assets" to mean assets that were in existence between 1933 and 1945, whether or not they belonged to victims, as defined above. "Victims' assets" is a more limited category comprised of Holocaust-era assets that belonged to those victims.

President then "shall submit to the Congress any recommendations" that he "considers necessary or appropriate."³

Research into the historical catastrophe known as the Holocaust serves several purposes. By documenting the actual events, it helps to create an irrefutable record that forever locates that period in world history. By revealing previously unknown details, it assists in extending some measure of justice to those scarred by the crimes against humanity committed by the Nazis and their collaborators. By promoting analysis and confronting the question "Why?," historical investigation helps all nations and societies decipher lessons for the future conduct of human affairs. For these reasons, the international community has found many ways to support and promote Holocaust-era research.

The Commission believes that a review of the American historical record is important because Americans should know how their government dealt with the assets looted from victims of the Nazis that came into its possession. Such an accounting is consistent with the moral imperative to remember, and learn from, the darkest period in modern times. This work may also ultimately assist some victims or their heirs to recover property stolen from them years ago. Thus, the Commission's very existence is significant, helping our country, in President Clinton's words, to "begin this new millennium standing on higher ground."⁴

³ The U.S. Holocaust Assets Commission Act of 1998, 22 USC 1621 (note). For the full text of the statute, see Appendix B.

⁴ Remarks by President Clinton to the World Jewish Congress's "Partners in History: A Tribute," The Grand Ballroom, The Pierre Hotel, New York, New York, September 11, 2000.

This document sets forth the critical findings of the Commission regarding the collection and disposition by the United States of the assets of Holocaust victims, and the Commission's policy recommendations based on those findings.

B. The Commission's Work

The findings grow out of the Commission's consideration of extensive original historical research (contained in the Staff Report to the Presidential Advisory Commission on Holocaust Assets in the United States), as well as the Commission's hearings and participation in conferences and meetings, the professional expertise and personal experience of the Commissioners, and other information-gathering efforts.⁵

The Commission considered the Staff Report and deliberated over findings and policy recommendations over the course of nine meetings. At these meetings, the Commissioners sought to advance the understanding of the U.S. government's handling of the assets of victims of the Holocaust by planning and setting the parameters of the research effort. They met with experts on archival research, on tracking financial assets, and on how best to secure the release of classified documents. The Commission appreciates the extremely helpful presentations by Michael Kurtz, Assistant Archivist for Records Services at the National Archives and member of the Nazi War Criminal Records Interagency Working Group, and Irwin Nack, Investigative Counsel with the New York State Banking Department. The Commission consulted the Departments of State, Treasury and Justice, the New York State Holocaust Claims Processing Office, the Conference on Jewish Material Claims Against Germany, and the comptrollers of the State and City of New York, among others.

⁵ For a complete listing of the activities of the Commission, see Appendix C.

The Commissioners also reviewed research papers prepared by the staff and grappled with a wide range of policy recommendations.

In addition to its regular working meetings, the Commission held a hearing on art and cultural property in New York City on April 12, 2000. The hearing brought together experts from the museum community, the art trade and organizations that assist victims in making their claims for cultural property looted from their families. It facilitated a dialogue on the responsibilities of the art world toward victims, their heirs, and the public.⁶

The Commission benefited from the results of the London Conference on Nazi Gold (December 1997) and the Washington Conference on Holocaust-Era Assets (December 1998), and participated in the Stockholm International Forum on the Holocaust (January 2000) and the Vilnius International Forum on Holocaust Era Cultural Assets (October 2000). In addition, Commission staff held meetings abroad and in Washington with representatives and scholars from Argentina, Australia, Austria, Belgium, the Czech Republic, Estonia, France, Germany, Hungary, Israel, Latvia, Lithuania, Mexico, the Netherlands, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

The Commission staff also convened a panel of outside experts to comment on the draft report. In September 2000, Dr. Jeffrey Clarke of the Center of Military History, Professor Marion Deshmukh of George Mason University, Professor Gerald Feldman of the University of California, Berkeley, Professor Peter Hayes of Northwestern University, Dr. Martin Dean of the United States Holocaust

⁶ Presidential Advisory Commission on Holocaust Assets in the United States, *Hearing on Art and Cultural Property*, New York, NY, April 12, 2000.

Memorial Museum, author Lynn Nicholas, Professor Jonathan Steinberg of the University of Pennsylvania, and Dr. Elizabeth White of the Justice Department's Office of Special Investigations reviewed the staff draft and offered recommendations.

In addition to overseeing the preparation of the historical report, the Commission worked to develop suggested "best practices" for banks and corporations that should govern those entities' conduct of their own investigations. Because the overwhelming majority of foreign assets were originally on deposit in New York State, the Commission worked with the New York Bankers Association and several of its members to encourage them to develop best practices to assure the transparency of the research into various assets of those who may have become victims of the Holocaust. Those assets include: (1) dormant bank accounts; (2) interest and dividend payments that might have accrued to shareholders or bondholders; and (3) dormant safe deposit boxes. These discussions have resulted in a set of suggested best practices that can be endorsed by banking associations and followed by individual banks.

The Commission, the Association of Art Museum Directors (AAMD), and the American Association of Museums (AAM) agreed that the museum community would affirm its commitment to a series of standards to govern provenance research about art from the Holocaust era, including full disclosure and publication of that research on the Internet in a central and accessible registry. Commissioners and staff also held discussions with representatives of the art trade, including the Art Dealers Association of America and Christie's Auction House, and hope to conclude a similar agreement before the Commission's mandate expires.

The Commission has contributed to ongoing art provenance research in two ways: (1) through the posting on its website of two American intelligence reports on the Hermann Goering and Adolf Hitler collections; and (2) through the development of a database for outstanding claims for certain items of art and cultural property collected between 1952-1956 by Ardelia Hall, the Arts and Monuments Advisor in the Department of State. Hall initially proposed that the claims be published in leading U.S. art magazines, but this plan was never implemented and only a few experts are aware of the information she collected. This information has not been widely consulted in the last 45 years.

Posting this database in a searchable form on the Internet will help museum officials to research the provenance of works in their collections and help claimants recover lost or stolen art works. The Commission's database could become the first step toward the realization of the more comprehensive claims database it recommends below.

Finally, the Commission wishes to acknowledge the extraordinary contribution of members of the staff.⁷ Their dedication and hard work multiplied their talents as historians, policy analysts, diplomats and managers. Because of their unique work as a team, the Commission believes that the goal of expanding the world's knowledge and understanding of the role of the United States in its management of Holocaust-era assets has been well met. The Commission here thanks each of them for their efforts.

⁷ For a list of staff contributing to the Commission's work, see Appendix D.

C. The Historical Context

There has been an increased focus on the Holocaust and its consequences in recent years. Many factors have contributed to this heightened awareness, including the intransigence of Swiss banks, the activities of European insurance companies, the recognition of the experiences of slave and forced laborers, the fall of communism and the commitment to democratic and open societies in formerly communist countries. There is also a general sense that the closing of the millennium demands that Western society seeks to effect the maximum measure of justice possible for the victims of Nazi crimes. As a result, many governments, non-governmental organizations, businesses, and individuals began or renewed efforts to grapple with aspects of their records regarding the collection and restitution of the assets of Holocaust victims.

Research has helped to shed light on this history. The United States carried out pioneering studies on the role of the neutral countries in supporting the German war effort and on the fate of gold looted by the Nazis from central banks and individuals.⁸ Policymakers from countries as diverse as Argentina, France, Lithuania, and Sweden realized the importance of revisiting painful episodes from their pasts if history was to be properly served. Numerous other countries in Europe and Latin America convened commissions to examine the records of their governments, banks, and other institutions.⁹ In 1997, many of these countries gathered for the London Conference on Nazi Gold, and the following year the United States convened the Washington Conference on Holocaust-Era Assets, the

⁸ U.S. Department of State, Preliminary Study on U.S. and Allied Efforts To Recover and Restore Gold and Other Assets Stolen or Hidden by Germany During World War II, coordinated by Stuart E. Eizenstat and prepared by William Z. Slany (Washington, DC: US Government Printing Office), May 1997; U.S. Department of State, U.S. and Allied Wartime and Postwar Relations and Negotiations with Argentina, Portugal, Spain, Sweden, and Turkey of Looted Gold and German External Assets and U.S. Concerns About the Fate of the Wartime Ustasha Treasury, coordinated by Stuart E. Eizenstat and prepared by William Z. Slany (Washington, DC: US Government Printing Office), June 1998.

⁹ For a list of countries and commissions addressing the issue of assets of Holocaust victims, see Appendix E.

first major international gathering to address the fate of the entire spectrum of looted assets, including art and cultural property.¹⁰ The Stockholm International Forum on the Holocaust, held in January 2000, and the Vilnius International Forum on Holocaust Era Looted Cultural Assets, held in October 2000, were the latest major meetings of concerned nations to reflect the continued commitment of the world to focus attention on the Holocaust and increase efforts to recognize the scope of its crimes.

The United States has been and remains a leader in these international efforts. The work of the Presidential Advisory Commission continues this country's quest for the truth, and demonstrates that the United States has asked of itself no less than it has asked of the international community.

The Commission's goal is to describe, as completely and as clearly as the documentary evidence permits, the record of the United States government in dealing with victims' assets during the Holocaust and subsequent years. The Commission is not a restitution commission charged with locating and returning assets. Rather, Congress directed it to write the history of the collection and disposition of assets that came into the possession and control of the Federal government of the United States. In so doing, the Commission is mindful of the point emphasized more than 40 years ago by the Conference on Jewish Material Claims Against Germany that "the compensation sought was for material losses suffered by Nazi victims and was not in reparation for moral wrongs inflicted. Those wrongs were irreparable in their totality...."¹¹

¹⁰ Nazi Gold: Transcript of The London Conference (London: The Stationary Office), 1997; Proceedings of the Washington Conference on Holocaust-Era Assets (Washington, DC: US Government Printing Office), 1998.

¹¹ Five Years Later. Activities of the Conference on Jewish Material Claims Against Germany, 1959.

While the Commission has focused its recommendations to the President on themes that directly address aspects of our government's record in handling the assets of Holocaust victims, it does not believe that the examination of the role of the United States during the Holocaust era should be limited to the topics addressed by the Commission. Fortunately, the work of research, remembrance and education -- without limitation as to scope -- is being conducted by other institutions both within and outside the Federal government. The work of the Congress, the National Archives and Records Administration, the Office of Holocaust Issues in the Department of State, the President's Special Envoy on Holocaust Issues, the Office of Special Investigations of the Department of Justice, the Inter-Agency Working Group on the Declassification of Nazi Era Documents, the U.S. Holocaust Memorial Museum, and many private organizations, individual scholars and advocates all contribute to a broader understanding of the Holocaust and America's role during that period.

D. Overview of the Commission's Findings

The Commission has concluded that United States forces in Europe made extraordinary efforts to locate, safeguard, identify and restitute assets taken by the Nazis and their collaborators from victims of the Holocaust. Because of the enormity of Nazi crimes, the undertaking by U.S. agencies to preserve, protect, and return looted assets was unparalleled in history and willingly carried out by a victorious power committed to righting the wrongs of a defeated enemy regime. U.S. military and civilian personnel encountered a myriad of obstacles under the very difficult circumstances prevailing in postwar Europe. Their achievements were nothing short of heroic.

Nevertheless, the restitution policy formulated in Washington, D.C. and implemented in the countries in Europe occupied by the United States could never fully address the unimaginable dimension and complexity of restituting assets to victims of the Holocaust. For the most part, the inadequacies in

both policy and implementation reveal that U.S. authorities were driven by necessity. They were often unable to restitute all of the victims' assets under their control because of practical concerns that commingled with conflicting interests, priorities and political considerations. Restitution competed with, and was often subordinated to, the desire to bring American troops home, the need to rebuild devastated European economies and provide humanitarian assistance to millions of displaced persons, and the Cold War. These shortcomings can be partially explained as an unintended consequence of adherence to international legal principles, but the Commission's research has also revealed that, when it came to assigning scarce manpower and resources, the United States accorded a relatively low priority to restoring the looted assets and lost property rights of individual victims and their heirs.

With respect to many types of assets, the United States followed international legal tradition and undertook only to restore property to national governments, which it assumed would be responsible for satisfying the claims of their citizens. When the United States recognized that this arrangement excluded those who no longer had a nation to represent their interests, or who had fallen victim to the ruthless efficiency of Nazi genocide and whose property had been rendered heirless and unidentifiable, it designated certain "successor organizations" to sell heirless and unclaimed property and apply the proceeds to the care, resettlement, and rehabilitation of victims. This innovation seemed to present an attractive alternative to the difficult and resource-intensive job of tracing individual ownership, but its adoption led many assets to be too hastily labeled as heirless or unidentifiable, with the result that they were assigned to the successor organizations, rather than returned to their rightful owners. This approach had a particularly negative impact on the ability to

identify and restitute assets that had been taken from Roma and Sinti, homosexual, and disabled victims, who had no international organizations representing their interests.

Far more regrettable is the United States' failure to adequately assist victims, heirs, and successor organizations to identify victims' assets, instead relying upon them to present their own claims, often within unrealistically short deadlines, with the result that much victim property was never recovered. Even when property was returned to individual owners or their heirs, it was often only after protracted, expensive, and insensitive administrative proceedings that yielded settlements far less than the full value of the assets concerned.

While the overall record of the United States is one in which its citizens can legitimately take pride, even the most farsighted and best-intentioned policies intended to restitute stolen property to its country of origin failed to realize the goal of returning property to the victims who suffered the loss. Indeed, there remain today many survivors or heirs of survivors who have not had restored to them that which the Nazis looted. And, in large part, it will remain forever impossible to return the actual assets stolen from them over 50 years ago.

The uniqueness of the Holocaust does not negate its ability to offer lessons for the behavior of government in other contexts, and the Commission also believes that it is important that these findings lead our government to develop policies to promote the preservation and restitution of the assets of victims of persecution associated with future armed conflicts.

It is an enduring strength of American democracy that we can look honestly at the results of our actions, address their implications, and assess accountability and responsibility. In setting forth the following findings, the Commission does not imply that failures of policies to accomplish their goals are attributable to bad motives on the part of any official, agent or institution of the United States.

Where combinations of policy and circumstance led to results that can be improved upon now, the Commission suggests ways to achieve these improvements. Where new facts have come to light that argue for changes in policy, the Commission proposes appropriate changes. The findings that are associated with particular policy recommendations are meant to locate those recommendations in the historical context and not to mechanistically quantify or assign dollar values to perceived historical shortcomings in U.S. policy making or implementation.

The Commission believes that this history, viewed as a whole, suggests that a series of actions to be taken now are appropriate to provide a modicum of justice to Holocaust victims and their heirs. It is the desire to do justice, we believe, that animates American policy in this area, including this Commission's recommendations.

II. FINDINGS

A. Implementation of Restitution Policy in Europe

1. Victims' assets were restituted to countries and organizations, not individuals.

United States authorities generally restituted those victims' assets that came under U.S. control to the national government of their country of origin or to international relief or successor organizations,

rather than to the individual owner or heir. This was a pragmatic but flawed solution to the idealistic aim of returning stolen assets to individuals.

“External restitution,” as it was known, refers to the process whereby U.S. authorities returned certain categories of assets -- cultural property, securities, machinery, heavy agricultural and industrial equipment, locomotives, rolling stock, barges, transportation equipment, and communication and power equipment -- found in Germany or Austria to the governments of the countries from which they were stolen. Assets were restituted once the country of origin could be identified, and missions sent by other governments helped to identify assets that were subject to restitution. In cases where assets were restituted in this manner, the recipient government bore the responsibility to locate the rightful owner and to restitute the property turned over to it by U.S. authorities. The Commission has found no evidence that the United States monitored the recipient countries’ compliance with these responsibilities.

a) Currencies were returned to the government of issue.

One anomaly in the external restitution process involved currencies. Currencies that appeared to have been seized by Germany in defeated countries were returned to the government of issue rather than to the country from which they were seized. In most cases it was impossible to establish whether currencies were looted or acquired legitimately from a country before or during the period of German occupation. This policy precluded the restitution of this type of asset to individual victims or successor organizations because, by definition, any currency could be restituted to the government of issue.

There were two exceptions to this broad policy: first, the Soviet Union received Hungarian, Romanian, Bulgarian, and Finnish currencies; and second, the currency held in the Melmer account of looted victims' assets recovered from the Merkers mine was turned over to the Inter-Governmental Committee on Refugees (IGCR).

b) Victims' assets were turned over to humanitarian organizations.

In cases where assets were restituted or released to successor or relief organizations, individual concerns were not ignored; they were, however, subordinated to collective needs. Property that was identified as having been looted from Jews or Jewish communal institutions, but was heirless and unclaimed, was released to the Jewish Restitution Successor Organization (JRSO). The JRSO was the only successor organization designated by U.S. authorities to claim heirless Jewish property.

The United States, as a signatory to the Paris Reparations Agreement (January 1946), turned over all captured "non-monetary" gold in its possession to an agency known successively as the Inter-Governmental Committee on Refugees (IGCR), the Preparatory Commission for the International Refugee Organization (PCIRO), and, finally, the International Refugee Organization (IRO). A general humanitarian impulse, intersecting with fiscal concerns noted by the Department of State, influenced the American decision to adopt a broad definition of "non-monetary" gold as valuable personal property (other than cultural property) that had been looted by the Nazis and was unidentifiable, so that the IGCR might amass the sums necessary to address the needs of refugees and displaced persons. These decisions channeled needed funds to the refugee organization and also had the effect of decreasing the financial burden on the United States of supporting the refugees.

2. German officials were entrusted with restitution responsibilities.

U.S. officials repeatedly emphasized that in Germany the administration of restitution to victims (“internal restitution”) should be handled by Germans. This policy caused delays in restitution to individual claimants. Not surprisingly, many Germans who "owned" property that might have been looted hesitated before acceding to claims brought against “their” property. By the end of the war, victims’ assets permeated the German economy. The first *Länder* (German state) representatives charged with drafting restitution legislation knew as early as 1946 that such laws would prove unpopular and refused to enact measures that reflected the U.S. Government's insistence on a presumption of duress (i.e., U.S. authorities presumed that any transfer of property from persecutees from September 15, 1935 to May 8, 1945 was done under duress). In 1949, German "owners" sought to delay proceedings evidently because they believed the severity of the law would soon be mitigated after the establishment of the Federal Republic of Germany in May of that year. Many German citizens affected by the laws believed that the U.S. Military Government would ultimately amend them, so they undertook efforts to delay any restitution. Some Germans in possession of Aryanized property waited until the last possible moment to respond to restitution notices and then requested postponements of hearings.

In addition, some German restitution officials formerly had served the defeated Reich; U.S. authorities relied on the problematic denazification process to identify them. American Property Division officers in Bavaria and Baden-Württemberg noted in 1949 that there was resistance to restitution laws. American officials were aware that cases involving influential people were being postponed and that the restitution program might follow along the lines of denazification -- the more prolonged the procedure, the more favorable the decision for the person in possession of Aryanized

property. Procedural obstacles and the dragging out of the restitution process forced some claimants to settle for less than they were due and discouraged others from seeking restitution at all.

3. Strict deadlines created a narrow window for claims and some victims' assets were therefore transferred to Germany and Austria.

United States Military Law 59, promulgated in November 1947, provided the legal basis for internal restitution. The law enabled persecutees to demand the return of property that had been transferred during the Nazi regime. It also defined the procedure for implementing the restitution of identifiable property in the U.S. Zone in Germany. Military Law 59 promised "full and speedy" recovery, but the regulations adopted by the Office of Property Control undercut both. Strict adherence to the December 31, 1948 deadline for filing petitions for restitution (extended to May 1, 1949 for incomplete submissions) together with the lengthy, cumbersome, and expensive procedures prevented many rightful owners from asserting their rights. United States officials consistently endeavored to wrap up operations as quickly as they could -- sometimes to the detriment of the restitution process. The U.S. Military Government placed the burden of initiating and proving claims on the victims and their heirs, who were struggling to survive and rebuild their shattered lives. The last of the collecting points was closed in 1952 and unrestituted assets, including identifiable cultural property of known national origin, were transferred to the governments of Germany and Austria. Some of these objects were later found to belong to victims.

4. Austrian officials were entrusted with restitution responsibilities.

Austria held a unique position in the postwar period. In signing the Moscow Declaration (November 1, 1943) the Allies stated their intention to regard Austria as the "first free country to fall victim to Hitlerite aggression," and to "see re-established a free and independent Austria." They declared, however, that Austria -- despite its status as a "liberated" nation -- still had "a responsibility, which

she cannot evade, for participation in the war" at the side of Nazi Germany. Because of the Moscow Declaration, Austria held a very ambiguous postwar status as both a victim and a victimizer.

"Internal restitution" efforts in Austria differed from those in Germany. In Germany, American officials initially directed internal restitution, but in Austria a new democratically elected government was responsible for enacting and implementing internal restitution policy. The Austrian government began to pass legislation concerning internal restitution soon after the end of the war, but it was created piecemeal and took years to complete. Although the Allied powers maintained a supervisory role they entrusted Austrian bureaucrats, many of whom had served the German Reich, with the task of restituting victims' assets that had been Aryanized while Austria was a part of the Reich (1938-1945).

The Allies also sought to ensure that Austria fulfilled its obligation to return property looted from victims as the occupation ended. They could, by unanimous consent, annul legislation passed by the Austrian parliament. In the early 1950s, for example, when the Austrian parliament attempted to weaken certain aspects of the restitution legislation (allowing Aryanizers to reclaim enterprises already restituted, for instance), the Allied Commission objected. The Austrian parliament, therefore, never enacted this "Reacquisition Law," as it was known.

Austrian authorities were directed to return property to former owners, or grant compensation when restitution was "impossible." Austrian control over the slow and restrictive restitution process impeded the return of assets to victims.

5. Political considerations impeded the restitution process.

Cold War political considerations that first became paramount in the late 1940s sometimes resulted in inconsistent restitution policy. A great deal of cultural property was restituted to the Soviet Union, but there were cases where cultural property was not returned to Eastern bloc countries. The decisions to place artworks that clearly came from Hungary in trust with the Austrians and not to return library collections and cultural objects to the Baltic states are examples of this. The fact that Hungary, Romania, and Bulgaria were former Axis countries and that treaties between them and the U.S. were not concluded for several years delayed restitution substantially.

6. Problems at central collecting points and government warehouses impeded identification of victims' assets.

Military and civilian guards were not always able to prevent the theft of victims' assets from temporary repositories and central collecting points. The U.S. armed forces had strict and sensible regulations against theft, but security at some facilities was lax or unavailable at times. Because property control officers did not always take detailed inventories, it was impossible for them to determine the extent of theft. Inventory and valuation of assets at central collecting points differed from facility to facility and were hindered by the lack of appointed experts to review asset collections. Troop redeployment, supply shortages, damaged facilities, and lack of transportation also resulted in collections that were left unguarded and unprotected.

The huge amount of assets in Germany overwhelmed the skeletal staff charged with their protection. The Monuments, Fine Arts, & Archives (MFA&A) section of the U.S. Army, charged with locating and preserving cultural property, was particularly understaffed. The Office of the Military Governor, United States (OMGUS) was forced to rely on German civilians to do much of the accounting and

sorting of assets. More consistent and thorough inventories would have made restitution more practicable and would have facilitated more precise valuation of looted assets.

Better policy implementation in Germany and Austria would have prevented identifiable victims' assets from being stored in disorganized and poorly secured military warehouses and facilities where they were occasionally subject to theft and requisitioning by U.S. servicemen and civilian employees. The 1945 "Gold Train" episode -- in which American troops captured a train loaded with assets taken largely from the Hungarian Jewish community -- shows in concrete terms some of the effects of inadequate personnel, inadequate security, and a lack of command sensitivity to the restitution of victims' assets.

B. Implementation of Restitution Policy in the United States

1. Claims procedures for restitution were flawed.

a) The Alien Property Custodian prolonged adjudications.

Pursuant to a series of Executive Orders issued in 1941 and 1942, any property within the United States owned or controlled by a designated enemy country or national thereof could be transferred or vested in the Alien Property Custodian (operating within the Executive Office of the President), as the Custodian deemed necessary for the national interest. No exception was made for assets belonging to foreign nationals who were victims of the Holocaust. After the war, and until April 1955, a Holocaust victim could file a claim for the return of property taken by the Alien Property Custodian. Because of the expense and difficulty in filing, as well as for other reasons, many victims did not submit claims before the deadline and therefore did not recover their frozen assets. Others did not recover the full value of their assets.

In the treatment of a claimant as victim there appears to have been no noticeable relaxation of applicable rules or procedures. In some cases the process was sufficiently prolonged that the initial claimant died while the claim was still pending. In those circumstances, the Alien Property Custodian conducted additional investigations of each heir and cases that might have been on the brink of conclusion were further delayed. In 1953, a Senate Judiciary Subcommittee delving into the activities of the Office of Alien Property (OAP) sharply criticized the agency for lack of good business practices in the way it conducted its own affairs and handled the assets under its control. The report particularly singled out the “inefficient and dilatory” manner in which claims were processed. Of approximately 15,000 title claims only about 6,000 had been processed. The average length for resolving a claim in 1952 was 46.6 months and the average over the entire period was 31.7 months.

b) Victims’ assets may have been used to pay U.S. war claims.

During the war assets of some Holocaust victims were caught up in the freezing mechanisms of the U.S. Treasury Department. Although clear distinctions were drawn between foreign nationals considered enemies and those considered non-enemies, among enemy assets no distinction could be drawn between victims and perpetrators until after the war. In 1946, special provisions were made for the return of vested property to those who had been persecuted during the war. After 1946, when German and Japanese assets were vested, a special effort was made not to vest the assets of those who had been persecuted. Nevertheless, compensation for U.S. assets lost in Europe took precedence over compensation for foreign-owned assets frozen in the United States. Congress regarded frozen German assets as a source from which to pay U.S. war claims for damages suffered by American businesses and individuals. The U.S. War Claims Commission received more than

\$200 million from liquidated German and Japanese assets. Thus, U.S. war claims were paid in part by German assets that likely included victims' assets.

2. Restitution efforts of recipient countries were not monitored.

There is evidence that the United States assumed that its western allies to which it restituted looted assets would return those assets to their rightful individual owners (or the heirs of those owners).

There is little contemporaneous documentation of efforts by the recipient countries to effect individual restitution and no documentation that the United States monitored the process. None of the national historical commissions consulted by the Commission reported having found evidence of inventories of assets received by their governments from the United States, or of agreements with the United States to effect individual restitution.

3. Duty was assessed on victims' assets.

The International Refugee Organization of the United Nations was required to pay customs duties of at least \$120,000 between 1949 and 1952 on assets brought into the United States to be sold for the benefit of refugees, thereby reducing the funds available to care for those displaced persons.

4. The \$500,000 lump sum settlement of Office of Alien Property claims was inadequate.

Attempts by representatives of victims to achieve a settlement of heirless Office of Alien Property claims began in 1948. At that time, legislation was introduced that valued those claims at \$3 million based on extensive research into OAP records by the Jewish Restitution Successor Organization (JRSO), the organization responsible for material claims on behalf of Jewish victims and their heirs. This legislation met with resistance. It was not until October 1962 that Congress amended the Trading with the Enemy Act to authorize the payment of \$500,000 out of the War Claims Fund to the

JRSO. According to former officials, the JRSO reluctantly accepted the \$500,000 as a lump sum settlement of all claims it made for unclaimed property vested in the Office of Alien Property.

C. Agreements Negotiated by the Commission in the Public and Private Sectors

1. The Library of Congress has agreed to recognize the provenance of certain books in its collection that had been looted by the Nazis.

As a result of its research into the history of the Jewish Cultural Reconstruction, Inc. (JCR), a successor organization created in 1947 to preserve cultural assets of the Jewish people, the Commission learned that between July 1, 1949 and January 31, 1952 the JCR transferred approximately 158,000 items to libraries in the United States. Among the libraries that received books were Harvard University, Johns Hopkins University, New York University, the University of Iowa, Brandeis University, Hebrew College, and the Jewish Institute of Religion. Several of these are able to identify the books that they received. Others are not.

According to documents examined by the Commission and passed on to the Library of Congress, the JCR sent 5,708 books and periodicals to the Library, of which 107 were defined by the JCR as rare. The Commission also suspected that other items looted by the Nazis had made their way to the Library of Congress through other channels.

On August 6, 1999 Commission staff met with James H. Billington, Librarian of Congress, to alert him to the presence of these books and to discuss appropriate steps to identify and recognize the existence of these books. The Commission and the Library agreed that it would not be feasible to sample the Library's entire collection of over 25 million volumes, thus precluding the possibility of

estimating the number of looted books that ended up in the general collection. Instead, they agreed to sample the Library's Hebraic collection of approximately 165,000 volumes -- the most likely recipient of JCR books -- to try to determine how many JCR books were still in that collection in the Library of Congress.

This procedure sampled the approximately 125,000 items in the Hebraic collection that could have been looted because they were published before 1945 and were in Europe between 1933 and 1945. The survey revealed that nearly 2,300 of the 125,000 items came from the JCR, while 200 more were clearly looted from Jewish victims of the Holocaust and came to the Library by other means.

This effort yielded several important results. First, it added considerably to the Library's own knowledge of the origins of its Hebraic collection. Until the Commission instigated this exercise, the Library believed that it had few books and periodicals of this nature. The Library now knows that it holds at least 2,300 items from the JCR in its Hebraic collection, and it is reasonable to assume that additional books in other languages were placed in other collections throughout the library.

Second, contrary to what had been previously thought, many of the items received from the JCR are important examples of Hebraica, including numerous Rabbinic texts, *machzors* (holiday prayer books used on the Jewish New Year and Day of Atonement) and other religious volumes. Notably, researchers found nearly all of the 107 books that were designated for the Library of Congress on the JCR's rare book list. The Library also possesses secular items from the JCR, such as a Yiddish translation of Thomas Mann's *Magic Mountain*, that have important historical value.

Finally, the sampling revealed that many of the items received from the JCR did not have the commemorative bookplate that the JCR requested receiving institutions to affix, although the Library still has the bookplates it received 50 years ago from the JCR.

To recognize the unique provenance of the JCR books and other items that were looted by the Nazis, the Library has agreed to establish a “virtual library” of JCR titles and related books.¹² This virtual library will allow the public to search for JCR and related items on-line and to examine the volumes in person in the Library’s African and Middle Eastern Reading Room. The Library will also give priority to cataloging any of the remaining books that have been identified as belonging to this collection.

Additionally, the Library is developing a collection “name” field, which will serve to aggregate all the records for the JCR collection within the virtual library. This step will enable users to click on a single link that will lead them to every title in this special collection. The Library will also make this list of titles available to agencies, organizations and individuals involved in the restitution of Holocaust-era assets and will restitute any of these volumes upon establishment of a legitimate claim. The Library will also insert a copy of the original JCR bookplate in each volume from which it was omitted.

The Library will include selected volumes from the collection of JCR and related books in a major permanent exhibition of the Library’s international treasures, scheduled to open in February of 2001.

¹² For the letters of agreement obtained by the Commission, see Appendix F.

The captions used in this section of the exhibit will highlight the unique history of the volumes displayed. Finally, the Library will mount a display of JCR books in the African and Middle Eastern Reading Room in 2002 to mark the 50th anniversary of the completion of the JCR's work.

2. The National Gallery of Art has agreed to return a painting to its rightful owners.

Shortly after the Commission began operations, its staff contacted National Gallery of Art director Earl A. Powell, III, about obtaining access to the Gallery's documentation for its Holocaust-era art, i.e., works in the collection created before 1945, acquired after 1932 and which were or could have been in Europe between those dates. Members of the Commission staff met with Gallery staff on June 21, 1999 to share information and to facilitate Commission access to research resources beyond those already available on the Gallery's website.

In February 2000, Commission staff suggested that the Gallery add a "provenance" search field to its website database to allow those using the site to search proper names in the chain of title of Holocaust-era works in the Gallery collection. Because provenance information had already been incorporated into the collection's database, the Gallery was able to quickly add this feature. The "provenance" search feature was unveiled at the Commission's meeting on February 29.

In April 2000, Mr. Powell and his staff met with members of the Commission's Committee on Art and Cultural Property and Commission staff to discuss policies for disclosure of Holocaust-era art of incomplete or questionable provenance and to demonstrate the National Gallery's provenance research procedures.

The National Gallery of Art currently has in its possession 12 paintings that were looted during the World War II era. Of these, 11 were restituted to their original owners after the war. There is evidence that Frans Snyder's *Still Life with Fruit and Game* was looted and not restituted to its rightful owner. The Gallery's investigation into the painting's history revealed that the donor had purchased the work from Baron von Pollnitz, a Luftwaffe officer, who received the painting from Karl Haberstock, a principal Nazi art dealer. There are indications that the painting may have come from the collection of the Stern family in Paris that was confiscated by the Nazis. There are no documents that prove how Haberstock acquired the painting.

At the urging of the Commission, the National Gallery of Art had agreed to mount a plaque reflecting the doubtful provenance of this painting. Subsequently, having seen the painting and its provenance on the Gallery's website, the Stern family made a claim for the painting. The Gallery has agreed to return the painting to the family.

3. The Commission has identified dormant bank accounts and other unclaimed property of Holocaust victims in the United States, and significant members of the banking industry have agreed to endorse suggested best practices for the investigation of bank records regarding such accounts.

To determine whether banks in the United States held accounts of Holocaust victims that became dormant and escheated to the states, the Commission conducted a pilot project matching the names of a limited list of Holocaust victims with a list of escheated property maintained by the State of New York.

In the United States, dormant accounts do not remain in the possession of the bank but rather escheat to the state in which the bank is located. Consequently, the Commission matched the names of Holocaust victims from Holland and Belgium, as well as a list of respondents to the German census

of 1939 that required Jews to report their property, against the names of account holders whose accounts had escheated to the State of New York. The Office of the Comptroller of New York State created this database as a public service at the Commission's request.

This procedure matched nearly 400,000 names with over a million unclaimed property records and yielded eighteen matches of names of victims with dormant bank accounts in the State of New York. A preliminary search has revealed that the value of these accounts ranges from a few dollars to five thousand dollars.

The Commission has also sought to assess whether people who ultimately became victims of the Holocaust held stocks and bonds issued by American companies. Therefore, the Commission conducted another cross match, comparing the list of Dutch, Belgian and German victims against a database comprised of lists of escheated property from 48 states and the District of Columbia maintained by ACS Unclaimed Property Clearinghouse, Inc., a third-party storage and automation facility operating under contract with many states.¹³ ACS performed this cross match as a public service at the Commission's request. The results of this cross match are still preliminary, but indicate that other unclaimed property belonging to Holocaust victims can be identified.

Overall, the demonstration confirmed the need for the use of more sophisticated software that is sensitive to the differences in spelling and pronunciation of common names if the cross match is to capture all of the potential matches and eliminate any false matches. Because the Commission was unable to research each match in depth or to ensure that the databases used were complete, the

number of matches obtained should be viewed as a floor, not a ceiling. The Commission's pilot project was intended to demonstrate the feasibility and value of conducting a comprehensive cross match using more complete lists of victims' names and escheated property. That effort was successful, and the Commission hopes to broaden the search for such accounts by repeating this exercise with more comprehensive lists and the participation of more states.

To facilitate additional searches for dormant accounts, the Commission, in discussions with The Chase Manhattan Bank, Citigroup, Inc. and HSBC Bank USA held under the auspices of the New York Bankers Association, has reached an agreement defining suggested best practices to be used by banks when they search for Holocaust assets. These suggested best practices have been unanimously approved by the New York Bankers Association, which has made a significant commitment to assisting in the identification of Holocaust-era assets.¹⁴

Although both the operation of state-abandoned property laws and the wartime freezing of foreign-owned assets make it most likely that information about Holocaust victims' assets originally deposited in banks will be found in state or federal archives, banks themselves may have information that can assist in identifying or clarifying the fate of such assets.

Under these suggested best practices, banks will first define the universe of accounts to be located to include any account opened at the bank or any of its predecessors in interest before 1945 by a

¹³ California and Indiana did not participate in the database cross-match.

¹⁴ For the letters of agreement obtained by the Commission, see Appendix F.

depositor whose address at any time between 1933 and 1945 was in Germany, or a European country occupied by or allied with Germany, and that went dormant after 1933.

Banks will then review all Records (defined as any recording in any form of information about an account in the defined universe) that could contain any information about such accounts, including but not limited to transactional customer records, abandoned property procedures and records, safe deposit box procedures and records, and escheatment procedures and records.

Banks will examine applicable document retention policies, both current and contemporaneous, for possible sources of Records and, notwithstanding the provisions of such policies, determine whether transactional customer records (paper, microfilm, microfiche) exist and review whatever records of the bank and its predecessors in interest still exist. If Records exist, banks will collect and review them and attempt to identify accounts in the defined universe. Records will be maintained in a segregated file.

Banks will contact outside counsel and accounting firms that worked for the bank and its predecessors in interest from 1933 to the present to determine if they have any Records. They will collect and review any such Records and attempt to identify accounts in the defined universe. These Records (or copies thereof) will be maintained in the same file.

Any identification of an account in the defined universe will be reported to the appropriate unclaimed property official of the state to which the account would have escheated. The bank will report

publicly on the conclusions of its review, including to the extent possible the number and value (but not the identity of the account holder) of any accounts identified.

The Commission believes that once such a comprehensive search has been completed in accordance with these practices, banks should not be required to make repetitive individual searches.

4. The museum community has agreed to full disclosure of Holocaust-era works and their provenance.

Holocaust-era cultural property -- that is, works created before 1945, transferred after 1932 and before 1946, and which were or could have been in continental Europe between those dates -- is found in museums, libraries, galleries, and private collections in the United States.

As early as 1946, the State Department notified museums and other institutions that stolen art was entering the country, but in the years following the war it was not the standard practice for museums, collectors, and dealers to investigate the provenance of works they acquired. At the same time, few families whose assets were stolen had the information or the resources -- financial or psychological -- to locate and pursue claims for lost property.

Although U.S. law provides that good title cannot be conveyed to stolen property, if the current possessor of a stolen work can successfully argue that a claimant's action to recover it is time-barred under a statute of limitations, the goal of restitution can be defeated. Another potential impediment to restitution was raised in a U.S. Government effort to restitute Holocaust-era art by means of a

forfeiture action, *United States v. Portrait of Wally*.¹⁵ In that case, a federal district court in New York held that U.S. forces charged with recovering stolen items were acting on behalf of the true owners and that such recovery prohibited continued treatment of the item as stolen property. Nothing in the Commission's research indicates that the U.S. Army was acting on behalf of owners or their heirs.

While most claims for restitution of looted cultural property have been successfully resolved, the process of resolution has sometimes required lengthy and expensive litigation. Because survivors are generally in the last years of their lives, any delays are prejudicial. Claimant and museum representatives agree that alternative dispute resolution mechanisms for such claims would be beneficial.

American museums have committed themselves to provide public access to information about Holocaust-era works in their collections. At the Commission's hearing in New York on April 12, 2000 several museum directors reaffirmed their policies for disclosure of provenance for Holocaust-era works in their collections. The policies were developed separately by the individual museums, and therefore differed in scope and methodology.

In an effort to forge a common policy in response to the Commissioners' concerns, the directors present agreed to full disclosure, which means: (1) all Holocaust-era works will be identified and disclosed and all provenance information in the possession of the museums regarding those works

¹⁵ 105 F. Supp. 288 (S.D.N.Y. 2000).

will be disclosed; (2) such provenance information will be disclosed, even where there are no known gaps; and (3) provenance research by museums will be a continuing process with additional information disclosed as it becomes known. They also agreed to restitution where claims are clearly established. Indeed some museums, notably the Seattle Art Museum, the North Carolina Museum of Art and the Denver Art Museum have returned valuable works in their collections to the heirs of the original owners. The Boston Fine Arts Museum recently settled a claim under a part purchase, part donation agreement with the heirs that allowed the museum to keep the painting. Members of the Commission noted that gaps in provenance do not create a presumption that a work was looted but merely present an opportunity for claimants to come forward with the understanding that they would have to meet the burden of proof currently required by law.

Following discussions with individual museums and their representatives, the American Association of Museums (AAM) and the Association of Art Museum Directors (AAMD), the Commission finds that the museum community is committed to full disclosure as that term is defined above. The Commission acknowledges the commitment of the museum community to full disclosure and restitution as set forth in the letters from the AAM and the AAMD.¹⁶ The Commission recognizes that provenance research is difficult, costly and time consuming, often involving access to records that are hard to obtain or that may be nonexistent, and that few, if any, museums have the resources now to accomplish this.

The museum community has begun to develop tools to achieve full disclosure and will participate in the process of creating a searchable central registry of Holocaust-era cultural property held by

American museums, beginning with European paintings and Judaica. This searchable central registry will allow interested parties to access the pool of available information from one Internet site. By taking these steps, the museum community has greatly enhanced the search for truth and justice.

The Commission is also holding continuing discussions with other representatives of interested parties involved in the art trade with the aim of initiating a process that will result in the creation of parallel standards for the conduct of those parties.

III. THE CONTEXT OF THE COMMISSION'S RECOMMENDATIONS

A research effort of this scope inevitably identifies new avenues of inquiry that must be left for others to pursue. A number of areas that have been investigated preliminarily by the Commission's staff merit further research. These include:

- the disposition of the assets seized by the Nazis from the Roma and Sinti, disabled or homosexual victims of the Holocaust that came into the possession or control of United States authorities;
- the impact of the Cold War on American policy, including when and how Cold War considerations entered into specific restitution decisions, such as those relating to the return of assets from the Hungarian Gold Train, and the restitution of various libraries to the Baltic states;

¹⁶ For the letters of agreement obtained by the Commission, see Appendix F.

- the effect of the creation of the State of Israel during the period in which restitution was being implemented, and its development's effect on decisions regarding the disposition of unidentifiable victims' assets;
- the possibility that looted art from Europe was trafficked through Latin America to the United States both during and after the war, thus escaping the scrutiny of the U.S. Customs Service;
- the possibility that Switzerland became, after the war, a haven for looted art that eventually found its way into American collections;
- the effects of currency reform and exchange controls on restitution; and
- the percentage of victim gold in Reichsbank gold bars.

In addition to identifying such corollary inquiries, the Commission staff also decided in several instances that further research on particular topics addressed in its report could not be justified because of time and resource constraints. This was particularly the case where the archival records in the United States were incomplete and supplementary information was believed to be available in foreign archives, access to which is often more restricted than in the United States.

Perhaps the most significant example in the area of necessary compromise between research goals and the time and resources available to complete them came in the area of valuation of victims' assets that passed through U.S. hands. The question "How much was, and is, it worth?" appears simple, but is in fact extremely complex. Important but highly technical and difficult questions relating to the effects of currency reform and exchange controls affect the answer. Moreover, in many cases the U.S. documents are inadequate to specify the exact identity or quantity of assets

handled (as in descriptions of stocks and securities by their height in inches), making valuation a guessing game at best.

In all of these areas, and others, further research may yield additional valuable information. The Commission believes that an evaluation of the likely returns on further investment in such research should be made, particularly in light of recent developments signaling the opening of access to important new archival sources, primarily in Russia and other countries of the former Soviet Union.

The single most important research task that remains to be undertaken -- and one that the Commission firmly believes must be completed -- is the integration of this Commission's research findings and those of all the other historical commissions that have been at work on related issues. Such an effort, complex and expensive though it may be, must be made in order to get the full benefit of the extraordinary scope of Holocaust research that has been completed around the world in recent years.

At its first meeting, the Commission determined that research by others into the way victims' assets were handled by the nonfederal sectors was only in its infancy, and that therefore the greatest contribution the Commission could make to this effort was to promote the adoption of standards and best practices that agencies of state and local governments, and private institutions and companies, should follow to pursue their own research into the three asset categories of gold, non-gold financial assets, and art and other cultural property. Because gold was almost exclusively the responsibility of the Federal government, the Commission focused on the role of banks and state governments in handling the accounts (and later escheated assets) of Holocaust victims, and the role of museums, art

dealers, auction houses and collectors in transactions involving cultural property that may have been taken from those victims.

Matching records of escheated property with names of victims has demonstrated that additional research has the potential to identify specific assets and their original owners. This could not have been accomplished without the cooperation offered by the New York State Comptroller's Office in automating its unclaimed property records, and by the states and ACS Unclaimed Property Clearinghouse, Inc. The groundbreaking agreement with the New York Bankers' Association establishes benchmarks for banks all over the country that will enable government officials, potential claimants, scholars, and other interested parties to judge the commitment of those institutions to identify Holocaust-era assets that may have belonged to victims. The resultant uniformity and transparency in research methodology will be an aid to scholarship as well as to the restitution process.

In the area of best practices, additional standards still need to be developed -- for example, for the art trade and for business enterprises whose securities may have been owned by Holocaust victims. A means of monitoring and publicizing compliance with the standards that are developed must also be devised. Where databases are needed, they have to be maintained. Technical assistance resources must be made available.

If coordination of all of these tasks is to be accomplished, two conditions must be met. First, there must be a single institutional focus to coordinate this agenda to prevent the dissipation of responsibility and loss of priority that is the inevitable result of many discrete projects spread among

several much larger entities with different missions. Second, the Federal government must continue to provide leadership to assure that these tasks are accomplished. This is not to say that all of these tasks can or should be undertaken by the Federal government -- indeed many can only be accomplished by nonfederal entities. The Commission addressed the fundamental question of how the Federal government can best lead and support efforts to be made by a range of institutions, public and private. In fashioning its recommendations to the President, the Commission has made the answer to this question its highest priority.

IV. RECOMMENDATIONS

The Presidential Advisory Commission on Holocaust Assets in the United States makes the following recommendations to the President of the United States, pursuant to the Commission's statutory mandate:

A. The President should urge Congress to establish a Foundation to promote further research and education in the area of Holocaust-era assets and restitution policy and to promote innovative solutions to contemporary restitution policy issues. The Foundation should be authorized to accept private contributions as well as appropriated funds, and should sunset after 10 years. Contributions to the Foundation should be tax deductible. The President should request Congress to provide a one time appropriation adequate to fully carry out the Foundation's functions.

The Foundation should coordinate its activities with governmental and nongovernmental organizations and individuals and provide that any of its responsibilities that are ongoing at the time of the Foundation's sunset will devolve to another entity.

Specifically, the Foundation should undertake the following, among other purposes:

1. Provide centralized repositories for research and information about Holocaust-era assets.
 - The Foundation should be responsible for the compilation and publication of a report that integrates, synthesizes, and supplements as necessary the research on Holocaust-era assets prepared by various countries' commissions on the Holocaust.
 - The Foundation should review the degree to which foreign governments have implemented the principles adopted at the Washington Conference on Holocaust-Era Assets and the Vilnius International Forum on Holocaust-Era Looted Cultural Property, and should encourage the signatories that have not yet implemented those principles to do so.
 - The Foundation should provide for coordinated and centralized dissemination of information about restitution programs, working with such organizations as the Conference on Material Claims Against Germany and others.
2. Promote the development of tools to assist individuals and institutions to determine the ownership of Holocaust victims' assets.
 - The Foundation should make grants to encourage the creation and expansion of mechanisms -- including publicizing the availability of such resources -- to assist

claimants in obtaining speedy resolution of claims. Such grants should not be used for attorneys' fees.

- The Foundation should encourage the use of alternative dispute resolution (ADR) by making grants to enable claimants who cannot otherwise afford such services to make use of them. Such grants should not be used for attorneys' fees.
- The Foundation should provide a grant to an appropriate institution or institutions to establish and maintain a computerized, searchable database of Holocaust victims' claims for the restitution of personal property, giving consideration to the long-term sustainability of the database.
- To implement the agreement with the American Association of Museums and the Association of Art Museum Directors, the Foundation should cooperate with the museum community to provide for the establishment and maintenance of a searchable central registry of Holocaust-era cultural property in the United States, beginning with European paintings and Judaica. This registry, with uniform standards for data inclusion and completeness, will make all object and provenance information accessible by Internet search from a single site. Museums should disclose all currently known object and provenance information as soon as practicable and continue to supplement this information as it becomes available. Congress should provide funds to assist in the establishment and maintenance of the registry.
- The Foundation should support the museum community in its efforts to implement full disclosure of Holocaust-era provenance research, beginning with European paintings and Judaica.
- The Foundation should regularly publish lists of Holocaust-era artworks returned to claimants by museums in the United States.
- The Foundation should cooperate with an appropriate institution, such as the Institute for Museum and Library Services, to fund grants to museums, libraries, universities, and other institutions holding Holocaust cultural property for the conduct of satisfactory provenance research. These awards are to be conditioned on the recipients' acceptance of the standards for provenance research developed in accordance with these recommendations.
- The Foundation should fund a cross-match of records developed by the 50 states of unclaimed property from the Holocaust era that has escheated against databases of victims' names, including the database of victims maintained by Yad Vashem, the Holocaust Martyrs' and Heroes' Remembrance Authority in Israel and others. The results should be widely publicized to enable people with legitimate claims to seek return of their assets.

3. Work with the private sector to develop and promote common standards and best practices for research on Holocaust-era assets.

- The Foundation should promote and monitor banks' implementation of the suggested best practices developed in conjunction with the New York Bankers Association.
- The Foundation should monitor the implementation of the Commission's agreement with the museum community regarding full disclosure.
- In cooperation with the private sector, the Foundation should promote the development of common standards and best practices for research by U.S. corporations into their own records concerning the circumstances under which they did business in Germany in the period preceding December 1941.

B. The Federal government should promote the review of Holocaust-era assets in federal, state and private institutions, and the return of such assets to victims or their heirs.

- Building on the Commission's work with the Library of Congress, the National Gallery of Art, and the Army museums, the President should require other federal institutions, including military bases and other installations maintained by the Department of Defense in the United States and abroad, to inspect their holdings for Holocaust-era assets. In the event that an asset located in a federal institution is found to be a looted asset for which no claim by a legitimate owner is known, the asset should be left where it is located and its history acknowledged with immediate appropriate public notice and recognition that remains in place until such time as a successful claim is made with respect to that asset. The federal institution should make diligent attempts to identify the rightful owner or his heirs and return the asset.
- The President should commend the Library of Congress for recognizing the unique provenance of the books it received from the Jewish Cultural Reconstruction (JCR) as well as other items that were looted by the Nazis. The Library has agreed to establish a "virtual library" of JCR titles and related books to enable the public to search for JCR and related items on-line; to examine the volumes in person in the Library's African and Middle Eastern Reading Room; to catalogue any of the remaining books that have been identified as belonging to this collection; to develop a collection "name" field to aggregate all the records for the JCR collection within the virtual library; to make this list of titles available to agencies, organizations and individuals involved in the restitution of Holocaust-era assets; and to reconstitute any of these volumes upon establishment of a legitimate claim. Finally, the Library will include selected volumes from the collection of JCR and related books in a major permanent exhibition of the Library's international treasures, scheduled to open in February 2001. In addition, the Library will mount a display in 2002 to mark the 50th anniversary of the completion of the JCR's work.

- The Foundation should urge other libraries in receipt of books from the JCR to follow the example of the Library of Congress with regard to the identification and recognition of those books that remain in their collections.
- The President should commend the National Gallery of Art for its research into the provenance of Holocaust-era art in its collection. In the event that an asset located in the National Gallery is found to be a looted asset for which no claim by a legitimate owner is known, the asset should be left where it is located and its history acknowledged with immediate appropriate public notice and recognition that remains in place until such time as a successful claim is made with respect to that asset. The National Gallery should make diligent attempts to identify the rightful owner or his heirs and return the asset.
- The President should require the Department of Defense to develop, in concert with veterans' service organizations, a program to promote the voluntary return of victims' assets that may have been taken by former members of the armed forces as war souvenirs.
- In light of the success of the Commission's pilot project regarding dormant financial assets, the Federal government should encourage states to automate, in a uniform manner, records of unclaimed property from the Holocaust era that has escheated to them, or that is otherwise the subject of their regulatory jurisdiction.
- The Federal government should encourage private institutions holding Holocaust-era assets to make diligent attempts to locate the rightful owners or their heirs and return any assets for which legitimate claims can be established.

C. The Federal government should preserve archival records of the Holocaust era and facilitate research into such records.

- The Federal government should establish an appropriately funded and comprehensive preservation initiative with regard to Holocaust-era records under its control.
- The Federal government should establish and maintain maximum public access to national archives containing documents and other materials related to Holocaust-era assets by providing Federal funds to support the development and publication of research guides and finding aids for Holocaust-era materials by the National Archives and Records Administration (NARA) and other federal and nonfederal institutions.
- The Nazi War Criminal Records Interagency Working Group (IWG) should be fully funded to continue its operations until January 2005.

D. The Department of Defense should be prepared to address similar issues in future conflicts.

- The Department of Defense should review existing policies, orders, directives and regulations governing the control of and accountability for the national and individual property that may come under U.S. Military control when the military is deployed on operations in foreign countries to ensure that such policies, orders, directives, and regulations are both adequate and appropriate. The Department of Defense should establish or enhance such policies, orders, regulations, and directives as required to ensure their efficacy.
- The Department of Defense should review the training provided to U.S. service members and Department of Defense civilians regarding the handling, control and accountability of property of foreign governments and their nationals that U.S. forces may encounter during operational deployments. Such training -- especially pre-deployment training -- should sensitize deploying forces to the moral and legal imperatives associated with the proper handling and safeguarding of national and personal assets consistent with operational requirements.
- The Department of Defense should be encouraged to work cooperatively with the Foundation and other relevant institutions to develop or refine training for U.S. service members and Department of Defense civilians to prepare U.S. forces to meet the challenges and responsibilities while deployed on operational missions overseas when they encounter national and/or individual property. Such training should ensure that deploying U.S. forces understand and can apply the critical lessons learned from their actions during World War II.

E. The United States should continue its leadership to promote the international community's commitment to addressing asset restitution issues.

- The United States should establish as a factor in its bilateral relations with nations to which the United States restituted looted assets the identification and publication of information regarding the degree to which the governments of those nations restituted such assets to the rightful owners or their heirs.
- The President should maintain the positions of Special Envoy for Holocaust Issues at the State Department with the rank of Ambassador and Special Representative of the President and Secretary of State for Holocaust Issues. The Office of Holocaust Issues at the State Department should be maintained with adequate resources to assist these positions.
- The President should instruct the Special Envoy for Holocaust Issues at the State Department to continue to encourage foreign governments to make their archives open and accessible and to cooperate with the worldwide archival reproduction program of

the United States Holocaust Memorial Museum, as well as to restitute communal and personal property in a nondiscriminatory way.

F. The President should urge Congress to pass legislation that removes impediments to the identification and restitution of Holocaust victims' assets.

- The President should urge Congress to amend the Federal Immunity from Seizure Act to provide that an importer of Holocaust-era cultural property seeking immunity from seizure of that property must provide notice of the application to a designated organization representing Holocaust victims and/or their heirs. The application for immunity should state that the works for which immunity is sought are not the subject of a claim listed on the comprehensive claims database proposed in these recommendations.
- The President should urge Congress to amend the National Stolen Property Act to preclude as a defense in a forfeiture action involving the Act that the Holocaust-era art or cultural property lost its status as stolen property (a) when it was recovered by law enforcement or military authorities or (b) when title was transferred in a country whose laws provide that stolen property loses its status as such when a sale or transfer occurs.
- The President should urge Congress to reopen the claims process for victims and their heirs whose property was vested in the Alien Property Custodian but not returned. Congress should authorize the Foreign Claims Settlement Commission to adjudicate any such claims and should provide an appropriation adequate to fund any awards.

V. ACKNOWLEDGMENTS

Many agencies and officials of the Federal government have assisted the Commission. The Commission thanks current members of Congress who have consistently supported its efforts and recognizes the contribution of former Senator Alphonse D'Amato to its creation. The Commission thanks the National Archives for providing work space for our research staff and for the unflagging support of its staff, especially Michael Kurtz and Greg Bradsher. The Commission is grateful to Secretary of the Army Louis Caldera and Assistant Secretary P.T. Henry for their generosity in providing ample work space, computer equipment and other support at Ft. McNair for our staff. We also thank Secretary of the Treasury Lawrence Summers, Attorney General Janet Reno and Director of the FBI Louis Freeh for detailing expert employees to the Commission. The Commission also recognizes the role of Robert G. Waite and William H. Kenety V of the staff of the Office of Special Investigations, Department of Justice in providing us with the results of their research on Jewish books and looted art.

The Commission appreciates the many individuals and organizations in the private sector whose efforts contributed to our work: United Airlines; the Samuel Bronfman Foundation, Inc.; Joseph E. Seagram & Sons, Inc.; the late Dan Dutko and Bill Simmons of the Dutko Group; Ron Birch and Birch, Horton, Bittner and Cherot; Joseph A. Rieser, Jr. and Reed, Smith, Shaw and McClay; Ernst & Young; Abbe Lowell and O'Melveny & Meyers; Stephen E. Herbits and the Herbits Group; Stephen Tractenberg, President, The George Washington University; Sandra K. Stuart and Clark & Weinstock, Inc.; Professor Arthur Kirsch, The George Washington University; Professor James Pustejovsky, Brandeis University; and Professor Ben Schneiderman, University of Maryland. The

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Appendix A

Commission Members

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The Honorable Benjamin A. Gilman
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The Honorable Arlen Specter
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General Counsel, Department of the Treasury
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Appendix B

An Act

To establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled)

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S. Holocaust Assets Commission Act of 1998".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) **ESTABLISHMENT.**-- There is established a Presidential Commission, to be known as the "Presidential Advisory Commission on Holocaust Assets in the United States" (hereafter in this Act referred to as the "Commission").

(b) **MEMBERSHIP.**--

(1) **NUMBER.**-- The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

(2) **APPOINTMENTS.**-- Of the 21 members of the Commission--

(A) eight shall be private citizens, appointed by the President;

(B) four shall be representatives of the Department of State, the Department of Justice, the Department of the Army, and the Department of the Treasury (one representative of each such Department), appointed by the President;

(C) two shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(D) two shall be Members of the House of Representatives, appointed by the minority leader of the House of Representatives;

(E) two shall be Members of the Senate, appointed by the majority leader of the Senate;

(F) two shall be Members of the Senate, appointed by the minority leader of the Senate; and

(G) one shall be the Chairperson of the United States Holocaust Memorial Council.

(3) **CRITERIA FOR MEMBERSHIP.**-- Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

(4) **ADVISORY PANELS.**-- The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

(5) **DATE.**-- The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(c) **CHAIRPERSON.**-- The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

(d) **PERIOD OF APPOINTMENT.**-- Members of the Commission shall be appointed for the life of the Commission.

(e) **VACANCIES.**-- Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) **MEETINGS.**-- The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

(g) **QUORUM.**-- 11 members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) ORIGINAL RESEARCH.--

(1) IN GENERAL.-- Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop a historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System and any Federal reserve bank, at any time after January 30, 1933--

(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c);

(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from governmental institutions in any area occupied by the military forces of the Nazi government of Germany.

(2) TYPES OF ASSETS.-- Assets described in this paragraph include--

(A) gold, including gold bullion, monetary gold, or similar assets in the possession of or under the control of the Board of Governors of the Federal Reserve System or any Federal reserve bank;

(B) gems, jewelry, and non-gold precious metals;

(C) accounts in banks in the United States;

(D) domestic financial instruments purchased before May 8, 1945, by individual victims of the Holocaust, whether recorded in the name of the victim or in the name of a nominee;

(E) insurance policies and proceeds thereof;

(F) real estate situated in the United States;

(G) works of art; and

(H) books, manuscripts, and religious objects.

(3) COORDINATION OF ACTIVITIES.-- In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

(4) INSURANCE POLICIES.--

(A) IN GENERAL.-- In carrying out its duties under this Act, the Commission shall take note of the work of the National Association of Insurance Commissioners with regard to Holocaust-era insurance issues and shall encourage the National Association of Insurance Commissioners to prepare a report on the Holocaust-related claims practices of all insurance companies, both domestic and foreign, doing business in the United States at any time after January 30, 1933, that issued any individual life, health, or property-casualty insurance policy to any individual on any list of Holocaust victims, including the following lists:

(i) The list maintained by the United States Holocaust Memorial Museum in Washington, D.C., of Jewish Holocaust survivors.

(ii) The list maintained by the Yad Vashem Holocaust Memorial Authority in its Hall of Names of individuals who died in the Holocaust.

(B) INFORMATION TO BE INCLUDED.-- The report on insurance companies prepared pursuant to subparagraph (A) should include the following, to the degree the information is available:

(i) The number of policies issued by each company to individuals described in such subparagraph.

(ii) The value of each policy at the time of issue:

(iii) The total number of policies, and the dollar amount, that have been paid out.

(iv) The total present-day value of assets in the United States of each company.

(C) COORDINATION.-- The Commission shall coordinate its work on insurance issues with that of the international Washington Conference on Holocaust-Era Assets, to be convened by the Department of State and the United States Holocaust Memorial Council.

(b) COMPREHENSIVE REVIEW OF OTHER RESEARCH.-- Upon receiving permission from any relevant individuals or entities, the Commission shall review comprehensively any research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either--

(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a

government referred to in subsection (c); or

(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

(c) GOVERNMENTS INCLUDED.-- A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945--

(1) the Nazi government of Germany;

(2) any government in any area occupied by the military forces of the Nazi government of Germany;

(3) any government established with the assistance or cooperation of the Nazi government of Germany; and

(4) any government which was an ally of the Nazi government of Germany.

(d) REPORTS.--

(1) SUBMISSION TO THE PRESIDENT.-- Not later than December 31, 1999, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

(2) SUBMISSION TO THE CONGRESS.-- After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.-- The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.-- The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) POSTAL SERVICES.-- The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.-- The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) ADMINISTRATIVE SERVICES.-- For the purposes of obtaining administrative services necessary to carry out the purposes of this Act, including the leasing of real property for use by the Commission as an office, the Commission shall have the power to--

(1) enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Commission is a party; and

(2) acquire, hold, lease, maintain, or dispose of real and personal property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION.-- No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.-- The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND OTHER STAFF.--

(1) IN GENERAL.-- Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act.

(2) QUALIFICATIONS.-- The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

(3) DUTIES OF EXECUTIVE DIRECTOR.-- The executive director of the Commission shall--

(A) serve as principal liaison between the Commission and other Government entities;

(B) be responsible for the administration and coordination of the review of records by the Commission;

and

(C) be responsible for coordinating all official activities of the Commission.

(4) **COMPENSATION.**-- The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that--

(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) **EMPLOYEE BENEFITS.**--

(A) **IN GENERAL.**-- An employee of the Commission shall be an employee for purposes of chapters 83, 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) **Non-application to members.**--This paragraph shall not apply to a member of the Commission.

(6) **OFFICE OF PERSONNEL MANAGEMENT.**-- The Office of Personnel Management--

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services, on a reimbursable basis, relating to--

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**-- Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**-- The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) **STAFF QUALIFICATIONS.**-- Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) **CONDITIONAL EMPLOYMENT.**--

(1) **IN GENERAL.**-- The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure that such conditional employee is not given and does not have access to or responsibility involving classified or otherwise restricted material.

(2) **TERMINATION.**-- If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) **EXPEDITED SECURITY CLEARANCE PROCEDURES.**-- A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

SEC. 6. ADMINISTRATIVE SUPPORT SERVICES.

Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) **INAPPLICABILITY OF FACAA.**-- The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) **PUBLIC ATTENDANCE.**-- To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not more than \$3,500,000, in total, for the interagency funding of activities of the Commission under this Act for fiscal years 1998, 1999, and 2000, of which, notwithstanding section 1346 of title 31, United States Code, and section 611 of the Treasury and General Government Appropriations Act 1998, \$537,000 shall be made available in equal amounts from funds made available for fiscal year 1998 to the Departments of Justice, State, and the Army that are otherwise unobligated. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

Approved June 23, 1998.

LEGISLATIVE HISTORY--S. 1900 (H.R. 3662):
CONGRESSIONAL RECORD, Vol. 144 (1998):

May 1, considered and passed Senate.

June 9, considered and passed House, amended, in lieu of H.R. 3662.

June 10, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

June 23, Presidential statement.

Appendix C

Activities of the Presidential Advisory Commission on Holocaust Assets in the United States

I. Activities of the Commissioners

A. Commission Meetings

1. March 16, 1999

Presenters in attendance:

- Dr. Greg Bradsher
Director, Holocaust-era Assets Records Project
National Archives and Records Administration
Washington, DC
- Irwin Nack
Investigative Counsel
State of New York Banking Department
New York, NY

2. June 30, 1999

3. October 14, 1999

Presenters in attendance:

- Dr. Michael Kurtz
Assistant Archivist for Records Services, National Archives and Records
Administration
Chair, Nazi War Criminal Records Interagency Working Group
Washington, DC
- Dr. Michael Grunberger
Head, Hebraic Section
Library of Congress
Washington, DC
- Elizabeth Pugh
General Counsel
Library of Congress
Washington, DC
- Frank Mazlewski, Jr.
Administrator
National Association of Unclaimed Property Administrators
Wilmington, DE

4. February 29, 2000

Presenters in attendance:

- Richard Ben-Veniste
Nazi War Criminal Records Interagency Working Group
Washington, DC

5. June 28, 2000

Presenters in attendance:

- The Honorable Louis Caldera
Secretary of the Army
Washington, DC

6. July 25, 2000

7. September 21, 2000

8. October 19, 2000

B. Subcommittee Membership

1. Art and Cultural Property

- The Honorable Christopher J. Dodd
- The Honorable Patrick T. Henry
- The Honorable Rick A. Lazio
- Ira H. Leesfield
- Dr. Jehuda Reinharz
- The Honorable Margaret M. Richardson
- William S. Singer
- The Honorable Stuart E. Eizenstat

2. Gold

- The Honorable Benjamin A. Gilman
- The Honorable Patrick T. Henry
- Ira H. Leesfield
- The Honorable James K. Robinson
- William S. Singer
- The Reverend Cecil Williams

3. Non-gold Financial Assets

- Roman R. Kent
- Miles Lerman
- The Honorable James H. Maloney
- Dr. Jehuda Reinharz
- The Honorable Margaret M. Richardson
- The Honorable Patricia S. Schroeder
- The Honorable Brad Sherman
- William S. Singer
- The Honorable Neal Wolin

C. Commission Hearing on Art and Cultural Property, April 12, 2000 New York, NY

Witnesses:

- Monica Dugot
Deputy Director
New York State Holocaust Claims Processing Office
New York, NY
- Gilbert Edelson
Administrative Vice President and Counsel
Art Dealers Association of America
New York, NY
- Efroyim Grossberger
Committee for the Search of the Gora-Kalwaria Library
Brooklyn, NY
- Thomas Kline
Andrews & Kurth, LLP
Washington, DC
- Willi Korte
Director
Trans-Art International LC
Washington, DC
- Jo Backer Laird
Senior Vice President and General Counsel
Christie's
New York, NY
- Glenn Lowry
Director
Museum of Modern Art
New York, NY

- Dr. Vivian Mann
Chair, Judaica Department
The Jewish Museum
New York, NY
- Philippe de Montebello
Director
Metropolitan Museum of Art
New York, NY
- Malcolm Rogers
Director
Boston Museum of Fine Arts
Boston, MA
- Stephen E. Weil
Emeritus Senior Scholar
Center for Education and Museum Studies, Smithsonian Institution
Washington, DC
- Dr. Lawrence Wheeler
Director
North Carolina Museum of Art
Raleigh, NC

D. Congressional Testimony

1. House Banking and Finance Committee Hearings on Slave & Forced Labor, September 14, 2000
 - Testimony by the Honorable Stuart E. Eizenstat
Deputy Secretary, Department of the Treasury
2. Senate Foreign Relations Committee Hearings, April 2000
 - Testimony by Edgar M. Bronfman
Chair, Presidential Advisory Commission on Holocaust Assets in the United States
3. Senate Foreign Relations Committee Hearings on Slave & Forced Labor, April 2000
 - Testimony by the Honorable Stuart E. Eizenstat
Deputy Secretary, Department of the Treasury
4. House Banking and Finance Committee Hearings on Holocaust-era Assets, February 10, 2000
 - Testimony by Jonathan Petropoulos
Research Director for Art and Cultural Property, Presidential Advisory Commission on Holocaust Assets in the United States

5. House Banking and Finance Committee Hearings on Slave & Forced Labor, September 1999
 - Testimony by the Honorable Stuart E. Eizenstat
Deputy Secretary, Department of the Treasury

II. Staff Activities

A. Research Planning Meeting – March 1, 1999

Attendees:

- Dr. Shlomo Aronson
Professor of Political Science
Hebrew University
Jerusalem, Israel
- Dr. Greg Bradsher
Director, Holocaust-era Assets Records Project
National Archives and Records Administration
Washington, DC
- Dr. Jeffrey Clarke
Chief Military Historian
Center of Military History
Washington, DC
- Dr. Wesley Fisher
Special Assistant to the Director
United States Holocaust Memorial Museum
Washington, DC
- Miriam Kleiman
Cohen, Milstein, Hausfeld, & Toll
Washington, DC
- Dr. Sybil H. Milton
Vice President
Independent Commissions of Experts Switzerland – Second World War
Chevy Chase, MD
- Lynn Nicholas
Author
Washington, DC
- R. Cody Phillips
Staff Curator
Center of Military History
Washington, DC
- Seymour Rubin
United States Department of State – retired
Washington, DC

- Stanley Turesky
Director of Congressional Relations
United States Holocaust Memorial Museum
Washington, DC
- Dr. Robert Waite
Office of Special Investigations
Department of Justice
Washington, DC
- Dr. Elizabeth White
Senior Historian, Office of Special Investigations
Department of Justice
Washington, DC
- Robert Wolfe
National Archives and Records Administration – retired
Washington DC
- Sidney Zabludoff
Independent Researcher
Washington, DC

B. Meetings and Interviews With:

- Zachary Baker
Judaica Hebraica Curator
Stanford University Library
Stanford, CA
- Jerome A. Chanes
Associate Executive Director
National Foundation for Jewish Culture
New York, NY
- Stephen W. Clark
Associate General Counsel
Museum of Modern Art
New York, NY
- Elizabeth A. Croog
Secretary and General Counsel
National Gallery of Art
Washington, DC
- Maygene F. Daniels
Chief, Archives
National Gallery of Art
Washington, DC
- Dr. Martin Dean
Applied Research Scholar, Center for Advanced Holocaust Study
United States Holocaust Memorial Museum
Washington, DC

- Gilbert Edelson
Administrative Vice President and Counsel
Art Dealers Association of America
New York, NY
- Gerald Feldman
Professor of History
University of California
Berkeley, CA
- Benjamin V. Ferencz
former Director General
Jewish Restitution Successor Organization
New York, NY
- Bennett Freeman
Deputy Assistant Secretary for Democracy, Human Rights & Labor
United States Department of State
Washington, DC
- Stuart D. Goldman
Specialist in Russian Affairs, Foreign Affairs, Defense, and Trade Division
Congressional Research Service
Washington, DC
- Dr. Grace Cohen Grossman
Curator of Judaica and Americana
Skirball Cultural Center
Los Angeles, CA
- Ian Hancock
Director, International Romani Archives and Documentation Center
University of Texas
Austin, TX
- Alan G. Hevesi
Comptroller of the City of New York
New York, NY
- Saul Kagan
Corporate Secretary
Conference on Jewish Material Claims Against Germany
New York, NY
- Dr. Michael Kurtz
Assistant Archivist for Records Services, National Archives and Records
Administration
Chair, Nazi War Criminal Records Interagency Working Group
Washington, DC
- Jo Backer Laird
Senior Vice President and General Counsel
Christie's
New York, NY

- Catherine Lillie
General Counsel
New York State Holocaust Claims Processing Office
New York, NY
- Dr. Constance Lowenthal
Director
Commission for Art Recovery
New York, NY
- Professor Egon Mayer
Director, Center for Jewish Studies, The Graduate Center
City University of New York
New York, NY
- Shirah Neiman
Deputy United States Attorney
United States Attorney's Office, Southern District of New York
New York, NY
- Colonel Seymour J. Pomrenze
Former Director, Offenbach Archival Depot
Army of the United States – retired
- Dr. Earl Powell, III
Director, National Gallery of Art
Washington, DC
- Harry Reicher
Adjunct Professor of Law
University of Pennsylvania Law School
Philadelphia, PA
- Dr. Carl J. Rheins
Executive Director
YIVO Institute for Jewish Research
New York, NY
- Jonathan Schwartz
Associate Deputy Attorney General
Department of Justice
Washington, DC
- Linda Scott
Director of Investor Affairs, Division of Investments and Cash Management
Office of the New York State Comptroller
New York, NY
- Beverly K. Sheppard
Acting Director
Institute of Museum and Library Sciences
Washington, DC

- Alan Shestack
Deputy Director
National Gallery of Art
Washington, DC
- Jesse Stiller
Special Adviser for Executive Communications
Office of the Comptroller of the Currency
Washington, DC
- Carol Kahm Strauss
Executive Director
Leo Baeck Institute
New York, NY
- Gideon Taylor
Executive Vice President
Conference on Jewish Material Claims Against Germany
New York, NY
- Dr. Sidney Verba
Director
Harvard University Library
Cambridge, MA
- Greg Wierzynski
Assistant Staff Director, Committee on Banking and Financial Services
United States House of Representatives
Washington, DC
- Sid Wolinsky
Director of Litigation
Disability Rights Advocates
Oakland, CA
- Nancy H. Yeide
Head, Department of Curatorial Records
National Gallery of Art
Washington, DC
- Dr. Gary P. Zola
Executive Director
American Jewish Archives
Cincinnati, OH

C. Conferences

1. Vilnius International Forum on Holocaust-Era Looted Cultural Assets, October 2000
Vilnius, Lithuania
2. Stockholm International Forum on the Holocaust, January 2000
Stockholm, Sweden

Summit meeting of scholars representing the following governments and organizations:

- Executive Council of Australian Jewry (Australia)
 - Commission for Provenance Research (Austria)
 - Historical Commission of the Republic of Austria (Austria)
 - Ministry of Economic Affairs (Belgium)
 - Institute Terezin Initiative (Czech Republic)
 - Fact-finding Mission on the Looting of Jewish Assets in France (France)
 - The Coordinating Office of States for the Return of Cultural Property (Germany)
 - Jewish Heritage Public Endowment (Hungary)
 - Hungarian Auschwitz Foundation (Hungary)
 - Centre of Organizations of Holocaust Survivors in Israel (Israel)
 - Ministry of Foreign Affairs of Lithuania (Lithuania)
 - International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupational Regimes in Lithuania (Lithuania)
 - Commission on Financial Assets of Victims of the Second World War (the Netherlands)
 - University of Aveiro (Portugal)
 - Commission on Jewish Assets in Spain (Spain)
 - Ministry of Foreign Affairs (Sweden)
 - Commission on Jewish Assets (Sweden)
3. Holocaust Research & Holocaust Studies in the 21st Century, December 1999
United States Holocaust Memorial Museum
Washington, DC
 4. 37th Annual Conference, National Association of Unclaimed Property Administrators, August, 1999
Des Moines, IA
 5. Seeking Justice for Holocaust Victims, May 1999
Jewish Community Relations Council of the Jewish United Fund of Metropolitan Chicago, Northwestern University Jewish Studies Program, Northwestern University Law School
Chicago, IL

6. Conference on Entertainment, Arts and Sports Law, January, 1999
American Law Institute-America Bar Association
Los Angeles, CA

D. Meetings with International Experts

1. Argentina

- Dr. Ignacio Klich
Commission of Enquiry into the Activities of Nazism in Argentina
Buenos Aires
- Jacob Kovadloff
Commission of Enquiry into the Activities of Nazism in Argentina
American Jewish Committee, New York

2. Austria

- Ernst Bacher
Conservator General of the Federal Office of Monuments
Commission for Provenance Research
- Dr. Reinhard Binder-Krieglstein
Historical Commission of the Republic of Austria
- Eva Blimluger
Historical Commission of the Republic of Austria
- Dr. Clemens Jabloner
Historical Commission of the Republic of Austria
- Hannah Lessing
General Secretary
Viennese Jewish Community
- Ariel Muzicant
President
Viennese Jewish Community
- Ambassador Hans Winkler
Legal Advisor
Federal Ministry of Foreign Affairs
- Dr. Rudolph Wran
Chief, Department of Art and Cultural Affairs
Federal Ministry of Education and Cultural Affairs

3. Belgium

- Nicolas Vanhove
Deputy Counselor, Recovery Unit for Despoiled Assets
Ministry of Economic Affairs

4. Czech Republic

- Tomas Jelinek
Office of the President
- Tomas Kraus
Federation of Jewish Communities
- Dr. Jiri Sousa, CSc.
Department of Subsidiary Historical Disciplines and Archival Studies
Charles University,
- Dr. Drahomir Jancik, CSc.
Department of Economic and Social History
Charles University
- Dr. Eduard Kubu, CSc.
Faculty of Philosophy, Institute of Czech History
Charles History

5. Estonia

- Argo Kuusik
Historical Commission of Estonia

6. France

- Patrice Dreiski
Minister of the Economy and Industry
Fact-finding Mission on the Looting of Jewish Assets in France
- Norbert Engel
Association of French Museums
- Isabelle le Masne de Chermont
Association of French Museums
- Professor Adolphe Steg
Deputy Chairman
Fact-finding Mission on the Looting of Jewish Assets in France
- Annette Wjéviorka
Academic writer
Fact-finding Mission on the Looting of Jewish Assets in France
- Haim Musicant
Director
Representative Counsel of Jewish Institutions in France

- Shimon Samuels
European Director
Simon Wiesenthal Center
- Claire Andrieu
Fact-finding Mission on the Looting of Jewish Assets in France
- Jacques Fredj
Director
Center of Contemporary Jewish Archives
- Andre Larquie
Director
Fact-finding Mission on the Looting of Jewish Assets in France

7. Germany

- Deidre Berger
American Jewish Committee of Berlin
- Siegfried Buttner
Archivist
Vice President of the German National Archives
- Dr. Michael M. Franz
Project Director
States' Coordination Office for the Return of Cultural Treasures
- Wilhelm Lenz
German National Archives

8. Hungary

- Balazs Bokor
Ministry of Foreign Affairs
- Shai Csillag
Center of Organizations of Holocaust Survivors in Israel
- Gabor Kadar
Historian
Jewish Heritage of Hungary Public Endowment
- Professor Laszlo Karsai
Leader, Yad Vashem Research Group
University of Szeged
- Laszlo Mravik
Art Historian, former leader of research
Directorate of National Cultural Heritage
- Ivan Ronai
Directorate of National Cultural Heritage
- Agnes Sagvari
Author
- Dr. Maria Schmidt
Advisor to the Prime Minister

- Gabor Sebes
Director
Jewish Heritage of Hungary Public Endowment
- Gyorgy Sessler
Secretary
Jewish Heritage of Hungary Public Endowment
- Professor Szablocs Szita
Scientific Director
Auschwitz Foundation
- Zoltan Vagi
Historian, Research Fellow
Hungarian Jewish Museum and Archives
- Mr. Zsolt Visy
State Secretary
Ministry of Cultural Heritage
- Gusztav Zoltai
Associate President
Jewish Heritage of Hungary Public Endowment

9. Israel

- Dr. Shlomo Aronson
Professor of Political Science
Hebrew University
- Hadassah Assouline
Director, the Central Archives for the History of the Jewish People
Hebrew University
- Dr. Yaacov Lozowick
Director of the Archives
Yad Vashem
- Dr. Ronald W. Zweig
Senior Lecturer, Department of Jewish History
Tel Aviv University

10. Latvia

- Aivis Ronis
Latvian Ambassador to the United States
- Dr. Rudite Viksne
Researcher, Historical Institute of Latvia
Latvian Historical Commission

- Dr. Antonijs Zunde
Associate Professor, Department of Contemporary American and Western
European History
University of Latvia
Advisor to the Minister of Foreign Affairs

11. Lithuania

- Petras Austrevicius
Government Chancellor
Office of the Prime Minister
- Rabbi Andrew Baker
International Commission for the Evaluation of the Crimes of the Nazi and
Soviet Occupational Regimes in Lithuania
- Arunas Beksta
Minister of Culture of the Republic of Lithuania
- Toma Birmontiene
Director
Lithuanian Centre for Human Rights
- Mindaugas Butkus
Head, Division of Americas
Ministry of Foreign Affairs of Lithuania
- Darius Degutis
Minister Counselor
Embassy of Lithuania
- Markas Dingeris
Deputy Executive Director and Coordinator of Holocaust Research
International Commission for the Evaluation of the Crimes of the Nazi and
Soviet Occupational Regimes in Lithuania
- Alfonsas Eidintas
Ambassador-At-Large
Ministry of Foreign Affairs of Lithuania
- Rolandas Kacinskas
Second Secretary
Embassy of Lithuania
- Dalia Kuodyte
General Director
Genocide & Resistance Research Center of Lithuania
- Ronaldas Racinskas
Executive Director
International Commission for the Evaluation of the Crimes of the Nazi and
Soviet Occupational Regimes in Lithuania
- Stasys Sakalauskas
Lithuanian Ambassador to the United States

- Henrik Schmiegelow
Ambassador and Head of Delegation
Delegation of the European Commission to Lithuania
- Anthony Spakauskas
Deputy Chief of Mission
United States Embassy in Lithuania
- Vygaudas Usackas
Vice Minister of Foreign Affairs of the Republic of Lithuania
- Sean Wiswesser
Third Secretary
United States Embassy in Lithuania
- Emmanuelis Zingeris
Chairman, Commission on Culture & Education
Council of Europe Parliamentary Assembly
Member of Parliament
- Markas Zingeris
Research Coordinator
International Commission for the Evaluation of the Crimes of the Nazi and
Soviet Occupational Regimes in Lithuania

12. Spain

- Pablo Martín Aceña
Historian
Spanish Commission on Jewish Assets in Spain
- Francisco Ignacio de Cáceres Blanco
Spanish Commission on Jewish Assets in Spain
- Enrique Múgica Herzog
Chair
Spanish Commission on Jewish Assets in Spain

E. Review of Draft Report by Outside Experts

- Dr. Jeffrey Clarke
Chief Military Historian
Center of Military History
Washington, DC
- Dr. Martin Dean
Applied Research Scholar, Center for Advanced Holocaust Study
United States Holocaust Memorial Museum
Washington, DC
- Dr. Marion Deshmukh
George Mason University
Fairfax, VA

- Dr. Gerald Feldman
Professor of History
University of California
Berkeley, CA
- Dr. Peter Hayes
Professor of History
Northwestern University
Evanston, IL
- Lynn Nicholas
Author
Washington, DC
- Dr. Jonathan Steinberg
Professor of History
University of Pennsylvania
Philadelphia, PA
- Dr. Elizabeth White
Senior Historian, Office of Special Investigations
Department of Justice
Washington, DC

F. Advisory Panels for Asset Groups

1. Art and Cultural Property

- Stephanie Barron
Curator, Twentieth Century Art
Los Angeles County Museum of Art
Los Angeles, CA
- Hector Feliciano
Paul Rosenberg & Co.
New York, NY
- Sarah Jackson
Historic Claims Director
The Art Loss Register
New York, NY
- Ronald Lauder
Chairman
Commission for Art Recovery
New York, NY
- Glenn Lowry
Director
Museum of Modern Art
New York, NY
- Lynn Nicholas
Author
Washington, DC

- Elizabeth Simpson
Bard Graduate Center for Decorative Arts
New York, NY
- Craig Hugh Smyth
former Monuments Fine Arts & Archives Officer

2. Gold

- Dr. Richard Breitman
Professor of History
American University
Washington, DC
- Willi Korte
Director
Trans-Art International LC
Washington, DC
- Christopher Simpson
Professor of Communications
American University
Washington, DC
- Robert Wolfe
National Archives and Records Administration – retired
Washington, DC

3. Non-gold Financial Assets

- David Epstein
ACS Unclaimed Property Clearinghouse
Boston, MA
- Dr. Gerald Feldman
Professor of History
University of California Berkeley
Berkeley, CA
- Seymour Rubin
United States Department of State – retired
Washington, DC
- Charles Siegelman
International Monetary Fund
Washington, DC
- Dr. Jonathan Steinberg
Professor of History
University of Pennsylvania
Philadelphia, PA

Appendix D

Staff Contributing to the Commission's Work

Executive

Kenneth L. Klothen	Executive Director
Eugene Sofer	Deputy Executive Director
Lynda S. Mounts	General Counsel

Research Staff

Konstantin Akinsha, Ph.D.	Deputy Research Director, Art/Cultural Property
John Bendix, Ph.D.	Senior Researcher
Paul Brown	Researcher
Jill Cooper	Senior Researcher
Joel Davidson, Ph.D.	Senior Researcher
Colin Fallon, Ph.D.	Senior Researcher
Abby Gilbert	Researcher (on detail from the Treasury Department)
David Glasner	Researcher
Helen B. Junz	Consulting Research Director, Financial Assets
Marc Masurovsky	Research Director, Gold
Jonathan McMurray, Ph.D.	Senior Researcher
Laura Offen	Researcher
Jonathan Petropoulos, Ph.D.	Research Director, Art/Cultural Property
Sarah Robinson	Researcher
M. Erin Rodgers	Researcher
Sebastian Saviano	Researcher
Albert Schmidt, Ph.D.	Policy Analyst
Allison Shannon	Researcher
Jerome Simpson	Researcher (on detail from the Federal Bureau of Investigation)
Robert Skwirot	Senior Researcher
Douglas Wilson	Senior Researcher
Elisabeth Yavnai	Researcher

Temporary Research Assignments

Valerie Bauwens	Researcher
Uri Bitan	Consultant
Aimee Breslow	Senior Researcher
Abraham Edelheit, Ph.D.	Researcher
Charles Fenyesi	Researcher
Robert Grathwol	Consultant
Donita Moorhus	Consultant
Gregory Murphy	Senior Researcher
Ellen O'Connor	Senior Researcher
Daniel Powers, Ph.D.	Senior Researcher

Jennifer Rodgers
Helene Sugarman
Irit Tamir

Researcher
Researcher
Researcher

Administrative

Margretta Kennedy
Brenda Jones
Stuart Loeser
Katherine Page
Linette Wilson

Director of Administration
Clerk
Commission Relations Coordinator
Confidential Assistant to the Executive Director
Receptionist

Interns

Ramona Achterberg
Kelly Calkin
Robert Deutsch
Daniella Doron
Andrew Eastman
Lisa Fierer
Francisco Gonzalez
Monica Hilmer
Joshua Katz

Rana Malek
Jeremy Marks
Catherine Nielsen
John Nugent
Lauren Oppenheimer
Meredith Perry
Ryan Plasky
Nathaniel Robbins
Steven Shaw

Appendix E

Commissions of Inquiry into Holocaust Issues

Argentina	Commission of Enquiry into the Activities of Nazism in Argentina (CEANA)
Austria	Commission for Provenance Research Historical Commission of the Republic of Austria
Belgium	Commission on the Study of Assets of the Members of the Jewish Community in Belgium Looted during the 1940-1945 World War
Brazil	Commission for the Investigation of Nazi Assets
Republic of Croatia	Commission for the Investigation of Nazi Assets
Czech Republic	Commission for Holocaust Era Property Issues in the Czech Republic
Estonia	International Commission to Investigate Crimes Against Humanity Perpetrated in Estonia
France	Fact-finding Mission on the Looting of Jewish Assets in France (Mattéoli Commission)
Germany	States' Coordination Office for the Return of Cultural Treasures
Greece	Greek Holocaust Commission
Hungary	Hungarian Historical Commission
Israel	Commission for the Restitution of Jewish Property
Italy	Commission to Reconstruct the Events in Italy Related to the Acquisition of Properties from Jewish Citizens by Public and Private Concerns
Latvia	Latvian Commission on Crimes Against Humanity
Lithuania	International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupational Regimes in Lithuania
The Netherlands	Commission on Financial Assets of Victims of the Second World War

Norway	Norwegian Holocaust Commission
Portugal	Portuguese Commission on Holocaust Assets
Slovak Republic	Slovakian Holocaust Commission
Spain	Spanish Commission on Jewish Assets in Spain
Sweden	Swedish Commission on Jewish Assets
Switzerland	Independent Commissions of Experts Switzerland – Second World War (Bergier Commission) Independent Committee of Eminent Persons (The Volcker Commission)
Turkey	Turkish Commission (Ministry of Foreign Affairs)
United States	Presidential Advisory Commission on Holocaust Assets in the United States

Countries Otherwise Conducting Contemporary Holocaust Research

Albania	Ireland
Australia	Luxembourg
Belarus	Macedonia
Bosnia and Herzegovina	Moldova
Bulgaria	Poland
Canada	Russia
Chile	Slovenia
Cyprus	South Africa
Denmark	Ukraine
Finland	United Kingdom
Iceland	Uruguay

Appendix F

September 29, 2000

Dear Chairman Bronfman:

As you know, over the last year we have worked closely and cooperatively with the Presidential Advisory Commission on Holocaust Assets in the United States, to identify the books, periodicals, and newspapers that were acquired by the Library through the agency of the Jewish Cultural Reconstruction (JCR), as well as through other sources in the immediate aftermath of the Holocaust. I am writing to update you on our progress and our plans.

We are pleased that our collective efforts over the last year and public testimony have confirmed what the Library believed at the outset - that the United States acquisition of unrestitutable Holocaust era books was proper and consistent with the procedures established by the United States Government.

Working diligently, staff of both the Library and Commission located sufficient information to enable the Commission to undertake a sampling of the Library's Hebraic collections. During July, we accorded a team of samplers from the Commission unprecedented and total access to the Hebraic stacks, in compliance with the Library's collections security procedures. Using a sampling method designed by Professor Arthur Kirsch of George Washington University, the team physically examined more than 25,000 Hebraic volumes.

We agree that the JCR collection should be handled in a manner suited to its special provenance. To further the goal of identifying, recognizing, and providing special access to this unique collection, we will establish a "virtual library" of the titles of JCR and related books, which the public will be able to search on-line as well as to examine the volumes in-person in the Library's African and Middle Eastern Reading Room. The Library will also give priority to cataloging any of the books identified as belonging to this collection that have not been fully cataloged; and as we identify additional titles belonging to this collection, we will add a bibliographical note to each cataloging record to describe its special provenance.

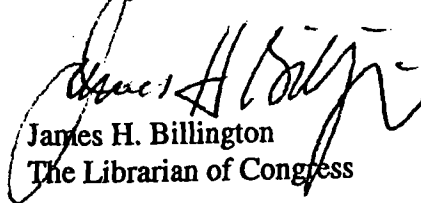
In addition, we are developing a collection "name" field, which will serve to aggregate all the records for the JCR collection within the virtual library. This step will enable users to click on a single "icon" or link that will lead them to every title in this special collection. The Library will also make this list of titles available to agencies, organizations, and individuals involved in the restitution of Holocaust-era assets. We expect to complete these preliminary steps shortly, at which point, we will create a test file with prototype records to

perform a technical assessment. We also will track and monitor the level of effort, costs and time estimates necessary to complete the entire collection.

The Library also plans to include selected volumes from this collection in a major permanent exhibition of the Library's international treasures, which is slated to open next February in the historic and newly-restored Thomas Jefferson Building. The captions used in this section of the exhibition will note the unique history of the volumes displayed. In addition, we will mount a display of JCR books in our African and Middle Eastern Reading Room in 2002 to mark the 50th anniversary of the completion of JCR's work in 1952.

We look forward to continuing to work with the Commission to educate the public about this important and historic collection. If you have any questions or suggestions, please do not hesitate to contact me at 202-707-5205, or our General Counsel, Elizabeth Pugh, at 202-707-2257.

Sincerely,



James H. Billington
The Librarian of Congress

Mr. Edgar Bronfman
Chairman, Presidential Advisory Commission
on Holocaust Assets in the United States
901 Fifteenth Street, N.W. - Suite 350
Washington, DC 20005



New York Bankers Association

99 Park Avenue

New York, NY 10016-1502

212.297.1699 Fax 212.297.1658

Michael P. Smith
President

November 14, 2000

Mr. Edgar M. Bronfman
Chairman
Presidential Advisory Commission on
Holocaust Assets in the United States
901 15th Street, N.W., Suite 350
Washington, D.C. 20005

Dear Mr. Bronfman:

We appreciate the opportunity which you afforded the New York Bankers Association (NYBA), along with three of its member banks (Chase Manhattan Bank, HSBC Bank USA and Citigroup) to work with the Presidential Advisory Commission on Holocaust Assets in the United States (the "Commission") to develop suggested Best Practices for use by United States banks when conducting Holocaust asset research. The Suggested Best Practices Guide which was ultimately developed and jointly agreed to by NYBA, the three named member banks and the Commission, was unanimously ratified by NYBA's Board of Directors chaired by Thomas A. Renyi, Chairman & Chief Executive Officer of The Bank of New York, at its meeting on November 8, 2000.

We applaud the work of your Commission and hope that our efforts have assisted you in realizing your important mission. If you have any questions, please do not hesitate to call me. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Michael P. Smith".

Michael P. Smith

AMERICAN ASSOCIATION OF MUSEUMS

EDWARD H. ABLE, JR.
PRESIDENT & CEO

October 20, 2000

Mr. Kenneth Klothen
Executive Director
Presidential Commission on Holocaust Assets in the U.S.
901 15th Street, NW, Suite 350
Washington, DC 20005

Dear Ken:

We are extremely pleased to have been invited to talk with you and members of the Commission today about our common goals. It was good to have had the chance to talk through the details of the Commission's report.

I hope you are left with no doubt that the museum community completely agrees to the goal of "full disclosure" as set forth in the Commission's findings. The American Association of Museums is committed to helping museums achieve this goal through the publication of instructional information on provenance research, dissemination of sample policies and procedures, and development of website standardization and a searchable central registry.

We look forward to working with you on some of these topics as we move forward in this effort.

We have reviewed the text of the draft findings and recommendations related to museums and we support them completely and are prepared to work toward implementing the provisions it includes.

Thank you for the hard work that you, the Commission, and your staff have devoted to this topic and for your support of the museum community's work.

Sincerely,



Edward H. Able, Jr.

cc: Freda Nicholson, Chair, AAM Board of Directors
Katharine Lee Reid, President, AAMD



Association of Art Museum Directors

October 20, 2000

Mr. Kenneth Kloth
Executive Director
Presidential Commission on Holocaust Assets
901 15th Street, NW, Suite 530
Washington, DC 20005

Head Office
41 East 65th Street
New York, NY 10021
Tel: 212-249-4423
Fax: 212-535-5039
aamd@aamr.org

Dear Ken:

Thank you and the Commission for your continued efforts to resolve one of the most difficult issues of our time -- the restitution of Nazi-looted art to its rightful owners. The goal of the AAMD is consistent with the Commission's, but even more importantly is responsive to the obligations we all share to survivors, their families and others who suffered the horrors and injustices of Nazi aggression. Our commitment has long been to focus resources on researching the provenance of our collections following a process that recognizes these individuals as priorities. In that spirit we have reviewed the Commission's draft findings and recommendations related to museums and support them and will continue to work toward implementing the provisions they include.

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aamdc@aamr.org

Since 1998 AAMD members have been researching their collections for gaps in provenance of works that might have been Nazi-looted and have made this research available on their Web sites. This has been followed by a broader assessment of all relevant works acquired by our museums since the beginning of the Nazi era, and ultimately encompassing our collections as a whole. To date, no claims have resulted from the more than 5,000 records available. However, five works have been identified and returned -- four with the cooperation and negotiation of the claimants.

Thank you again for your efforts on behalf of the art museum community.

Sincerely,

Katharine Lee Reid
President

Cc: Edward H. Able, Jr. President and CEO, AAM
Freda Nicholson, Chair, AAM Board of Directors