

1 SUMMARY

2 This case seeks recovery of six paintings by Gustav Klimt owned by Maria V. Altmann,
3 but in the wrongful possession of the Republic of Austria and the Austrian Gallery.

4 Mrs. Altmann was born in Austria but fled, for her life, when Austria delivered itself into
5 the hands of the Nazis in 1938. In 1938 as well, the Nazis and their Austrian accomplices seized
6 the property not only of Mrs. Altmann, but the rest of her family, including all property of her
7 uncle, Ferdinand Bloch-Bauer. They did so for no other reason than because Altmann and her
8 family were Jewish. Included among Ferdinand's possessions at the time were six fabulous
9 paintings by Gustav Klimt (copies of which are reproduced as Exhibit A hereto), consisting of
10 two portraits of his wife (*Adele Bloch-Bauer I* and *Adele Bloch-Bauer II*), three landscapes
11 (*Beechwood; Apple Tree I; Houses in Unterach am Attersee*), and a portrait of a close friend
12 (*Amalie Zuckermandl*). A seventh painting (*Schloss Kammer am Attersee III*) had been donated
13 by Ferdinand to the Austrian Gallery in 1936, prior to the Austrians' rejection (and for those who
14 were unable to flee, murder) of its Jewish population.

15 Ferdinand died in exile in Zurich, childless and a widower, in November 1945. He left
16 his entire estate to three of his brother Gustav Bloch-Bauer's children: 25% to Mrs. Altmann,
17 then living in Los Angeles; 25% to Robert Bentley, then living in Vancouver, Canada; and 50%
18 to Luise Gattin, then living in Zagreb, Yugoslavia). His will was admitted to probate in Zurich
19 in 1947. Mrs. Altmann, age 84, is the last surviving named heir.

20 Notwithstanding Ferdinand's bequest to his nieces and nephews; notwithstanding the fact
21 that the paintings were stolen from Ferdinand; notwithstanding the fact that no party took good
22 title from the defeated Nazis and their Austrian accomplices; and notwithstanding that the
23 Republic of Austria had the legal – not to say moral – obligation to deliver the paintings to the
24 heirs upon probate of Ferdinand's will, the Republic of Austria and the Austrian Gallery did not
25 do so. Instead, motivated entirely by a now-admitted hatred of the Jews that continued even
26 *after* they and their Axis partners were defeated in World War II and *after* the depths of the
27 Holocaust were exposed, the Republic of Austria and the Austrian Gallery extorted the heirs out
28 of their possessory rights in exchange for purported "export permits" allowing the heirs to

1 retrieve other property stolen from them.

2 Only in 1999 did the true facts about the Republic of Austria's and the Austrian Gallery's
3 wrongful possession begin to come to light. Prior to then, the Republic of Austria and the
4 Austrian Gallery hid these facts from the heirs and from the world, claiming – falsely – that they
5 in fact had taken good title, honestly acquired. To their continuing disgrace, the Republic of
6 Austria and the Austrian Gallery refuse to return the paintings or to pay for them.

7 There being no other recourse, Maria V. Altmann alleges against the Republic of Austria
8 and the Austrian Gallery as follows:

9 Plaintiff MARIA V. ALTMANN alleges as follows:

10 **THE PARTIES**

11 1. Plaintiff MARIA V. ALTMANN ("ALTMANN"), is an individual
12 residing in Los Angeles, California. ALTMANN was born in Vienna, Austria on February 18,
13 1916. In October 1938, after the annexation of Austria by Nazi Germany, she fled because of
14 religious and racial persecution by the Nazis. (For example, before leaving Vienna her jewelry
15 and other valuable possessions were confiscated by the Gestapo and her husband, Fritz Altmann,
16 was imprisoned in the infamous Dachau concentration camp for several months and
17 subsequently placed under house arrest.) ALTMANN came to the United States in 1940, settled
18 in Los Angeles County in 1942 and has resided in Los Angeles County ever since. ALTMANN
19 became an American citizen in 1945.

20 2. ALTMANN is heir to 25% of the estate of her uncle Ferdinand Bloch-Bauer.
21 ALTMANN brings this claim for herself and on behalf of the entire estate of Ferdinand Bloch-
22 Bauer.

23 3. Defendant REPUBLIC OF AUSTRIA is a foreign state, as defined in 28 U.S.C.
24 §1603(a), located in Central Europe.

25 4. Defendant AUSTRIAN GALLERY is an art museum in Vienna, Austria. The
26 AUSTRIAN GALLERY is also known in German as the *Österreichische Galerie Belvedere*, and
27 has been formerly known as the *Moderne Galerie*, the *Österreichische Staatsgalerie*, and the
28 *Galerie des XIX. Jahrhunderts*.

1 9. Before January 1, 2000, the property at issue was in the possession of the
2 AUSTRIAN GALLERY, an entity that was an agency and instrumentality of the REPUBLIC OF
3 AUSTRIA. Since January 1, 2000, the property at issue is in the possession of the REPUBLIC
4 OF AUSTRIA and housed in the museum operated by the AUSTRIAN GALLERY.

5 10. The AUSTRIAN GALLERY is engaged in commercial activity in the
6 United States.

7 a) The AUSTRIAN GALLERY edits and publishes a museum
8 guidebook in English, which is sold to U.S. citizens and is available for purchase in the United
9 States, and in Los Angeles County. The AUSTRIAN GALLERY asserts U.S. copyright
10 ownership over this book, which is also published in New York. One of the looted artworks at
11 issue in this action, the portrait of ALTMANN's aunt, *Adele Bloch-Bauer I*, is reproduced on the
12 cover of the guidebook.

13 b) The AUSTRIAN GALLERY is visited by thousands of U.S.
14 citizens each year, and accepts entrance fees from these visitors. The artworks that are the
15 subject of this action are some of the main attractions of the museum. In its gift shop, the
16 AUSTRIAN GALLERY sells memorabilia, including numerous images of the looted artworks at
17 issue in this action, to U.S. citizens. The AUSTRIAN GALLERY accepts payment by U.S.
18 credit card for these purchases.

19 c) The AUSTRIAN GALLERY engages in and receives the benefit
20 of tourist advertising in the United States conducted by the official Austrian National Tourist
21 Office, a non-profit agency sponsored and controlled by the REPUBLIC OF AUSTRIA, which
22 has offices in various cities in the United States, including an office in Los Angeles, California.
23 This advertising often features the AUSTRIAN GALLERY's famous collection of paintings by
24 Gustav Klimt, which is comprised in substantial part by the looted artworks that are the subject
25 of this action. Currently, the AUSTRIAN GALLERY is promoting its fall show entitled "Gustav
26 Klimt and the Image of Women in Europe," which will be on display from September 20, 2000
27 to January 7, 2001. The looted pictures that are the subject of this action will be the main works
28 in this exhibition. The AUSTRIAN GALLERY is borrowing artworks from the United States

1 for this exhibition. The AUSTRIAN GALLERY is actively promoting this exhibition in
2 America and towards Americans with the intention of attracting American tourists to this
3 exhibition for the purpose of charging them entrance fees and selling merchandise to them.

4 d) The AUSTRIAN GALLERY has in the past also loaned artworks,
5 including, upon information and belief, at least one of the works at issue in this action, *Adele*
6 *Bloch-Bauer I*, to museums in the United States, and receives reciprocal benefits thereby.

7 e) In sum, the AUSTRIAN GALLERY uses the looted artworks at
8 issue in this action for commercial activities directed at U.S. citizens, including citizens of Los
9 Angeles, California.

10 11. The REPUBLIC OF AUSTRIA is engaged in numerous other commercial
11 activities in the United States, and in Los Angeles County in particular.

12 a) The REPUBLIC OF AUSTRIA has a consular office in Los
13 Angeles, California, which serves to promote Austrian cultural and business interests in
14 California and the Western United States.

15 b) The REPUBLIC OF AUSTRIA actively promotes its cultural
16 interests in Los Angeles, including for example the interests of Austrian filmmakers.
17 Representatives of the Austrian Federal Ministry for Education and Culture routinely visit Los
18 Angeles as part of their mission to promote Austrian culture.

19 c) The Austrian National Tourist Office, a non-profit agency
20 sponsored and controlled by the REPUBLIC OF AUSTRIA, has an office in Los Angeles. It
21 conducts advertising campaigns promoting tourism to Austria in California and throughout the
22 United States.

23 d) The REPUBLIC OF AUSTRIA owns real property in Los Angeles,
24 which is used to promote Austrian business interests.

25 12. Venue is proper in this District under 28 U.S.C. §1391(f)(1) because the
26 REPUBLIC OF AUSTRIA and the AUSTRIAN GALLERY are in breach of their obligation to
27 deliver the six Klimt paintings to ALTMANN in this District, and because ALTMANN presently
28 resides and resided in this District at the time of the misappropriation of the property at issue

1 from her and afterwards. There is no other venue in the United States that would be more
2 appropriate for this action than Los Angeles County. Austria is not a feasible venue for this
3 action because the Austrian courts require payment of fees in proportion to the amount in
4 controversy. In this case, those fees far exceed the value of ALTMANN's assets. ALTMANN
5 applied to the Austrian courts for a waiver of the fees, which was only partially granted so that
6 ALTMANN would have been required to expend all of her available assets other than her house
7 – including her entire life savings – in order to proceed. The REPUBLIC OF AUSTRIA
8 appealed this ruling, seeking to raise the level of costs even higher. As a result, ALTMANN
9 cannot afford to proceed in Austria. Thus, there is no reasonable venue other than this court for
10 this important matter to be heard.

11 **BACKGROUND FACTS**

12 **The Bloch-Bauer Family Before The War**

13 13. ALTMANN was born into the affluent Jewish Bloch-Bauer family in
14 Vienna, Austria in 1916. Every Sunday she and her four older siblings would have brunch over
15 at the beautiful home owned by her uncle Ferdinand and aunt Adele. Ferdinand was her father's
16 brother; Adele was her mother's sister. Together, the two couples had combined their names to
17 form the Bloch-Bauer family. Ferdinand's home, a large building on one of the finest streets in
18 Vienna, was gorgeously decorated with fine artworks, tapestries, porcelain and furniture.

19 14. Ferdinand was a patron of Gustav Klimt and owned seven of his most
20 important paintings, which are the paintings at issue in this case: *Adele Bloch-Bauer I*; *Adele*
21 *Bloch-Bauer II*; *Beechwood*; *Schloss Kammer am Attersee III*; *Apple Tree I*; *Houses in Unterach*
22 *am Attersee*; and *Amalie Zuckerkandl*. Reproductions of these paintings are attached hereto as
23 Exhibit A.

24 15. Ferdinand was a citizen of Czechoslovakia with his principle residence
25 (until 1938) in Vienna, Austria. The Klimt paintings were housed in his large home located at
26 Elisabethstrasse 18 in Vienna.

27 16. When Adele died suddenly of meningitis in 1925, Ferdinand created a
28 memorial room for her with the two full-length portraits of her and all four landscapes by Klimt.

1 A seventh Klimt painting, the portrait of *Amalie Zuckerkandl*, was in Ferdinand's bedroom.

2 17. When Adele died, she left behind a short will that asked, but did not
3 require, that her husband consider donating the two portraits and four landscapes to the
4 AUSTRIAN GALLERY after his death.

5 18. Ferdinand's brother, Gustav Bloch-Bauer (ALTMANN's father), an
6 attorney, was named the executor of Adele's estate. In the ensuing probate proceedings in
7 Vienna, Austria, the Klimt paintings were declared by Gustav to be Ferdinand's property, not
8 Adele's. Gustav also stated that Ferdinand was not bound by his wife's wishes with respect to
9 the Klimt paintings. The Klimt paintings were not treated as part of Adele's estate during the
10 administration of the probate proceedings. The AUSTRIAN GALLERY was given notice of the
11 proceedings.

12 19. Although the paintings belonged to Ferdinand, and not his wife, Gustav
13 stated in 1926 that Ferdinand intended to fulfill his wife's wishes although he was not legally
14 required to do so. However, Ferdinand did not execute any written document purporting to
15 confirm this alleged intention to donate the paintings. Therefore, at no time was Ferdinand
16 obligated to donate the paintings to the AUSTRIAN GALLERY.

17 20. In 1936, Ferdinand delivered one Klimt painting, *Schloss Kammer am*
18 *Attersee III*, to the AUSTRIAN GALLERY at the request of the director of the AUSTRIAN
19 GALLERY, Dr. Martin Haberditzl. The other six Klimt paintings remained in Ferdinand's
20 possession until the Nazi invasion in 1938.

21 **Escape From Austria**

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

1 Ferdinand's palais to discuss dividing up the enormous art collection. His famous 400-piece
2 porcelain collection was sold at a public auction, with the best pieces going to Vienna's
3 museums. Some of his 19th century artworks by Austrian masters were taken and given to Adolf
4 Hitler and Hermann Göring. Others were bought for Hitler's planned museum in Linz. Dr.
5 Erich Führer, the Nazi lawyer liquidating the estate, was given permission by Hitler's museum
6 director Hans Posse to take a few paintings for his own personal collection in consideration for
7 his service to the Third Reich.

8 26. Dr. Führer disposed of Ferdinand' six remaining Klimt paintings as
9 follows:

10 a) In October 1941, Dr. Führer traded two Klimt paintings -- *Adele*
11 *Bloch-Bauer I* and *Apple Tree I* -- to the AUSTRIAN GALLERY in exchange for the return of
12 the painting *Schloss Kammer am Attersee III*, which Ferdinand had delivered to the AUSTRIAN
13 GALLERY in 1936.

14 b) *Schloss Kammer am Attersee III* was subsequently sold by Dr.
15 Führer to Ingeborg and/or Gustav Ucicky (an illegitimate son of Gustav Klimt who was a
16 successful director of Nazi propaganda films) for approximately 6,000 Reichsmarks.

17 c) In November 1942, the painting *Beechwood* was sold by Dr.
18 Führer to the Museum of the City of Vienna (*Wiener Städtische Sammlung*) for 5,000
19 Reichsmarks.

20 d) In March 1943, the AUSTRIAN GALLERY purchased the
21 painting *Adele Bloch-Bauer II* from Dr. Führer for 7,500 Reichsmarks.

22 e) Dr. Führer kept the painting *Houses in Unterach am Attersee* for
23 himself.

24 f) The portrait of *Amalie Zuckerandl* also left the collection during
25 this time and ended up in the hands of the art dealer Vita Künstler.

26 27. By early 1943, Ferdinand' s entire art collection, including all the Klimt
27 paintings, was liquidated and expropriated. The liquidation and expropriation of Ferdinand' s
28 estate were accomplished without his consent and in violation of international law. The

1 liquidation was motivated by religious and racial hatred and occurred without payment of any
2 just or fair compensation. In his second-to-last will, dated Oct. 8, 1942, written while in exile in
3 Zurich, Switzerland, Ferdinand wrote: "In an illegal manner, a tax penalty of one million
4 Reichsmarks was imposed and my entire estate in Vienna was confiscated and sold."

5 **Post-War Hostilities**

6 28. Ferdinand died on November 13, 1945 in Zurich, Switzerland, several
7 months after the War ended, having taken preliminary steps to retrieve his stolen property. In his
8 last will, dated October 22, 1945, he revoked all prior wills and left his entire estate to two nieces
9 (including plaintiff ALTMANN) and one nephew. He made no bequest to the AUSTRIAN
10 GALLERY.

11 29. The government of Austria in the post-War period after 1945 was
12 extremely hostile to restitution claims by exiled Jews. For example, at the end of the War, in
13 April 1945, Dr. Karl Renner, a noted legal scholar, chancellor and post-war president of Austria,
14 wrote:

15 Restitution of property stolen from Jews, this [should be] not to the
16 individual victims, but to a collective restitution fund. The
17 establishment of such and the following foreseeable arrangements
18 is necessary in order to prevent a massive, sudden flood of
19 returning exiles. A circumstance, that for many reasons must be
20 paid very close attention to. . . . The restitution to the victims
21 cannot follow naturally. As soon as the property of the fund,
22 which shall serve to compensate collectively all of the robbed
23 individuals, is established, shares will be given out, for each pro
24 rata based on the suffered damages -- not by the measure of
25 whether a person's property is completely, partially or not at all
26 recoverable; this collective procedure naturally provides that
27 claims can only be satisfied in relation to the recovered property
28 and only after the completion of investigation, prosecution and

1 return of valuables (that is after years!). . . . Basically the entire
2 nation should be made not liable for damages to Jews.

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

8 31. On May 15, 1946, the REPUBLIC OF AUSTRIA enacted a law declaring that all
9 transactions which were motivated by discriminatory Nazi ideology were to be deemed null and
10 void. In effect, this law should have nullified all of the transactions entered into by Dr. Führer
11 during the liquidation and expropriation of Ferdinand's estate. Although the law appeared
12 satisfactory on its face, in practice restitution was far from simple. The REPUBLIC OF
13 AUSTRIA frequently put up legal roadblocks to restitution, such as demanding repayment of the
14 purchase price before returning property to its Jewish owners, even though, as in Ferdinand's
15 case, the Jewish owners had never received the payment. The restitution process in Austria after
16 the War was imperfect, to say the least.

17 32. Under the law of Austria, artworks which were deemed to be important to
18 Austria's cultural heritage could not be exported from the country, and no artworks could be
19 exported without the permission of the Austrian Federal Monument Agency
20 (*Bundesdenkmalamt*). ALTMANN alleges that the application of this law to Jews who were
21 forced to flee Austria, or to their heirs who were attempting after the War to recover property left
22 in Austria, was discriminatory and in violation of international law.

23 33. After the War, it was the practice of the AUSTRIAN GALLERY and the
24 Federal Monument Agency to use the export permit laws to force Jews to donate or trade
25 valuable artworks to the museum in exchange for export permits for other works. This practice
26 has recently been declared to have been illegal, unethical and immoral extortion by the
27 REPUBLIC OF AUSTRIA. ALTMANN alleges that this practice itself violated international
28 law, and was an act in furtherance of the expropriations in violation of international law

1 committed by the Nazis.

2 34. The Allies unwittingly facilitated the REPUBLIC OF AUSTRIA's
3 extortionate practices. They had collected looted artworks and held them in the Art Collecting
4 Point in Munich, Germany. However, individual applicants were not permitted to retrieve their
5 property directly. Rather, the artworks would only be returned to their country of origin, which
6 was then responsible for determining whether the artworks should be restituted. The REPUBLIC
7 OF AUSTRIA used this procedure and laws against exporting cultural items to obtain and hold
8 Nazi-looted artworks hostage. The Austrian Federal Monument Office routinely demanded
9 donations to federal museums before it would permit any artworks to be returned and exported to
10 their former owners, most of whom remained outside Austria. Ferdinand's heirs were victims of
11 this illicit practice.

12 **The Heirs Try To Recover Ferdinand's Property**

13 35. On May 23, 1947, the Zurich District Court recognized ALTMANN as the
14 heir to 25% of Ferdinand's estate. At the time, ALTMANN was a U.S. citizen residing in Los
15 Angeles County. ALTMANN's older brother Robert Bentley of Vancouver, Canada, and sister
16 Luise Gattin of Zagreb, Yugoslavia, were recognized as heirs of 25% and 50% of the estate,
17 respectively. Luise was stranded in Yugoslavia, where she had survived the War with two young
18 children. Her husband was arrested by the communists and executed for being a "capitalist."
19 ALTMANN's older brother Robert, who had fled to Vancouver, Canada with his two other
20 brothers, took up the task of attempting to retrieve Ferdinand's property, which by law now
21 belonged to his heirs.

22 36. Robert retained a lawyer in Vienna, Dr. Gustav Rinesch, a family friend
23 who had also been retained by Ferdinand in the months before his death, to locate and retrieve
24 property stolen from Ferdinand during the Nazi period.

25 37. ALTMANN's older brother Karl Bloch-Bauer, a captain in the allied
26 armed forces, returned to Vienna and recovered one of the Klimt paintings, *Houses in Unterach*
27 *am Attersee*, from Dr. Führer, who was imprisoned for Nazi activities. The painting was kept,
28 along with other artworks taken by Dr. Führer from Ferdinand's collection, in Karl's (or his

1 lawyer's) apartment in Vienna pending a request for permission to export the works to Canada.

2 38. In December, 1947, the Museum of the City of Vienna offered to return
3 the painting *Beechwood* to Ferdinand's heirs in exchange for a refund of the purchase price.

4 39. In January 1948, Dr. Rinesch wrote to the AUSTRIAN GALLERY
5 informing it of the heirs' claim to the three paintings that had come into the museum's possession
6 as a result of transactions conducted by Dr. Führer.

7 40. In February 1948, Dr. Karl Garzarolli of the AUSTRIAN GALLERY
8 responded in writing to Dr. Rinesch, asserting (falsely) that six Klimt paintings were bequeathed
9 to the museum by the will of Adele Bloch-Bauer, who died in 1925, and that Ferdinand had
10 asked permission from the museum to keep the paintings during his lifetime. Dr. Garzarolli
11 demanded that the heirs deliver the other paintings referenced in Adele's will to the museum.
12 These false claims were repeated to Dr. Rinesch in February, 1948 by the former director of the
13 AUSTRIAN GALLERY, Prof. Bruno Grimschitz, who had been removed from his position after
14 the War. At the end of February, 1948, Dr. Rinesch wrote to Robert Bentley informing him of
15 the AUSTRIAN GALLERY's position and its claims concerning the will of Adele Bloch-Bauer.

16 41. In March 1948, Dr. Garzarolli learned of the true contents of Adele's will
17 and probate proceedings. He then realized that the AUSTRIAN GALLERY's claims concerning
18 the Klimt paintings were untenable. First, in the probate proceedings concerning Adele Bloch-
19 Bauer's will, the attorney for the estate, Ferdinand's brother Gustav Bloch-Bauer, had declared
20 that the Klimt paintings were not the property of Adele, but of her husband Ferdinand, and they
21 were treated as such in the estate proceedings. Second, in her will Adele had expressed only the
22 unenforceable wish that her husband consider leaving the paintings to the museum after his
23 death. Third, although Gustav Bloch-Bauer in 1926, and Prof. Grimschitz in 1948, declared that
24 Ferdinand, had promised to fulfill his wife's wishes, there was no notarized document signed by
25 Ferdinand, making the alleged promise unenforceable against Ferdinand or his heirs.

26 42. Garzarolli realized the invalidity of his museum's claim to the Klimt
27 paintings, as he very revealingly confided in a letter to his Nazi-era predecessor, Bruno
28 Grimschitz, on March 8, 1948:

1 Because there is no mention of these facts [the purported donation
2 of the Klimt paintings by Adele or Ferdinand] in the available files
3 of the AUSTRIAN GALLERY, i.e. neither a court-authorized nor
4 a notarized or other personal declaration of Ferdinand Bloch-Bauer
5 exists, which in my opinion you certainly should have obtained, I
6 find myself in an extremely difficult situation. . . . I cannot
7 understand why even during the Nazi era an incontestable
8 declaration of gift in favor of the state was never obtained from
9 Ferdinand Bloch-Bauer. . . .

10 In any case, the situation is growing into a sea snake . . . I am
11 very concerned that up until now all of the cases of restitution have
12 brought with them immense confusion. In my opinion it would be
13 also in your interest to stick by me while this is sorted out.
14 Perhaps that way we will best come out of this not exactly danger-
15 free situation.

16 **The Extortion**

17 43. Despite the heirs' diligent efforts to locate the records and the truth
18 regarding their inheritance, Dr. Garzarolli did not disclose these facts to Dr. Rinesch or the heirs,
19 and kept the files from Adele' s probate proceedings in his possession. Instead, despite his private
20 reservations, Dr. Garzarolli took an aggressive stance against the heirs and prepared to sue them
21 to obtain the other Klimt paintings that were not yet in the AUSTRIAN GALLERY' s possession.

22 44. On around March 30, 1948, officials from the AUSTRIAN GALLERY
23 reviewed artworks in the apartment of Karl Bloch-Bauer (or his attorney) in order to advise the
24 Federal Monument Agency whether to permit the artworks to be exported to Canada, where Karl
25 and his brother, Robert Bentley, resided. The officials from the AUSTRIAN GALLERY
26 recognized that several of the artworks in the apartment, including Klimt' *Houses in Unterach*
27 *am Attersee*, were formerly part of the estate of Ferdinand Bloch-Bauer.

28 45. On April 1, 1948, Dr. Garzarolli of the AUSTRIAN GALLERY wrote to

1 the Austrian Attorney General (*Finanzprokuratur*) seeking legal assistance in obtaining the
2 Klimt paintings which were not yet in the possession of the AUSTRIAN GALLERY, including
3 the Klimt painting in Karl Bloch-Bauer's (or his lawyer's) apartment.

4 46. On April 2, 1948, Dr. Garzarolli wrote to Dr. Otto Demus, president of the
5 Federal Monument Agency, notifying him that the AUSTRIAN GALLERY was interested in
6 obtaining several of the artworks belonging to the heirs of Ferdinand Bloch-Bauer which were
7 seen in Karl's apartment. Dr. Garzarolli requested that the processing of export permits for the
8 heirs' artworks be delayed "for tactical reasons."

9 47. On April 3, 1948, Dr. Demus of the Federal Monument Agency
10 telephoned and met with Dr. Rinesch and informed him that the AUSTRIAN GALLERY put
11 great value in the artworks in Karl's apartment and that a quick agreement concerning export
12 permits was unlikely. Dr. Demus discussed the subject of the Klimt paintings with Dr. Rinesch
13 and informed him that if there was a dispute over these works, none of the artworks from
14 Ferdinand's collection would be permitted to be exported to the heirs until that dispute was
15 resolved.

16 48. This discussion also pertained to a large number of valuable artworks
17 from Ferdinand's collection which had been stolen by the Nazis for the collections of Adolf
18 Hitler and Hermann Göring, among others, and were being held in the Allied Art Collecting
19 Point in Munich, Germany. These artworks could only be returned to the heirs after the allied
20 forces had delivered them to Austrian authorities at the request of the Federal Monument
21 Agency. These works would also be subject to review by the AUSTRIAN GALLERY and the
22 Federal Monument Agency, and export permits would only be granted with their consent. Given
23 the high artistic and monetary value of these other works, Dr. Rinesch had every reason to expect
24 that the AUSTRIAN GALLERY and the Federal Monument Agency would attempt to use the
25 export permit restrictions to obtain "donations" of a number of these artworks.

26 49. On April 10, 1948, Dr. Rinesch met with Dr. Garzarolli to discuss the
27 impending application for export permits for the entire collection of Ferdinand Bloch-Bauer,
28 including the artworks in Karl's apartment and those sought from the Art Collecting Point in

1 Munich. In the course of this meeting, Dr. Rinesch told Dr. Garzarolli that Ferdinand's heirs
2 would acknowledge the will of Adele Bloch-Bauer and allow the AUSTRIAN GALLERY to
3 keep the six Klimt paintings mentioned in that will. Dr. Rinesch made this agreement with the
4 hope and expectation that Dr. Garzarolli would permit the heirs to export other artworks. Dr.
5 Rinesch knew that Dr. Garzarolli's cooperation was absolutely necessary if he was to obtain
6 export permits for any of the artworks from Ferdinand's collection.

7 50. Dr. Rinesch saw the probate files for Adele's will for the first time on
8 April 10, 1948, the same day he met with Dr. Garzarolli and agreed that the heirs would "donate"
9 the Klimt paintings. He apparently realized that Adele's will was not legally binding, but
10 purportedly believed at the time that the evidence of Ferdinand's purported promise to fulfill his
11 wife's wishes would be sufficient to give the museum a claim, as he reported to Robert Bentley
12 on April 11, 1948.

13 51. Dr. Rinesch's April 11, 1948 report to Robert Bentley was mistaken and
14 his legal conclusion concerning the enforceability of Ferdinand's purported promise was
15 incorrect. In fact, Ferdinand's purported promise had no binding effect and was legally
16 unenforceable. Dr. Rinesch most likely did not know at the time that Ferdinand's purported
17 promise was never memorialized. In later documents, Dr. Rinesch alleged that the heirs had had
18 the ability to prevent the Klimt paintings from going to the AUSTRIAN GALLERY, and
19 successfully argued that their "donation" to the museum justified the granting of export permits
20 for other artworks.

21 52. On April 12, 1948, Dr. Rinesch executed a document purporting to
22 acknowledge on behalf of the heirs of Ferdinand Bloch-Bauer the intention expressed in Adele's
23 will concerning the Klimt paintings. Dr. Rinesch possessed no valid legal authority to enter into
24 this agreement, and the AUSTRIAN GALLERY, contrary to ordinary and customary practice,
25 never requested proof of his authority, or confirmation in writing by the heirs, even though Dr.
26 Rinesch asked that the agreement be confirmed with his client Robert Bentley.

27 53. On or about April 12, 1948, Dr. Rinesch allowed the AUSTRIAN
28 GALLERY to pick up the Klimt painting *Houses in Unterach am Attersee* from Karl's

1 apartment.

2 54. On April 13, 1948, Dr. Rinesch submitted to the Federal Monument
3 Agency a lengthy application for export permits for the remainder of Ferdinand Bloch-Bauer's art
4 collection. Dr. Rinesch sent a copy of the application to Dr. Garzarolli asking for his support for
5 the application, concluding in his cover letter, "I rely on your sense of justice."

6 55. Although not without difficulties caused by Dr. Garzarolli and Dr. Demus,
7 over the next 18 months Dr. Rinesch obtained export permits for almost all of the other
8 recovered artworks. Still fighting for export permits in July 1949, Dr. Rinesch wrote:

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

20 56. Dr. Rinesch enlisted the support of Dr. Garzarolli, who now agreed to
21 approve lifting the export restriction on several remaining works, based on the purported
22 donation of the Klimt paintings:

23 The AUSTRIAN GALLERY has recently studied the question
24 again and believes that for the following reasons approval of
25 export can be recommended for both paintings without exception.
26 Namely, the heirs of Ferdinand Bloch-Bauer have immediately
27 agreed to acknowledge and accept Ferdinand's declaration that in
28 the event of his death he wished to follow the wishes of his

1 deceased wife to donate the paintings by Gustav Klimt to the
2 AUSTRIAN GALLERY, despite various transactions by Bloch-
3 Bauer’s attorney during the Nazi era that extremely worsened the
4 situation of the AUSTRIAN GALLERY, and thereby established a
5 way for the AUSTRIAN GALLERY actually to receive this
6 bequest.

7 57. In the course of seeking export permits, the heirs were also required to
8 donate one further work to the AUSTRIAN GALLERY, as well as 19 porcelain settings and 16
9 Klimt drawings to other federal museums. A watercolor and 15 porcelain settings had to be
10 traded for comparable, but probably inferior, substitutes from the federal museum collections.

11 58. With the assistance of Dr. Rinesch, the AUSTRIAN GALLERY also obtained the
12 Klimt painting *Beechwood* from the Städtische Sammlungen, and a notarized agreement from
13 Gustav Ucicky to donate his Klimt paintings, including *Schloss Kammer am Attersee III*, to the
14 AUSTRIAN GALLERY after his death, which occurred in 1961.

15 59. The government continued to fight the heirs in other ways, dragging out the
16 negotiations over the return of Ferdinand’s sugar factory for over ten years. The heirs and their
17 attorney finally gave in, settling for a payment of just \$600,000 from the sale of the sugar factory.
18 As part of the settlement, they were forced to give up the beautiful Elisabethstrasse home, which
19 to this day houses the offices of the Austrian railroad. They also had to sell a number of the
20 returned artworks to pay taxes the government said were due from the factory. Nothing was ever
21 retrieved from Czechoslovakia. Almost all of the fabulous porcelain collection was never
22 returned, and pieces continue to show up at auction – the owners purportedly immune from suit
23 under Europe’s “bona fide” purchaser rules, despite the fact that it is difficult to imagine how
24 purchasers could have been unaware that these were snatched from their rightful owners.

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

28 **Lack of ALTMANN's Authorization, Knowledge or Consent**

1 61. ALTMANN never authorized Dr. Rinesch to negotiate on her behalf or to allow
2 the AUSTRIAN GALLERY to obtain the Klimt paintings. ALTMANN was not fully informed
3 of these activities and proceedings until January 1999, when documents relating to the transfer of
4 the Klimt paintings were released by the REPUBLIC OF AUSTRIA in connection with a review
5 of the provenance of artworks obtained by the AUSTRIAN GALLERY in the post-war period.
6 Until 1999, ALTMANN mistakenly believed that the artworks had been freely donated by her
7 aunt Adele and uncle Ferdinand to the AUSTRIAN GALLERY before the War. She was
8 unaware that the paintings were stolen from her uncle and that it was only through the
9 unauthorized agreement of Dr. Rinesch in April 1948, purportedly made on her behalf, that the
10 AUSTRIAN GALLERY had claimed ownership of the paintings.

11 62. ALTMANN's mistaken belief was the result of the false statements made
12 by the AUSTRIAN GALLERY to Dr. Rinesch, which were transmitted to ALTMANN's brother,
13 Robert Bentley, in Vancouver, Canada, and later recounted to ALTMANN by her brother and
14 other family members. Furthermore, in numerous exhibits and publications concerning the
15 Klimt works, the AUSTRIAN GALLERY had provided incorrect provenance information and
16 had repeated the false claim that the artworks were donated by Ferdinand and Adele Bloch-Bauer
17 to the museum on dates inconsistent with the true facts.

18 63. For example, in the book *Gustav Klimt in the AUSTRIAN GALLERY*
19 *Belvedere in Vienna* by Dr. Gerbert Frodl, the current director of the AUSTRIAN GALLERY, it
20 is alleged that the two paintings *Adele Bloch-Bauer* and *Apple Tree I* were obtained by the
21 museum through a bequest of the Bloch-Bauer family in 1936. The book also states that *Adele*
22 *Bloch-Bauer II* was obtained from Ferdinand Bloch-Bauer in 1928. This provenance
23 information is false, and is belied by numerous documents that are in the AUSTRIAN
24 GALLERY's possession. The paintings were obtained in 1941-1943, during the liquidation of
25 Ferdinand's estate by the Nazis.

26 64. Until the recent investigation prompted by the enactment of a new
27 Austrian law in December 1998, however, ALTMANN had no reason to question these
28 statements and did not know, and could not have known, the truth until documents evidencing

1 these facts were released by the AUSTRIAN GALLERY and the Federal Monument Agency in
2 1999.

3 65. ALTMANN's brother Robert and sister Luise, both of whom died before
4 1999, also were unaware of the truth regarding Ferdinand's Klimt paintings. ALTMANN is
5 informed and believes, and based thereon alleges that the heirs did not properly authorize Dr.
6 Rinesch's April 1948 agreement, and could not have learned of the truth before 1999. For his
7 part, Dr. Rinesch probably believed that under the circumstances, and the duress imposed by the
8 REPUBLIC OF AUSTRIA and the AUSTRIAN GALLERY, he was doing the best for
9 Ferdinand's heirs. Indeed, Dr. Rinesch was relatively successful in securing the release of other
10 artworks, largely as a result of his "donation" of the Klimt paintings. But this does not mitigate
11 the fact that none of the heirs were fully informed of the underlying facts prior to his decision,
12 and none of them properly authorized the "donation" of the Klimt paintings.

13 The Revelation

14 66. In early 1998, in the wake of the seizure of two paintings by Egon Schiele
15 that had been loaned to the Museum of Modern Art in New York by a government-supported
16 Austrian foundation, the Austrian federal minister for education and culture, Elisabeth Gehrer
17 ("Gehrer"), opened up the old archives to permit researchers to prove that no looted artworks
18 remained in Austria.

19 67. Thereafter, and much to her surprise, an Austrian author and journalist,
20 Hubertus Czernin ("Czernin"), published a series of articles exposing the fact that Austria's
21 federal museums had profited greatly from the extortion of artworks from exiled Jewish families
22 after the War. Principal among these artworks were the collections of the Bloch-Bauer,
23 Rothschild and Lederer families. Klimt's *Portrait of Adele Bloch-Bauer I*, which all the museum
24 publications represented as having been donated to the museum in 1936, was revealed to have
25 been transferred to the museum only in 1941 with a letter from the Nazi lawyer Führer signed
26 "Heil Hitler." The revelations were devastating.

27 68. Gehrer responded by closing the Federal Monument Agency archives and
28 ordering a thorough investigation by a committee of archivists from the various federal museums

1 and headed by the director of the Federal Monument Agency, Ernst Bacher (“Bacher”). The
2 researchers essentially confirmed Czernin’s stories and reported to Gehrler that indeed many
3 valuable artworks had not been restituted to their owners after the war and in many cases
4 donations were coerced by government officials. In several instances, such as with the Klimt
5 paintings from the Bloch-Bauer collection, the provenance had been falsified to hide the fact that
6 the paintings had been stolen during the War.

7 Promised Restitution

8 69. In response, in September 1998, Gehrler proposed a new restitution law,
9 designed to return artworks that had been donated to federal museums under duress in exchange
10 for export permits, or obtained by the federal museums despite having a provenance which
11 suggested that they were never properly restituted to their pre-War owners. The law was
12 unanimously approved by the Austrian parliament and signed into law by the President of
13 Austria in December 1998. The new law created a committee made up of government officials
14 and art historians which was to advise Gehrler which artworks should be returned and to whom.
15 Dr. Rudolf Wran (“Wran”), the section chief for culture under Gehrler, was selected to head this
16 committee.

17 70. In January, 1999, the government permitted Czernin to copy the
18 documents in the Federal Monument Agency files. Czernin provided copies to ALTMANN’s
19 attorney, E. Randol Schoenberg (“Schoenberg”). It was at this time that ALTMANN first
20 learned that the AUSTRIAN GALLERY had lied to her brother’s attorney about the contents of
21 Adele’s will, and had swindled her out of her inheritance.

22 71. In early February, the committee announced its first recommendation to
23 return hundreds of artworks to the Austrian branch of the Rothschild family. Later that month,
24 Minister Gehrler responded to parliamentary inquiries regarding a long list of suspect artworks by
25 concluding with respect to the Bloch-Bauer collection that “the connection between the donation
26 of the Klimt paintings and the export permit law is evident.” The Austrian press reported in big
27 headlines that the Klimt paintings would have to be returned to Ferdinand’s heirs.

28 The Opposition

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

9 73. Anticipating possible opposition from the very conservative committee,
10 Schoenberg obtained an opinion from an Austrian expert on probate and estate law, Dr. Andreas
11 Lintl, on the significance of Adele's will. Lintl concluded (as had Gustav Bloch-Bauer in 1948
12 and Garzarolli and Dr. Rinesch in 1948) that the statements in Adele's will were of no legal
13 consequence and that the heirs had not been required to give the paintings to the AUSTRIAN
14 GALLERY. This meant that the paintings were donated solely in exchange for export permits
15 and would have to be returned under the new restitution law. Schoenberg sent the opinion to
16 Wran.

17 74. In March, Bacher's research committee submitted a report on the Bloch-
18 Bauer collection to Wran's committee, and sent a copy to Schoenberg. The report omitted key
19 documents, gave only a partial view of the story, and made several incorrect conclusions. For
20 example, the report omitted the crucial portions of Dr. Garzarolli's March 8, 1948 letter to Dr.
21 Grimschitz. Schoenberg wrote to Wran and Bacher correcting the report and asked that his letter
22 and further documents be shown to Wran's committee. Unbeknownst to Schoenberg, this
23 request was not honored and the rest of the committee was forced to rely on an incomplete and
24 misleading report.

25 75. Schoenberg met with Wran in late April, but Wran could not discuss the
26 specifics of the case. Wran forced the decision on the Bloch-Bauer collection to be pushed off
27 by the committee until the end of June. In the meantime, he and one of his compatriots on the
28 committee, Manfred Kremser, a government attorney, drafted a legal opinion contrary to the one

1 submitted by the heirs. Not knowing the conclusions of the government attorney's opinion,
2 Schoenberg requested by telephone and in writing that he be given an opportunity to read any
3 contrary opinion and to address the committee and respond to any arguments made against
4 restitution. This request was refused by Wran and Kremser. Having heard from the press that
5 opposition was brewing, but in the dark as to what Kremser had written, Schoenberg submitted a
6 further opinion from Lintl again concluding that neither Ferdinand, nor his heirs, were legally
7 required to donate the paintings to the AUSTRIAN GALLERY.

8 **The Decision**

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

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

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

The Law

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2 79. Kremser's legal opinion, and therefore the committee's decision, was
3 premised on the false assertion that Adele's will gave the AUSTRIAN GALLERY an ownership
4 interest in the paintings. In coming to this conclusion, however, Kremser purposely misread
5 Adele's will and expressly disagreed with all of the leading Austrian legal experts who have
6 written on this precise legal issue in the last several years (before the Bloch-Bauer case arose).
7 First, Adele's will merely expresses a request, but did not purport to obligate Ferdinand to make
8 the donation. Second, even if Adele did purport to obligate Ferdinand, the obligation would not
9 have been enforceable because the paintings belonged to Ferdinand.

10 80. In his 1994 article on "The Legacy of an Object Not Belonging to the
11 Estate," Prof. Rudolf Welser, Director of the Institute for Civil Law at the University of Vienna,
12 concluded:

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

18 81. Adele's will reads as follows:

19 I ask my husband after his death to leave my two portraits and the
20 four landscapes of Gustav Klimt to the AUSTRIAN GALLERY.

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

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

25 83. The Klimt paintings were not included as part of Adele's estate during the course
26 of the probate proceedings.

27 84. Thus, even if one were to conclude that Adele's request purported to obligate her
28 husband, it is clear that her request was not a legal bequest, but was at most a "Legacy of an

1 Object Not Belonging to the Estate” asking her husband Ferdinand to dispose of his own
2 property in a certain way after his death. This wish, according to Prof. Welser and the other
3 Austrian legal scholars, is, and was, unenforceable (as it would be under American law). To
4 enforce such a request against the terms of Ferdinand’s last will would violate and circumvent
5 the strict laws regarding testamentary dispositions. And yet Kremser and Wran led the
6 commission members to believe the exact opposite so that there would be no opposition to the
7 government’s pre-ordained decision not to return the paintings to Ferdinand’s heirs.

8 **Political Pressure**

9 85. Schoenberg wrote to Gehrer to inform her of the committee’s grave error
10 and the denial of due process to Ferdinand’s heirs. He recommended an arbitration process to
11 resolve the dispute over the legal significance of Adele’s will. Gehrer rejected this approach,
12 stating that if the heirs believed the decision was wrong, their only remedy was to go to court.
13 Gehrer also stated, contrary to all the facts that were available to her and in clear denial of what
14 had transpired during the Nazi era, that “[t]he paintings were not stolen from Ferdinand Bloch-
15 Bauer.”

16 86. Clearly, even the one government minister who had proposed the new law, now
17 found it politically impossible to continue. Her party, the conservative People’s Party, faced
18 difficult elections in October, 1999 where her party eventually came in third, behind even the far-
19 right Freedom Party led by Jörg Haider, known for praising Nazi SS leaders as “men of
20 character,” and referring to Nazi death camps as “penal institutions.” By rejecting the Bloch-
21 Bauer’s claims to the Klimt paintings, Gehrer joined in the Holocaust denial and revisionism that
22 has reigned in certain circles in Austria since the end of the war. It is no surprise that she was
23 rewarded for her “loyalty” and reappointed as a prominent minister in Austria’s new right-wing
24 coalition government.

25 **Attempts To File An Austrian Lawsuit**

26 87. In September, 1999, ALTMANN announced that she would file a lawsuit
27 in Austria to vindicate her claim. However, the government had more in store for her. First, it
28 was necessary to apply for a waiver of the enormous court costs required to bring a lawsuit in

1 Austria. These court costs are based on the value of the recovery that is sought and in this case
2 would total several million dollars, far beyond what ALTMANN, who still works as a specialty
3 dress supplier at age 84, can afford.

4 88. However, in November, 1999, the Austrian court granted ALTMANN and some
5 of the other heirs only a partial waiver, and ruled that they were required to spend approximately
6 \$350,000 or all the assets at their disposal – essentially their entire life savings – in order to
7 proceed. The Court ruled as follows:

8 Given that the statutory rate for a claim valued at 2 billion shillings
9 amounts to about 20 million, it is evident that the demonstrated
10 income and assets of the plaintiffs do not permit them to bear all
11 the expenses themselves. Of course, it is [also] evident from the
12 findings that they must pay the amount set by the statute
13 themselves to the extent they can be required to draw upon their
14 assets. In particular, there is no reason to spare [the plaintiffs']
15 savings accounts at the expense of the general public [i.e., the
16 Austrian State].

17 89. Not content with even this impossible ruling, in December, 1999 the
18 Austrian government appealed the court's decision, arguing that the amount Mrs. Altmann and
19 the other heirs should have to pay should include the value of the porcelain and drawings that
20 were finally returned to them, after lengthy bureaucratic delays, in November, 1999. This appeal
21 was rejected as moot because ALTMAN was unable to file the lawsuit in Austria.

22 The Treaty

23 90. In Article 26 of the Multilateral Austrian State Treaty of May 15, 1955,
24 Austria promised:

25 In so far as such action has not already been taken, Austria
26 undertakes that, in all cases where property, legal rights or interests
27 in Austria have since 13th March, 1938, been subject to forced
28 transfer or measures of sequestration, confiscation or control on

1 account of the racial origin or religion of the owner, the said
2 property shall be returned and the said legal rights and interests
3 shall be restored together with their accessories.

4 91. Austria has failed to live up to its treaty obligations because it has refused
5 to return the Klimt paintings to Ferdinand's heirs.

6 92. In his May 15, 1959 letter regarding the settlement of Article 26 claims for
7 restitution, U.S. Ambassador to Austria H. Freeman Matthews concluded:

8 My Government has instructed me to advise you that it may
9 approach the Austrian Federal Government in the future in
10 connection with the settlement of individual claims asserted under
11 Article 26 of the State Treaty which are not presently known to my
12 Government and do not fall within the classes and categories of
13 claims enumerated in paragraphs 1 and 2 of Section A of your note
14 [which do not including artworks].

15 93. In other words, the U.S. reserved the right to assert unknown claims, such
16 as the ones for the Bloch-Bauer' s paintings. The fact that the Austrian government had misled
17 the heirs and had falsified the provenance of the paintings was not revealed until last year, so
18 these claims fall within the category of claims "not presently known" in 1959. Therefore, the
19 United States has the ability to enforce ALTMANN's claims against the AUSTRIAN
20 GALLERY.

21 94. In 1998, the U.S. Congress enacted and President Clinton signed the Holocaust
22 Victims Redress Act, Pub. L. No. 105-158, 112 Stat. 18 (1998) which provides:

23 TITLE II--WORKS OF ART SEC. 201. FINDINGS.
24 Congress finds as follows:
25 (1) Established pre-World War II principles of international
26 law, as enunciated in Articles 47 and 56 of the Regulations
27 annexed to the 1907 Hague Convention (IV) Respecting the Laws
28 and Customs of War on Land, prohibited pillage and the seizure of

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works of art.

(2) In the years since World War II, international sanctions against confiscation of works of art have been amplified through such conventions as the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which forbids the illegal export of art work and calls for its earliest possible restitution to its rightful owner.

(3) In defiance of the 1907 Hague Convention, the Nazis extorted and looted art from individuals and institutions in countries it occupied during World War II and used such booty to help finance their war of aggression.

(4) The Nazis' policy of looting art was a critical element and incentive in their campaign of genocide against individuals of Jewish and other religious and cultural heritage and, in this context, the Holocaust, while standing as a civil war against defined individuals and civilized values, must be considered a fundamental aspect of the world war unleashed on the continent.

(5) Hence, the same international legal principles applied among states should be applied to art and other assets stolen from victims of the Holocaust.

(6) In the aftermath of the war, art and other assets were transferred from territory previously controlled by the Nazis to the Union of Soviet Socialist Republics, much of which has not been returned to rightful owners.

SEC. 202. SENSE OF THE CONGRESS REGARDING
RESTITUTION OF PRIVATE PROPERTY, SUCH AS WORKS
OF ART.

1 It is the sense of the Congress that consistent with the 1907
2 Hague Convention, all governments should undertake good faith
3 efforts to facilitate the return of private and public property, such
4 as works of art, to the rightful owners in cases where assets were
5 confiscated from the claimant during the period of Nazi rule and
6 there is reasonable proof that the claimant is the rightful owner.

7 **Last Resort**

8 95. As described above, Austria has failed to undertake good faith efforts to
9 facilitate the return of the Klimt paintings that are the subject of this action, in the sense that
10 would be required under the Holocaust Victims Redress Act.

11 96. ALTMANN alleges that she is essentially without any legal remedy in Austria for
12 her claims. The new Austrian law purports to give victims no additional legal right to make
13 claims for the return of artworks, although ALTMANN contends that under Austrian law she
14 may enforce her right to an equal application of the law. However, in order to file an action in
15 Austria challenging the decision of the minister, ALTMANN would be required to post an
16 enormous cost bond equivalent to a percentage of the value of the paintings. ALTMANN
17 requested a waiver of this bond requirement, which request was granted only in part, so that
18 ALTMANN would be required to post a bond equal to all or most of her assets other than her
19 home before proceeding. ALTMANN cannot afford to proceed under these conditions in
20 Austria. This court is the only reasonably available forum in which ALTMANN's claims can be
21 heard and adjudicated.

22 97. Minister Gehrler has stated that she would follow a court's ruling on the
23 enforceability of the request in Adele's will, and ALTMANN is informed and believes that the
24 AUSTRIAN GALLERY will abide by the decision of an American court in this matter.

25 **FIRST CAUSE OF ACTION**
26 **FOR DECLARATORY RELIEF**

27 **(28 U.S.C. 2201)**

28 98. ALTMANN incorporates here by reference paragraphs 1 through 97.

1 99. A dispute has arisen between ALTMANN and the AUSTRIAN
2 GALLERY concerning the Klimt paintings.

3 100. Pursuant to a law enacted by the REPUBLIC OF AUSTRIA in December 1998,
4 all artworks which were objects of restitution after the War and which were donated to the
5 AUSTRIAN GALLERY in connection with a request for export permits, or were never properly
6 restituted and were subsequently obtained by the AUSTRIAN GALLERY, must be returned to
7 their original owners or their heirs. However, the AUSTRIAN GALLERY has refused to return
8 the Klimt paintings to ALTMANN and the other heirs of Ferdinand Bloch-Bauer. On June 28,
9 1999, the federal minister who governs the AUSTRIAN GALLERY, Elisabeth Gehrler, decided
10 against restitution of the Klimt paintings mentioned in Adele's will to Ferdinand's heirs. On July
11 12, 1999, Gehrler wrote to ALTMANN's attorney stating that if the heirs continued to believe that
12 the artworks were stolen, they should take their dispute to court. Thus, the issues in this case are
13 ripe for declaratory relief.

14 101. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that Adele
15 Bloch-Bauer's will did not give the AUSTRIAN GALLERY an enforceable right to inherit or
16 obtain title to the six Klimt paintings before or after Ferdinand's death.

17 102. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that Ferdinand
18 Bloch-Bauer's purported oral promises and actions prior to 1938, including the donation of one
19 painting in 1936, did not give the AUSTRIAN GALLERY an enforceable right to inherit or
20 obtain title to the other five Klimt paintings before or after Ferdinand's death.

21 103. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that the six
22 Klimt paintings mentioned in Adele's will were legally the sole property of Ferdinand, and not
23 Adele, at the time of Adele's death.

24 104. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that any request
25 in Adele's will or any purported intention by Ferdinand prior to 1938, with regard to a donation
26 of the Klimt paintings to the AUSTRIAN GALLERY, is unenforceable because the implied
27 condition underlying it -- namely, the ability of the Bloch-Bauer family to live in Austria -- was
28 unalterably changed by the events that transpired after March 1938.

1 105. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that six Klimt
2 paintings -- *Adele Bloch-Bauer I; Adele Bloch-Bauer II; Beechwood; Apple Tree I; Houses in*
3 *Unterach am Attersee; and Amalie Zuckermandl* -- were stolen from Ferdinand by the Nazis in
4 violation of international law.

5 106. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that none of the
6 actions taken by Dr. Führer and Ferdinand during the War (between March 1938 and May 1945),
7 gave the AUSTRIAN GALLERY the right to inherit or obtain title to the six Klimt paintings
8 taken from Ferdinand's collection during the War.

9 107. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that the six
10 Klimt paintings stolen from Ferdinand by the Nazis were subject to restitution to Ferdinand after
11 the end of the War in May, 1945.

12 108. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that the six
13 Klimt paintings stolen from Ferdinand by the Nazis were subject to restitution to Ferdinand's
14 heirs after Ferdinand's death in November, 1945.

15 109. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that five of the
16 six Klimt paintings stolen from Ferdinand -- with the sole exception of the portrait of *Amalie*
17 *Zuckermandl* -- were the subject of restitution proceedings from 1945 through 1948.

18 110. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that all of the
19 recovered artworks from the collection of Ferdinand Bloch-Bauer, including the Klimt paintings,
20 were or would have been subject to export permit restrictions imposed by the Federal Monument
21 Agency in conjunction with the AUSTRIAN GALLERY.

22 111. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that
23 proceedings concerning export permits for all of the recoverable artworks from the collection of
24 Ferdinand Bloch-Bauer, including the Klimt paintings, were initiated prior to the purported
25 "donation" of the Klimt paintings by Dr. Rinesch to the AUSTRIAN GALLERY on April 10 or
26 12, 1948.

27 112. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that in the
28 course of seeking export permits for other portions of the collection, five of the Klimt paintings

1 were purportedly "donated" to the AUSTRIAN GALLERY by Dr. Rinesch.

2 113. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that
3 ALTMANN never authorized any purported "donation" of Klimt paintings to the AUSTRIAN
4 GALLERY.

5 114. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that
6 ALTMANN was never obligated to transfer any of the Klimt painting to the AUSTRIAN
7 GALLERY.

8 115. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that any
9 purported "donation" of Klimt paintings to the AUSTRIAN GALLERY was made without
10 proper authorization from ALTMANN.

11 116. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that any
12 purported "donation" of Klimt paintings to the AUSTRIAN GALLERY was made under
13 economic duress, and the threat by the Federal Monument Agency and the AUSTRIAN
14 GALLERY of withholding export permits from the heirs.

15 117. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that any
16 purported "donation" by Dr. Rinesch of Klimt paintings to the AUSTRIAN GALLERY was
17 made under the mistaken belief that the AUSTRIAN GALLERY had a valid legal claim to the
18 Klimt paintings.

19 118. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that the
20 AUSTRIAN GALLERY was responsible for the mistaken belief which resulted in the purported
21 "donation" of the Klimt paintings by Dr. Rinesch to the AUSTRIAN GALLERY by withholding
22 records and misstating facts.

23 119. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that
24 ALTMANN is entitled to rescission of the purported "donation" by Rinesch of the Klimt
25 paintings to the AUSTRIAN GALLERY.

26 120. ALTMANN contends, and the AUSTRIAN GALLERY disputes, that the Klimt
27 painting of *Amalie Zuckerandl* was donated to the AUSTRIAN GALLERY by Vita Künstler in
28 1988, and is subject to restitution to the heirs of Ferdinand Bloch-Bauer.

1 inheritance, but despite such efforts, ALTMANN did not learn, and could not reasonably have
2 learned, of the facts revealing the false ownership claims until 1999.

3 129. ALTMANN has been damaged by the deprivation of her property, and is entitled
4 to either a recovery of the property or payment of her interest in the paintings, which interest is
5 valued at approximately \$150 million and will be subject to proof at trial.

6 **THIRD CAUSE OF ACTION**

7 **FOR RESCISSION**

8 130. ALTMANN incorporates here by reference paragraphs 1 through 97.

9 131. The AUSTRIAN GALLERY claims that ALTMANN, or the attorney purporting
10 to represent her, Dr. Rinesch, agreed in April 1948 to acknowledge the request in Adele's will
11 and effectively "donated" five of the six Klimt paintings referenced in Adele's will to the
12 AUSTRIAN GALLERY.

13 132. ALTMANN alleges that any purported "donation" of the Klimt paintings to the
14 AUSTRIAN GALLERY was made by mistake, or under duress, or without authority from
15 ALTMANN.

16 133. At the time of the purported "donation," Dr. Rinesch and Ferdinand's heirs were
17 under the mistaken belief that Adele and Ferdinand had legally donated the Klimt paintings to
18 the AUSTRIAN GALLERY. The AUSTRIAN GALLERY was responsible for this mistaken
19 belief, knew that Ferdinand's heirs and Dr. Rinesch held the mistaken belief, and knew that it
20 was false at the time of the purported donation in April 1948.

21 134. At the time of the purported "donation," ALTMANN was under severe economic
22 duress, having been deprived of all her property taken by the Nazis, as well as her inheritance.
23 The AUSTRIAN GALLERY was responsible for this duress because it purposely withheld
24 property from the heirs and conspired with the Federal Monument Agency to delay the granting
25 of export permits for artworks belonging to the heirs.

26 135. At the time of the purported "donation," Dr. Rinesch was not authorized to act on
27 ALTMANN's behalf.

28 136. As a result, ALTMANN is entitled to rescind the purported "donation" and

1 recover the donated artworks from the AUSTRIAN GALLERY.

2 **FOURTH CAUSE OF ACTION**

3 **FOR DAMAGES FOR EXPROPRIATION AND CONVERSION**

4 137. ALTMANN incorporates here by reference paragraphs 1 through 97.

5 138. After Ferdinand's death in November, 1945, ALTMANN was entitled to recover
6 possession of the six Klimt paintings: *Adele Bloch-Bauer I*; *Adele Bloch-Bauer II*; *Beechwood*;
7 *Apple Tree I*; *Houses in Unterach am Attersee*; and *Amalie Zuckerkandl*.

8 139. The AUSTRIAN GALLERY unlawfully withheld possession from ALTMANN
9 of the three Klimt paintings taken during the War.

10 140. The AUSTRIAN GALLERY unlawfully obtained possession of two paintings
11 based on deceitful and false claims of ownership and duress, and through an unauthorized
12 “donation” obtained from Dr. Rinesch as a result of those deceitful and false claims and duress.

13 141. The AUSTRIAN GALLERY obtained ownership of one further painting, *Amalie*
14 *Zuckerkandl*, in 1988, and thereafter made false claims of provenance for the painting which hid
15 the true fact that it was stolen from Ferdinand Bloch-Bauer and rightfully belonged to
16 ALTMANN and his other heirs.

17 142. ALTMANN did not learn, and could not reasonably have learned, of the facts
18 revealing the false ownership claims until 1999.

19 143. ALTMANN has been damaged by the conversion of her property, and is entitled
20 to either a recovery of the property, or payment of her interest in the paintings, which interest is
21 valued at approximately \$150 million and will be subject to proof at trial.

22 **FIFTH CAUSE OF ACTION**

23 **FOR DAMAGES FOR VIOLATION OF INTERNATIONAL LAW**

24 144. ALTMANN incorporates here by reference paragraphs 1 through 97.

25 145. The AUSTRIAN GALLERY violated international law by knowingly
26 participating in and profiting from the Nazi persecution of Ferdinand Bloch in the following
27 ways: (1) the AUSTRIAN GALLERY assisted in the systematic looting of the property of
28 Ferdinand Bloch-Bauer; (2) the AUSTRIAN GALLERY obtained artworks belonging to

1 Ferdinand Bloch-Bauer during the War; (3) the AUSTRIAN GALLERY refused to return
2 artworks to Ferdinand Bloch-Bauer and his heirs after the War; (4) the AUSTRIAN GALLERY
3 used duress and deceit to obtain artworks that should have been restituted to Ferdinand's heirs
4 during the post-war period, and (5) the AUSTRIAN GALLERY concealed its misdeeds from the
5 heirs until they were exposed in 1998-99.

6 146. As determined by the United States Congress in Title II of the Holocaust Victims
7 Redress Act of 1998, the above referenced actions by the AUSTRIAN GALLERY were in
8 violation of numerous international treaties, customary international laws, and fundamental
9 human rights laws prohibiting war crimes, including, or as reflected by the United Nations
10 Charter, the Universal Declaration of Human Rights, the Geneva Convention of 1929, the
11 supplemental Geneva Convention of the Treatment of Non-Combatants During World War
12 Time, the Nuremberg Principles, the Covenant on Civil and Political Rights, and the Hague
13 Convention of 1907.

14 147. As a result of the above referenced violations of international law, ALTMANN
15 has suffered injury and is entitled to judgment, against the AUSTRIAN GALLERY on this cause
16 of action for compensatory damages in an amount to be determined by the Court.

17 **SIXTH CAUSE OF ACTION**

18 **FOR IMPOSITION OF A CONSTRUCTIVE TRUST**

19 148. ALTMANN incorporates here by reference paragraphs 1 through 97.

20 149. The AUSTRIAN GALLERY obtained the Klimt paintings from Ferdinand
21 Bloch-Bauer and his heirs through violations of international law, duress and deceit.

22 150. The AUSTRIAN GALLERY has wrongfully detained the Klimt paintings from
23 ALTMANN now that the facts have come to light.

24 151. As a result, ALTMANN is entitled to the imposition of a constructive trust on the
25 Klimt paintings, obligating the AUSTRIAN GALLERY to return the Klimt paintings to
26 ALTMANN, or to compensate her fairly for their loss.

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28

1 **SEVENTH CAUSE OF ACTION**

2 **FOR RESTITUTION BASED ON UNJUST ENRICHMENT**

3 152. ALTMANN incorporates here by reference paragraphs 1 through 97.

4 153. As described above, the AUSTRIAN GALLERY has been unjustly and
5 unlawfully enriched at the expense of Ferdinand Bloch-Bauer and his heirs. The AUSTRIAN
6 GALLERY obtained the Klimt paintings from Ferdinand Bloch-Bauer and his heirs through
7 violations of international law, duress and deceit, and has wrongfully withheld the paintings from
8 ALTMANN.

9 154. As a result of the AUSTRIAN GALLERY's unjust enrichment, ALTMANN is
10 entitled to restitution of the Klimt paintings to her, or the reasonable value thereof.

11 **EIGHTH CAUSE OF ACTION**

12 **FOR DISGORGEMENT OF PROFITS PURSUANT TO**

13 **CAL. BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**

14 155. ALTMANN incorporates here by reference paragraphs 1 through 97.

15 156. The AUSTRIAN GALLERY has engaged in unlawful and unfair business
16 practices by displaying the looted Klimt paintings in its museum.

17 157. For almost 60 years, the AUSTRIAN GALLERY has unjustly and unfairly
18 profited from the display of the looted Klimt paintings by obtaining entrance fees and selling
19 concessions and memorabilia to museum visitors, including ones from California, who would
20 not have otherwise visited the museum or made such purchases were it not for the presence of
21 the Klimt paintings in the museum. One of the Klimt paintings, *Adele I*, appears on the cover of
22 the AUSTRIAN GALLERY's official guidebook to the museum. Thousands of visitors each
23 year come to the museum for the sole reason of viewing the looted Klimt paintings that were
24 taken from Ferdinand Bloch-Bauer and unlawfully and improperly detained from his heirs.

25 158. As a result, the Court should require an accounting of the ill-gotten gains of the
26 AUSTRIAN GALLERY, and order that those illicit profits be disgorged and paid to
27 ALTMANN, who could have earned those profits were it not for the unfair practices of the
28 AUSTRIAN GALLERY.

PRAYER

WHEREFORE, MARIA V. ALTMANN prays relief as follows:

1. For a declaration that ALTMANN's contentions of fact and law set forth in the First Cause of Action are correct.
2. For an order directing the AUSTRIAN GALLERY to return the six Klimt paintings -- *Adele Bloch-Bauer I; Adele Bloch-Bauer II; Beechwood; Apple Tree I; Houses in Unterach am Attersee; and Amalie Zuckermandl* -- to ALTMANN and the heirs of Ferdinand Bloch-Bauer, or to compensate them for the current value of those artworks.
3. For an order rescinding the purported "donation" of five of Ferdinand's Klimt paintings to the AUSTRIAN GALLERY and directing the AUSTRIAN GALLERY to return the artworks to ALTMANN and the heirs of Ferdinand Bloch-Bauer, or compensate them for their share of the current value of those artworks.
4. For an award of damages in the amount of ALTMANN's interest in the artworks converted by the AUSTRIAN GALLERY, in an amount to be proven at trial, but estimated at \$150 million.
5. For further compensatory damages for the AUSTRIAN GALLERY's violations of international law.
6. For an accounting of the ill gotten gains of the AUSTRIAN GALLERY, and an order that those illicit profits be disgorged and paid to ALTMANN.
7. For pre- and post-judgment interest on any award.
8. For such other and further relief that the Court deems just and appropriate.

DATED: August __, 2000

Law Offices of E. Randol Schoenberg

By: _____
E. Randol Schoenberg
Attorney for Plaintiff
MARIA V. ALTMANN