



NEW YORK STATE BANKING DEPARTMENT HOLOCAUST CLAIMS PROCESSING REPORT

As Required by Section 37-a of the Banking Law

Report to the Governor and the
Legislature

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Table of Contents

Section	Page
1. Background	2
2. Overview of Operations and Accomplishments	3
3. Overview of Bank Claims	3
3.1 Claims Resolution Tribunal, Switzerland	4
3.2 The German Foundation and the International Organization for Migration, Germany	5
3.3 Austrian General Settlement Fund and the National Fund for Victims of National Socialism, Austria	6
3.4 Austrian Bank Settlement, Austria	7
3.5 Commission for the Compensation of Victims of Spoliation, France	7
3.6 Enemy Property Claims Assessment Panel, London	8
3.7 Shoah Foundation for Individual Bank Claims and the Shoah Foundation for individual Securities Claims, The Netherlands	9
3.8 The Jewish Community Indemnification Commission, Belgium	9
3.9 The Company for Locating and Retrieving Assets of People Who were Killed in the Holocaust, Ltd., Israel	10
4. Claims Conference's Goodwill Fund, Germany	11
5. Overview of Insurance Claims	11
5.1 International Commission on Holocaust Era Insurance Claims	11
5.2 Austrian General Settlement Fund, Austria	13
5.3 Assicurazioni Generali S.p.A. Policy Information Center, Italy	13
5.4 The Generali Fund in Memory of the Generali Insured in East and Central Europe Who Perished in the Holocaust	14
5.5 Holocaust Foundation for Individual Insurance Claims, The Netherlands	14
5.6 Claims Filed Directly with Insurance Companies	14
5.7 Holocaust Insurance Accountability Act of 2007 (HR 1746)	15
6. Overview of Art Claims	15
6.1 Recovered Works of Art	15
6.2 Other Activities in the Area of Art Restitution	16
7. Other Activities	17
8. Holocaust Claims Processing Office Expenses in 2007	17
Appendix	18

1. Background

For 10 years the State of New York has played an integral role in helping individuals of all backgrounds obtain a measure of just resolution for the theft of property during the reign of the Nazi regime. Banks, insurance companies, and private and public art collectors are now more willing to consider claims from Holocaust victims and/or their heirs whose property was looted, but the processes for filing such claims can be difficult to navigate. The Holocaust Claims Processing Office (HCPO) of the New York State Banking Department was created on June 25, 1997 to provide institutional assistance to individuals seeking to recover assets lost due to Nazi persecution during the Holocaust era. The mission of the HCPO is threefold:

1. recover assets deposited in banks;
2. recover proceeds of unpaid insurance policies issued by European insurers;
3. recover art lost, looted, or sold under duress.

Individual claims are assigned to members of the HCPO's highly trained staff who work with claimants to collect the most detailed and accurate information possible. Using unique investigative skills, research expertise, and their command of foreign languages, staff members corroborate information provided by claimants with research in archives, libraries and other resources. The documentation which the HCPO secures on behalf of claimants has proven instrumental in substantiating their claims.

The HCPO then submits claim information to the appropriate companies, authorities, museums or organizations with the request that a complete and thorough search be made for the specified asset(s). To ensure rigorous review of these inquiries, the HCPO maintains regular contact with entities to which it submits claims. Staff members regularly update claimants on the status of their claims. Claimants may contact the HCPO with questions at any time, knowing that they have a committed advocate who will be responsive to their concerns. Because the HCPO is highly respected for its service and sensitivity to the issues, claimants and other agencies often refer individuals to the HCPO for assistance with claims they filed independently.

Once an agency has completed its review of a claim and reaches a determination, the HCPO reviews the decision to ensure that it adheres to that agency's published processing guidelines. Since claimants may lose track of all the claims they have submitted and since each agency has unique and often complex guidelines, the HCPO helps claimants to understand these guidelines in order to interpret decisions.

In the event that a claimant wishes to appeal a decision, the HCPO guides claimants through this procedure as well and performs additional research when

possible. Alternatively, when claimants receive positive decisions that include monetary awards, the HCPO facilitates payment by explaining the various release and waiver forms and by following up with the claims agency to confirm payment.

The HCPO has worked directly with almost all restitution and compensation processes in existence today. (See Appendix Figure 1). Indeed it is fair to say that, at one point or another since 1997, nearly all roads to restitution and compensation have converged at the HCPO. The experience of the HCPO has been that the knowledge and expertise of its staff has alleviated burdens and costs often incurred when individuals pursue claims on their own. Successes are a direct result of the importance attached to and attention paid by the HCPO to individualized analysis.

2. Overview of Operations and Accomplishments

From its inception through December 2007, the HCPO has responded to more than 13,000 inquiries and received claims from 4,775 individuals from 45 states and 38 countries. (See Appendix Figures 2 and 3). The HCPO has successfully closed the cases of 877 individuals in which either an offer was accepted, or the assets claimed had been previously compensated via a post-war restitution or compensation proceeding, or otherwise handled appropriately (i.e. in accordance with the original accountholders' wishes); the claims of 3,898 individuals remain open. The combined total of offers extended to HCPO claimants for bank, insurance, and other asset losses amounts to \$114,659,898. (See Appendix Figure 4).

The HCPO anticipates that claims will require monitoring through the end of 2008 and beyond given that: the government of Israel recently established a claims processing entity for accounts published in 2005; the US House of Representatives Financial Services Committee will be holding a hearing during the first quarter of 2008 to review the proposed Holocaust Insurance Accountability Act 2007 (HR 1746); on January 7, 2008 a Fairness Hearing was held to consider final approval of a proposed class action settlement in the case of *In re: Assicurazioni Generali S.p.A. Holocaust Insurance Litigation* and the longstanding appeal in that case still requires resolution; the German Ministry of Culture announced the creation of a new office entitled the Institute for Museum Research that will help museums, libraries, and archives identify items that were taken from the rightful owners during the Nazi period. Ultimately, therefore, the time required for submitting and processing claims is determined by circumstances beyond the HCPO's control.

3. Overview of Bank Claims

Of the claims filed with the HCPO to date, 2,338 individuals (from 42 states and 35 countries) submitted claims for assets deposited in banks referencing 3,387 individual account-holders. The HCPO has closed the claims of 457 individuals;

1,881 individuals currently have open bank claims which have been submitted into a number of parallel claims processes outlined below. To date, offers extended to HCPO claimants seeking the return of bank assets total \$79,535,072. (See Appendix Figure 5).

3.1 Claims Resolution Tribunal, Switzerland¹

On February 5, 2001, a claims process was established to provide Nazi victims or their heirs with an opportunity to make claims to assets deposited in Swiss banks in the period before and during World War II. The Claims Resolution Process provided the first opportunity for Nazi victims and their heirs to have their claims to assets deposited in Swiss banks adjudicated by an impartial body, the Claims Resolution Tribunal (CRT). The claims process was triggered by the publication of a list of 21,000 names of account owners, who were probably or possibly victims of Nazi persecution. The deadline for submitting claims related to the 2001 list expired December 31, 2001.

On January 13, 2005, the CRT published a second list of approximately 2,700 names of account owners and 400 names of power of attorney holders. The 2005 list contained previously unpublished names that were: identified by the Independent Committee of Eminent Persons auditors, who conducted a three-year investigation of Swiss banks, as possibly belonging to Holocaust victims; registered with or identified by Swiss authorities and the subject of post-war international agreements between Switzerland, Poland and Hungary; and names located by the CRT's own archival research. The deadline for submitting claims related to the 2005 list expired July 13, 2005.

On February 17, 2006, Chief Judge Edward Korman of the U.S. District Court of Eastern New York, who presided over the Holocaust Victims Assets class action litigation which resulted in the \$1.25 billion Swiss bank Settlement Agreement and the creation of the CRT, approved the release of Plausible Undocumented Awards (PUA) to Deposited Assets Class claims. Recognizing the destruction of documents by the Swiss banks, the restricted access to the remaining records, and the ravages of war left many claimants without documentary evidence to prove the existence and ownership of a Swiss bank account, eligible claimants receive a one-time payment of \$5,000.

As of the July 13, 2005 filing deadline, 1,810 HCPO claimants submitted claims to the CRT for resolution. To date, the CRT has offered 2,804 settlements on published accounts and 10,514 claimants have been approved to receive PUAs. Of the awards based on documentary evidence, 202 are to 175 HCPO claimants for a total of CHF 37,434,116 (\$28,231,475) and 808 HCPO claimants have received PUAs for a total of \$4,040,000; the combined total of all CRT awards to HCPO

¹ <http://www.crt-ii.org>

claimants to date is \$32,643,375. The HCPO continues to assist the CRT with technical and historical research.

In addition to claims-related work, the HCPO also provides support to the Superintendent of Banks in his role as a member of the Special Advisory Committee to the CRT. Involvement in such projects depends on the questions before the Advisory Committee, which are unpredictable in both substance and nature. The HCPO has provided extensive assistance to the CRT and the Special Masters on a number of projects, including: coordinating and supervising the Initial Questionnaire Review Pilot Project, an effort that involved half the HCPO staff in a coordinating and supervisory function in addition to 26 bank examiner trainees; participating in the tests of the Total Accounts Database (TAD); assisting with the Swiss Banks' New York Agencies accounts frozen under the Trading with the Enemy Act in 1941; and locating heirs of Swiss bank account owners.

3.2 The German Foundation and the International Organization for Migration, Germany²

On August 12, 2000, the German Foundation Act came into force, creating a German Foundation entitled "Remembrance, Responsibility and Future" to provide financial compensation to former slave and forced laborers and certain other victims of Nazi injustice. Pursuant to the German Foundation Act, a number of partner organizations were appointed to process claims. The International Organization for Migration (IOM) based in Geneva, Switzerland was designated to be the sole partner organization to process claims for property losses suffered as a result of direct participation of German companies. Total funds for the German Foundation amounted to DM10 billion and were made available in equal parts by the German Government and German companies.

The HCPO submitted 462 bank claims (predominantly Central and Eastern European) on behalf of 208 claimants to the IOM for settlement under the German Foundation Agreement. The IOM requested additional information from 183 claimants; negative decisions were issued in 332 cases and 112 appeals were filed. 132 claims received positive decisions with an aggregate award amount of €2,355,201 (\$2,900,304³); in most cases, awards include compensation for non-bank assets. Awards were subject to a pro rata reduction, given that the funds available for property claims were not sufficient for all successful claims. Moreover, the HCPO has provided considerable technical assistance to the IOM with regard to historical research into pre-war and war-time Czech banks.

² <http://www.compensation-for-forced-labour.org>

³ The US Dollar amount is calculated based on the exchange rate at the time each award was received.

3.3 Austrian General Settlement Fund and the National Fund for Victims of National Socialism, Austria⁴

The National Fund, established by the Austrian parliament in 1995 to make amends to persons persecuted by the Nazis in Austria⁵, oversees all compensation programs sponsored by the state of Austria, including the General Settlement Fund (GSF), a large-scale compensation process under which claims for a wide variety of assets are considered (e.g. bank accounts, liquidated businesses, real and movable property, etc.). The GSF was created pursuant to the Washington Agreement of January 17, 2001⁶ and \$210 million was allocated to the Fund, \$25 million of which was earmarked for insurance policies.

As of the filing deadline of November 28, 2003, 364 HCPO claimants submitted applications to the GSF for adjudication. The HCPO continues to monitor these claims and conduct additional research. To date, 179 HCPO claimants have received decisions from the GSF, totaling \$41,446,743 for bank related and other assets.

After the last pending class action lawsuit in the US was dismissed, the Austrian Federal Government announced on December 13, 2005 that “legal peace” had been obtained and the GSF was granted access to the \$210 million promised under the Washington Agreement. Between the signing of the agreement in 2001 and the declaration of “legal peace” in 2005 the GSF was neither able to make use of the funds to pay claims nor was the GSF able to invest the money into an interest bearing account until such time that payments could be issued.

The declaration of “legal peace” paved the way for advance payments, equal to 10% of claims-based awards and 15% of equity-based awards, for eligible claimants who have already received decisions from the GSF. To date, 134 HCPO claimants are scheduled to receive advance payments. Awards are subject to a pro rata reduction, given that the funds available are not sufficient for all successful claims. At this time the GSF predicts that claimants will ultimately receive an additional 0-3% of claims-based awards and an additional 0-3% of equity-based awards.

The HCPO also continues to assist claimants with applications, processed by the National Fund, for confiscated apartment and small business leases and household property and personal valuables and effects. The current aggregate total amount

⁴ <http://www.en.nationalfonds.org>

⁵ All Austrian survivors of Nazi persecution are awarded a symbolic payment of €5,087.

⁶ The Governments of the Republic of Austria and the United States of America, Austrian companies, The Conference on Jewish Material Claims (including the Central Committee of Jews from Austria in Israel and the American Council for Equal Compensation of Nazi victims from Austria), The Austrian Jewish Community, entered into a joint Holocaust restitution settlement agreement.

secured for HCPO claimants stands at more than \$1,169,000 initial payments and € 161,000 (\$ 198,5297) top-up payments.

3.4 Austrian Bank Settlement, Austria

The Austrian Bank Holocaust Litigation Settlement was the result of a class action settlement that provided compensation to Holocaust victims and their heirs who suffered a loss due to the actions of the participating banks. In January 2000, the court approved the Austrian Bank Holocaust Litigation Settlement Agreement. In accordance with the Settlement Agreement, Austrian Banks paid a total of \$40 million for the benefit of the members of the Settlement Class. In March 2000, Individual Claims Officers began reviewing the approximately 58,000 claims submitted by claimants, relying heavily on documentation provided by the claimants.

The HCPO monitored 240 claims submitted by 107 individuals citing bank accounts at Creditanstalt and/or a predecessor to Bank Austria that were submitted to the claims settlement process coordinated by Schlam, Stone and Dolan, a N.Y. law firm. The settlement process was marked by particular inefficiencies and lacked transparency. The HCPO received requests for additional information from the processors, but also requests for copies of previously submitted information and documentation.

Payments from the settlement were activated in the second quarter of 2003 and claimants reported 82 offers ranging in size from \$1,000 to \$182,250 (and one appeal) for a total of \$1,672,812. The Department estimates the actual amount to be higher; however, meaningful estimates were impossible without more accurate information from the claims processors, who cited privacy concerns as a reason not to disclose award amounts. An agreement between the Austrian General Settlement Fund and Schalm, Stone and Dolan to share award information, to prevent duplicate payments and allow for top-ups, has enabled the HCPO to gain a clearer understanding of offers extended to claimants through this settlement. It is anticipated that additional information relating to these awards will become available as the GSF issues decisions.

3.5 Commission for the Compensation of Victims of Spoliation, France⁸

The French Commission for the Compensation of Victims of Spoliation (CIVS) was created by French parliamentary decree in 1999 in order to make reparations for spoliation of financial or material property that resulted from anti-Semitic legislation enforced during the occupation by either German authorities or the Vichy Government.

⁷ Currency exchange rate as of September 30, 2004, as this is when the second payment of 1,000 Euro was announced.

⁸ <http://www.civs.gouv.fr>

The HCPO continues to review claims referencing losses that occurred in France to determine for which, if any, of the two parallel claims processes (documented bank accounts and/or material losses) they might qualify. CIVS no longer accepts undocumented claims for bank accounts. Deadlines for submission have been extended a number of times and are open-ended for documented bank claims and material losses. To date, the HCPO has submitted 128 claims that will need to be monitored through the life of the process and is aware of decisions to 40 claimants seeking the return of bank accounts in France resulting in \$178,037 in payments; as well as payments to 54 claimants to compensate for non-bank assets looted in France amounting to €1,246,031 (\$1,835,216⁹) and \$15,000, for a combined total of \$1,850,216.

Moreover, the HCPO has assisted claimants whose parents were deported from France and who were orphaned as a result with their applications to the French government's compensation program for the orphaned children of deportees. Total payments secured to date amount to €1,920,857 (\$2,829,134¹⁰).

3.6 Enemy Property Claims Assessment Panel, London¹¹

In March 1999, the British Government set up a payment scheme so that victims of Nazi persecution could apply for compensation for the seizure of assets in the United Kingdom during the Second World War under the 1939 Trading with the Enemy legislation. The Enemy Property Claims Assessment Panel (EPCAP) was established, under the auspices of the Department of Trade and Industry (DTI), to evaluate such claims. The period for the submission of claims officially ended on September 30, 1999; however, more claims than expected were received and the final deadline was extended to August 31, 2004. Claims submitted to EPCAP after August 31, 2004, were considered on an *ad hoc* basis. The EPCAP Secretariat decided to stop referring new claims to the Panel as of May 1, 2006 and all claims received after that time were rejected on that basis. In September 2006, the HCPO was informed by DTI, that new cases will continue to be referred to EPCAP on an *ad hoc* basis.

The HCPO continues to work closely with EPCAP in London to settle 29 claims filed by HCPO claimants for assets seized by the British government. To date, 24 have been completed, resulting in 10 denials and 14 offers for a total of £125,011 (\$249,68612).

⁹ Currency exchange rate as of December 31, 2007.

¹⁰ Currency exchange rate as of December 31, 2007.

¹¹ <http://www.enemyproperty.gov.uk>

¹² Currency exchange rate as of December 31, 2007. The process of ascertaining the exchange rate at the time each award was received is currently underway.

3.7 Shoah Foundation for Individual Bank Claims and the Shoah Foundation for individual Securities Claims, The Netherlands

Two foundations, the Stichting Individuele Bankaanspraken Sjoa (SIB Sjoa or Shoah Foundation for Individual Bank Claims) and the Stichting Individuele Effectenaanspraken Sjoa (SIE Sjoa or Shoah Foundation for individual Securities Claims), were established as a result of an agreement between the Central Jewish Council (CJO), the Foundation Israel Platform and the Dutch banks who agreed to investigate the nature and amount of any outstanding credit balances of Jewish persecution victims remaining at Dutch banks.

The Dutch Banks (NVB) and the CJO commissioned PricewaterhouseCoopers to investigate the amount of any financial assets still outstanding, including unclaimed financial credit balances of persecution victims at banks in the Netherlands. The investigation yielded a list of 3,322 account holders whose credit balances were identified and could be claimed via the SIB Sjoa. The deadline for submitting a claim through the SIB Sjoa was December 31, 2002.

The SIE Sjoa compensated for: the shortfalls in the 1953 restoration of securities rights; the commissions received by the Puttkammer during the Second World War; and reimbursed for the changes to Jewish safe deposit box holders for breaking open their safe deposit boxes during the Second World War. The deadline for filing claims to the SIE Sjoa varied depending on the type of compensation being sought. The deadline for submitting claims to compensate for the shortfalls in the 1953 restoration of securities rights as well as the compensation for the commissions received by Puttkammer was December 31, 2002. The application to reimburse the charges assessed for breaking open safe deposit boxes had to be submitted by June 30, 2003. As the SIE Sjoa published a second list of safe deposit holders, an application related to this list could have been submitted to the Foundation until November 1, 2003.

The HCPO submitted 12 claims to the SIE Sjoa and/or the SIB Sjoa and is aware of only one award for a safe deposit box.

3.8 The Jewish Community Indemnification Commission, Belgium¹³

The Belgian Jewish Community Indemnification Commission (Buyse Commission) considers claims for assets originally belonging to the Belgian Jewish community, which were plundered, surrendered, or abandoned during the Second World War. The HCPO monitors 48 claims for accounts and securities held in Belgium. The Buyse Commission has reported receiving claims from more than 6,000 individuals. The Commission started processing claims towards the end of 2003,

¹³ <http://www.combuyse.fgov.be>

giving priority to the oldest claimants. To date, 40 HCPO claimants have received a total of €345,148 (\$444,116¹⁴).

On December 17, 2007 the Commission held its final meeting and issued decisions on all remaining claims. The Commission will now focus on ensuring that all applicants have received their decisions and payments.

Funds from the Buysse Commission that have not yet been distributed are used to fund the compensation program "Solidarity with the Jewish Victims of the Second World War in Belgium – Solidarity 3000" (Solidarity 3000) run by the Fondation du Judaïsme de Belgique. Claimants who had not submitted claims to the Buysse Commission prior to the September 9, 2003 deadline and/or who received less than €3000 for lost or stolen assets from the Buysse Commission, could be considered for payment from Solidarity 3000. The deadline for submitting a claim to Solidarity 3000 was June 30, 2006. To date 9 of the 17 HCPO claimants who filed Solidarity 3000 claims have received €19,826 (\$26,734¹⁵).

3.9 The Company for Locating and Retrieving Assets of People Who were Killed in the Holocaust, Ltd., Israel¹⁶

The Company for Location and Restitution of Holocaust Victims Assets Ltd. (the Company) was established in the summer of 2006 in accordance with The Assets of Holocaust Victims Law (Restitution to Heirs and Endowment for the Purposes of Assistance and Commemoration (Assets Law) passed by the 16th Knesset in December 2005. The Assets Law was proposed and ratified following the work of a Parliamentary Inquiry Committee which investigated all aspects related to dormant bank accounts held in Israeli banks and other assets whose owners are presumed to have perished during the Holocaust.

The Company's primary purpose is to return the assets of Holocaust victims, or their fair value, to their original owners or heirs. To meet this goal the Company was empowered to locate and coordinate all Holocaust victim assets located in Israel and to undertake steps to locate the legal heirs to these assets. Finally, the Company was granted the authority to make use of all assets for which an heir is not found by a date set by the Assets Law.

In July 2007, the Company launched its website and published approximately 3,500 additional names and assets (the Parliamentary Inquiry Committee had previously identified nearly as many during their investigation) for a total of approximately 7,000 records of names and assets believed to have been owned by

¹⁴ The US Dollar amount is calculated based on the exchange rate at the time each award was received.

¹⁵ The US Dollar amount is calculated based on the exchange rate at the time each award was received.

¹⁶ <http://www.hashava.org.il/eng>

Holocaust victims. The launch of the website also marked the commencement of the restitution process to return these assets to the original owners or their heirs.

The HCPO has begun a comprehensive review of all files to determine which, if any, of the individuals who filed a claim with our office are eligible to submit an application to this process. Applications will be accepted by the Company until July 2008, claims submitted after this date will be addressed under a separate process. To date the HCPO has identified nearly a dozen assets that match information provided by several HCPO claimants, claims for the return of these assets are pending.

4. Claims Conference's Goodwill Fund, Germany¹⁷

Under the Goodwill Fund established by the Claims Conference Successor Organization, owners and/or heirs of unclaimed properties in the former German Democratic Republic (East Germany) have been able to apply for payments. The program was established for claimants unable to meet the December 31, 1992 deadline established by the Bundesamt zur Regelung offener Vermögensfragen¹⁸. In 2003, the Claims Conference posted on its website a list of original owners of such properties which have been awarded to the Claims Conference by the German Restitution Authority, or that are awaiting adjudication. Claims had to be filed by March 31, 2004. The HCPO is assisting 31 claimants with such claims; to date, eight HCPO claimants have received a total of €845,952 (\$1,062,772¹⁹).

5. Overview of Insurance Claims

Of the claims filed with the HCPO to date, 2,290 individuals (from 41 states and 24 countries) submitted insurance claims referencing 3,378 individual policyholders. The HCPO has closed the insurance claims of 400 individuals; 1,890 individuals currently have open insurance claims which are under review for imminent closure in light of the International Commission on Holocaust Era Insurance Claims dissolution. Claims for unpaid insurance policies have been submitted into a number of parallel claims processes described below. To date, offers extended to HCPO claimants seeking the proceeds of insurance policies total \$27,988,441. (See Appendix Figure 6).

5.1 International Commission on Holocaust Era Insurance Claims²⁰

The International Commission on Holocaust Era Insurance Claims (ICHEIC) was established with offices in London and in Washington D.C. in October 1998 by the

¹⁷ http://www.claimscon.org/?url=goodwill_main

¹⁸ <http://www.badv.bund.de>

¹⁹ The US Dollar amount is calculated based on the exchange rate at the time each award was received.

²⁰ <http://www.icheic.org>

National Association of Insurance Commissioners in cooperation with several European insurance companies, European regulators, representatives of several Jewish organizations, and the State of Israel. ICHEIC was charged with establishing a just process that would expeditiously address the issue of unpaid insurance policies issued to victims of the Holocaust. With the launch of ICHEIC's claims process in February 2000, the HCPO stopped taking new insurance claims, referring claimants to ICHEIC instead.

The HCPO submitted claims of 2,113 individuals to ICHEIC before the December 31, 2003 filing deadline. Offers extended to HCPO claimants through the ICHEIC processes amount to \$22,058,716. In addition, ICHEIC issued humanitarian awards to claimants who filed claims that had only anecdotal information, did not name a specific insurance company, and for which no additional documentation could be found; 1,565 HCPO claimants received such awards, for a total of \$1,745,000²¹.

After transferring insurance claims to ICHEIC's London Office, the HCPO took on more of a monitoring role; however, monitoring thousands of claims through a complex process is a labor-intensive task. The HCPO worked very closely with the ICHEIC staff, participating in working groups providing critical assistance in this process and ensuring that claimants' concerns were adequately addressed.

In addition, the HCPO Director represented the US regulators on ICHEIC's Executive Monitoring Committee. In this capacity, the HCPO Director, at the request of the ICHEIC Chairman, participated in a review of ICHEIC's decision verification system, as well as the member companies' claims matching work. This review resulted in a number of recommendations for improvements, which were implemented by ICHEIC.

At ICHEIC's request, the HCPO assisted with reviewing claims eligible for payments from the humanitarian fund in connection with claims for insurance policies issued by European insurance companies that were either nationalized or liquidated after the Second World War and for which there are no present day successors. In order to facilitate this process, the HCPO invited a team of ICHEIC staffers to work side-by-side with HCPO staff in New York. After the review of approximately 8,000 claims and several payment tranches, the on-site ICHEIC team completed its task in June 2006 and has since disbanded.

On March 20, 2007 ICHEIC held its final meeting in Washington, DC at which time ICHEIC Commissioners adopted a resolution to dissolve ICHEIC on March 30, 2007. Subsequently, the NAIC International Holocaust Commission Task Force held its final conference call on March 26, 2007 and has also disbanded. During its seven years of operation, a total of \$306.24 million was offered or awarded to

²¹ Claimants and secondary claimants were eligible to receive the \$1,000 payment; hence the total amount of 8a1 offers exceeds the \$1,000 per claimant ratio.

48,000 claimants as a result of the ICHEIC process.

As of December 2006, all timely filed claims received a final decision through the ICHEIC process and all appeals were settled by March 29, 2007. The HCPO has completed a full-scale review of all HCPO insurance claims to ensure that claims submitted through the ICHEIC process received decisions and that these decisions have been properly recorded in the HCPO's database. Since completion of this review the HCPO has begun identifying and preparing insurance claims for closure.

5.2 Austrian General Settlement Fund, Austria

The GSF Law of 2001 created the legal basis for dealing with the financial claims of Holocaust victims. The Austrian Insurance Association and its member companies passed a unanimous resolution in April 2001 to contribute \$25 million to the GSF. The GSF has assumed the task of processing the insurance claims of Holocaust victims and their heirs. As of the filing deadline of November 28, 2003, 364 HCPO claimants submitted applications to the GSF for adjudication. The HCPO continues to monitor these claims and conduct additional research. To date, 83 HCPO claimants have received decisions for unpaid insurance proceeds from the GSF totaling \$3,579,494.

5.3 Assicurazioni Generali S.p.A. Policy Information Center, Italy²²

Three class action suits were brought against Generali²³ alleging that: (a) Generali withheld the value and/or proceeds of insurance policies sold to the Holocaust era victims prior to and during the Holocaust era; and (b) after the Holocaust, Generali refused to pay on the policies, did not disclose the nature and scope of its unpaid policies, and refused to identify or disgorge the value or proceeds of such policies.

After more than nine years of litigations, the lawsuits were dismissed with prejudice by the Court on October 14, 2004, principally on the ground that the claims asserted in the class actions were preempted by a Federal Executive Branch policy favoring voluntary resolution of Holocaust era claims through ICHEIC, rather than through litigation. Plaintiffs appealed the Court's decision to the United States Court of Appeals for the Second Circuit. While that appeal was pending, Plaintiffs entered into the Settlement Agreement on August 25, 2006. The Settlement Agreement was finalized and approved by the court on February 27, 2007²⁴.

The deadline for submitting a claim was March 31, 2007; however, claims based

²² <http://www.nazierainsurancesettlement.com>

²³ *In re: Assicurazioni Generali S.p.A. Holocaust Insurance Litigation*, No 1374 filed in the United States District Court for the Southern District of New York

²⁴ The Court conducted a hearing on January 31, 2007 to consider the fairness of the Settlement to all class members. After oral arguments, the hearing was continued until February 27, 2007 to permit the parties to amend the Settlement in light of the potential opening of the Bad Arolsen Archive in Germany. Subsequently, the parties agreed to amend the Settlement Agreement to create an extended deadline for claims based on documents obtained from the Archive.

on documents obtained from the Bad Arolsen Archive may be submitted no later than 6 months after the opening of the archive but no later than June 30, 2008. If the archive is not opened by May 1, 2008, the deadline for submission is 60 days after the opening, but no later than August 31, 2008.

In early October a three-judge panel of the U.S. Court of Appeals for the Second Circuit in New York said that Generali had failed to adequately notify its policyholders of the settlement and thus denied them an opportunity to object to the terms. The court ordered Generali to individually mail notices of the settlement to "all class members whose names are known" by the insurers within 60 days and scheduled a new hearing on the fairness of the settlement for early January 2008.

To date, the HCPO has submitted 42 claims on behalf of 19 claimants to the Generali Policy Information Center for resolution.

5.4 The Generali Fund in Memory of the Generali Insured in East and Central Europe Who Perished in the Holocaust

At present there is no deadline for submitting a claim to the GTF and once the deadline has lapsed for filing claims with the PIC, we suspect that many claimants will turn to the GTF to address their claims. Approximately half a dozen HCPO claimants have claims filed outside of the ICHEIC process still pending with the GTF. To date, HCPO claimants who submitted claims to the GTF for settlement have received offers totaling \$18,969.

5.5 Holocaust Foundation for Individual Insurance Claims, The Netherlands

The Sjoa Foundation was established on November 9, 1999 to assess claims for insurance policies taken out with companies that are members of the Verbond van Verzekeraars (Dutch Association of Insurers) and where the insured was a victim of Nazi persecution. As a result of an investigation of the insurance companies' archives, a list of nearly 3,400 unpaid life insurance policies was published. Claims can be filed with the Foundation until December 31, 2009. To date HCPO claimants who submitted claims to the Sjoa Foundation for settlement have received offers totaling \$20,863.

5.6 Claims Filed Directly with Insurance Companies

Prior to the establishment of ICHEIC, the HCPO submitted claims for unpaid life insurance policies directly to the issuing insurance company or its present day successor²⁵. To date HCPO claimants who submitted claims directly to companies for settlement have received offers totaling \$565,399.

²⁵ Companies include: Assicurazioni Generali S.p.A., Prudential UK, Winterthur Leben, Migdal Insurance and Financial Holdings Ltd., Wiener Städtische, GAN Assurances Vie SA, Uniqa, Basler Leben, Signal Iduna, Gerling Lebensversicherung AG, Karlsruher Lebensversicherung AG, and DONAU Versicherung AG.

At ICHEIC's final meeting in March 2007, all ICHEIC member companies as well as over 70 companies in the German Insurance Association, through its partnership agreement with ICHEIC, reiterated their commitment to continue to review and process claims sent directly to them in accordance with ICHEIC's rules and guidelines. Since ICHEIC's closedown at the end of March 2007, the HCPO has once again resumed dealing with insurance companies directly to resolve outstanding claims. As of March 2007 the HCPO has submitted one claim directly to an insurance company for review.

5.7 Holocaust Insurance Accountability Act of 2007 (HR 1746)

On March 28, 2007, Representative Ileana Ros-Lehtinen of Florida introduced a bill to the US House of Representatives entitled the Holocaust Insurance Accountability Act of 2007. The bill was immediately referred to the House Committee on Financial Services, and to the Committees on Foreign Affairs and Oversight and Government Reform, for consideration as to such provisions that fall within the purview of the committee concerned.

The legislation requires insurance companies doing business in the United States to publicly disclose all Holocaust-era insurance policies through the Holocaust Insurance Registry, to be established under the bill, and allows Holocaust victims and their descendents to bring action in US courts to settle unresolved insurance claims.

On October 3, 2007 the House Committee on Foreign Affairs, Subcommittee on Europe chaired by Rep. Robert Wexler held a hearing entitled *America's Role in Addressing Outstanding Holocaust Issues* which primarily focused on this pending legislation. The Committee on Financial Services is scheduled to hold a hearing to discuss the Holocaust Insurance Accountability Act of 2007 during the first quarter of 2008. Former Vice-Chair of ICHEIC, Diane Koken, has been invited to present testimony at this hearing.

6. Overview of Art Claims

The HCPO has accepted 147 art claims (from 19 states and nine countries) referencing thousands of items, approximately 8,000 of these in sufficient detail to permit additional research. The office has closed the claims of 20 individuals, 127 individuals currently have open art claims. To date, the HCPO has assisted in securing the return of 18 works of art.

6.1 Recovered Works of Art

In 2007 the HCPO facilitated the recovery of four works of art: the *Portrait of Jan van Eversdyck* by Nicolas Neufchâtel and *Landscape with travelers on a track near a walled town with a castle and church, village beyond* by Jan de Vos I to the Estate of Dr. Max Stern; *Wooded Landscape with Herd Near a Pond* by J.S. van

Ruysdael to the heirs of Markus Meyer (Max) Rothstein; and *Drawing of Architecture or Interior of a Church* attributed to the school of Pieter Neeffs the Elder to the heirs of Dr. Arthur Feldmann. (See Appendix Figures 7-10).

On December 27, 2007, Chief Judge Mary M. Lisi of United States District Court for Rhode Island ordered²⁶ Maria-Luise Bissonnette to turn over *Mädchen aus den Sabiner Bergen* by Franz Xaver Winterhalter to representatives of the Estate of Dr. Max Stern, stating that Dr. Stern's "relinquishment of his property" was clearly "anything but voluntary." To the best of our knowledge, this is the first case regarding a forced sale in the US to be decided on the merits and declare that a forced sale (or sale under duress) due to Nazi persecution is akin to theft.

An increased willingness on the part of museums, archives, auction houses, and others to confront the issues surrounding Holocaust-era looted art coupled with the proliferation of online resources and greater accessibility to previously restricted materials has enabled the HCPO to locate and pursue the restitution of dozens of missing artworks. In light of these developments, the Office anticipates more settlements in the coming months.

6.2 Other Activities in the Area of Art Restitution

The HCPO participated in an exhibition focusing on the restitution of looted art presented by the Ben Uri Gallery: The London Jewish Museum of Art, which ran from September 16, 2007 to December 24, 2007. In September 2007, the Ben Uri Gallery launched the world tour of *Auktion 392: Reclaiming of the Galerie Stern Düsseldorf*²⁷. As an accompanying exhibition the Ben Uri Gallery invited the HCPO as well as several other major agencies involved with Holocaust-era art restitution to present a poster describing their history and function. (See Appendix Figure 8).

From October 24 to 26 2007, the Documentation Centre of Property Transfers of Culture Assets of WWII Victims²⁸ hosted the Third International Conference on Confiscated Works of Art entitled *Restitution of Confiscated Works of Art: A Wish or A Reality?* in Liberec, Czech Republic. The Director of the HCPO attended the conference and presented a paper²⁹ to the attendees, which included colleagues and peers from all key organizations working on matters of Holocaust restitution. The presentation illustrated the Office's methodology for handling claims from the HCPO's unique vantage point of being the only government agency in the United States, if not the world, to offer Holocaust survivors and their heirs assistance with a variety of multinational restitution processes. (See Appendix Figure 11).

²⁶ Vineberg v. Bissonnette, 2007 U.S. Dist. LEXIS 94509 (D.R.I. 2007)

²⁷ <http://www.auktion392.com>

²⁸ <http://www.centrum.usd.cas.cz>

²⁹ The Holocaust Claims Processing Office: A Decade of Unearthing the Missing Pieces

7. Other Activities

On September 6, 2007, the New York State Banking Department and The American Jewish Joint Distribution Committee (JDC) issued a joint press release to announce the transfer of two dormant Lithuanian Holocaust era bank accounts, previously held by Citigroup, to The Foundation for the Lithuanian Jewish Heritage (the "Foundation"), a non-profit institution based in Vilnius, Lithuania.

The HCPO was approached by Citigroup to assist with research and settlement options with regards to two Holocaust era dormant Lithuanian accounts. The HCPO established that the two dormant bank accounts were for a defunct Jewish cooperative bank in Lithuania. In turn, the HCPO facilitated a meeting with members of the Foundation and Citigroup which resulted in an agreement to transfer the balance of the account to the Foundation.

The funds are being held in escrow by the JDC until the Foundation is fully operational.

8. Holocaust Claims Processing Office Expenses in 2007

The HCPO has an approved full-time staff of nine, reduced from 12 due to budget cuts throughout the Department, and one Graduate Assistant; currently seven positions are filled. The total cost of operating the HCPO during 2007 was \$844,239, including personal service, fringe and indirect costs, and non-personal service expenditures, as follows.

	Calendar Year 2007		
	Banking Department	Suballocation from Insurance Department ³⁰	TOTAL
Personal Service	\$321,372	\$244,445	\$565,817
Fringe and Indirect Costs	\$162,596	\$108,398	\$270,994
Non-Personal Service	\$7,204	\$224	\$7,428
TOTAL	\$491,172	\$353,067	\$844,239

³⁰ Includes \$224 in travel costs reimbursed by Insurance Department.

Appendix

Section	Page
Figure 1 – Compensation Organizations and the HCPO	i
Figure 2 – International Geographic Distribution of HCPO Claimants	ii
Figure 3 – Domestic Geographic Distribution of HCPO Claimants	iii
Figure 4 – Total Offers Extended to HCPO Claimants To Date By Country	iv
Figure 5 – Bank Claims - Over \$70 Million Offered To Date	v
Figure 6 – Insurance Claims - Over \$26 Million Offered To Date	vi
Figure 7 – <i>Portrait of Jan van Eversdyck</i> by Nicolas Neufchâtel	vii
Figure 8 – <i>Wooded Landscape with Herd Near a Pond</i> by J.S. van Ruysdael	vii
Figure 9 – <i>Drawing of Architecture or Interior of a Church</i> attributed to the school of Pieter Neeffs the Elder	viii
Figure 10 – <i>Landscape with travelers on a track near a walled town with a castle and church, village beyond</i> by Jan de Vos II	viii
Figure 11 – HCPO Panel at the Ben Uri Gallery: The London Jewish Museum of Art	ix

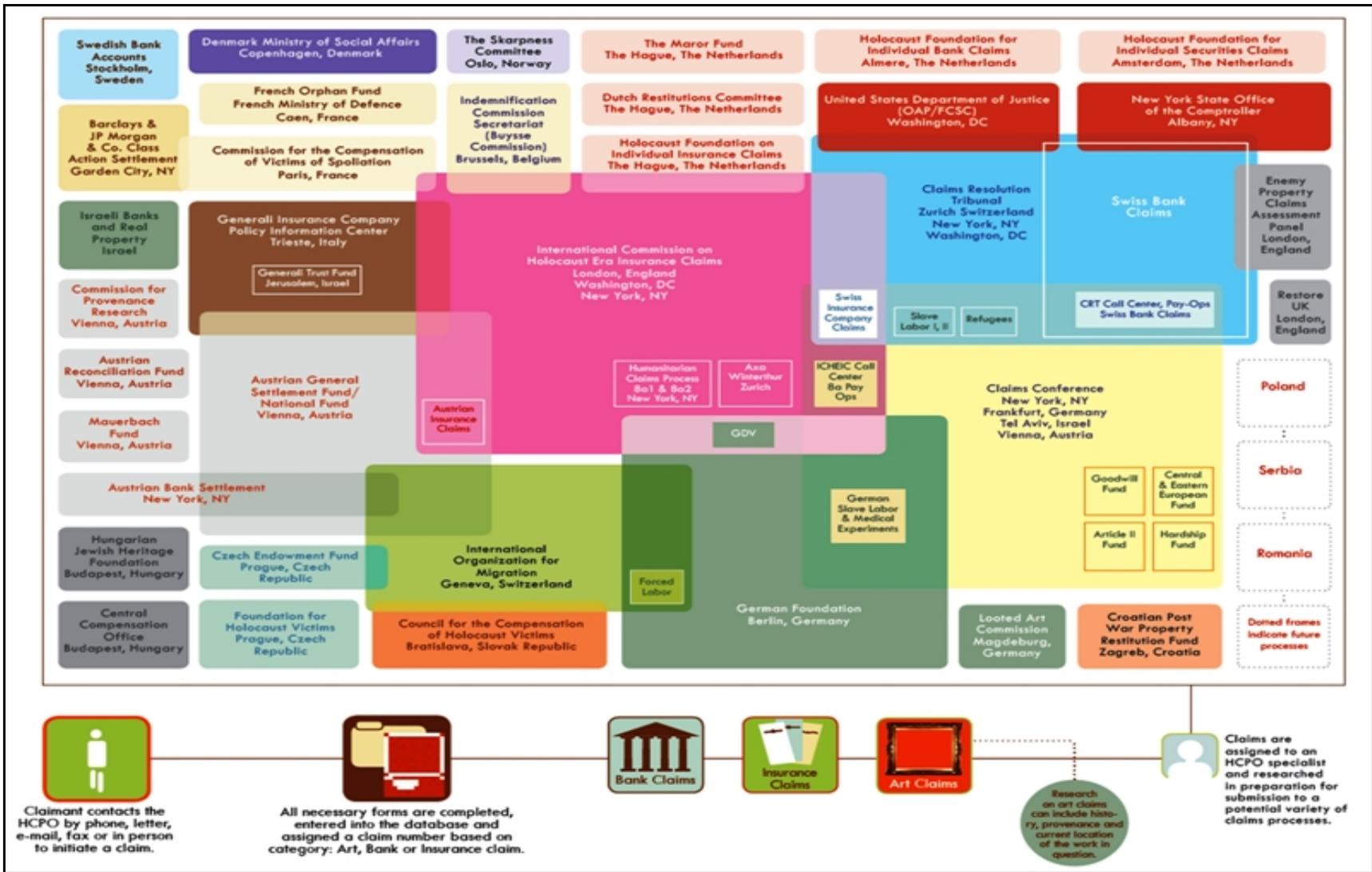


Figure 7 - Compensation Organizations and the HCPO

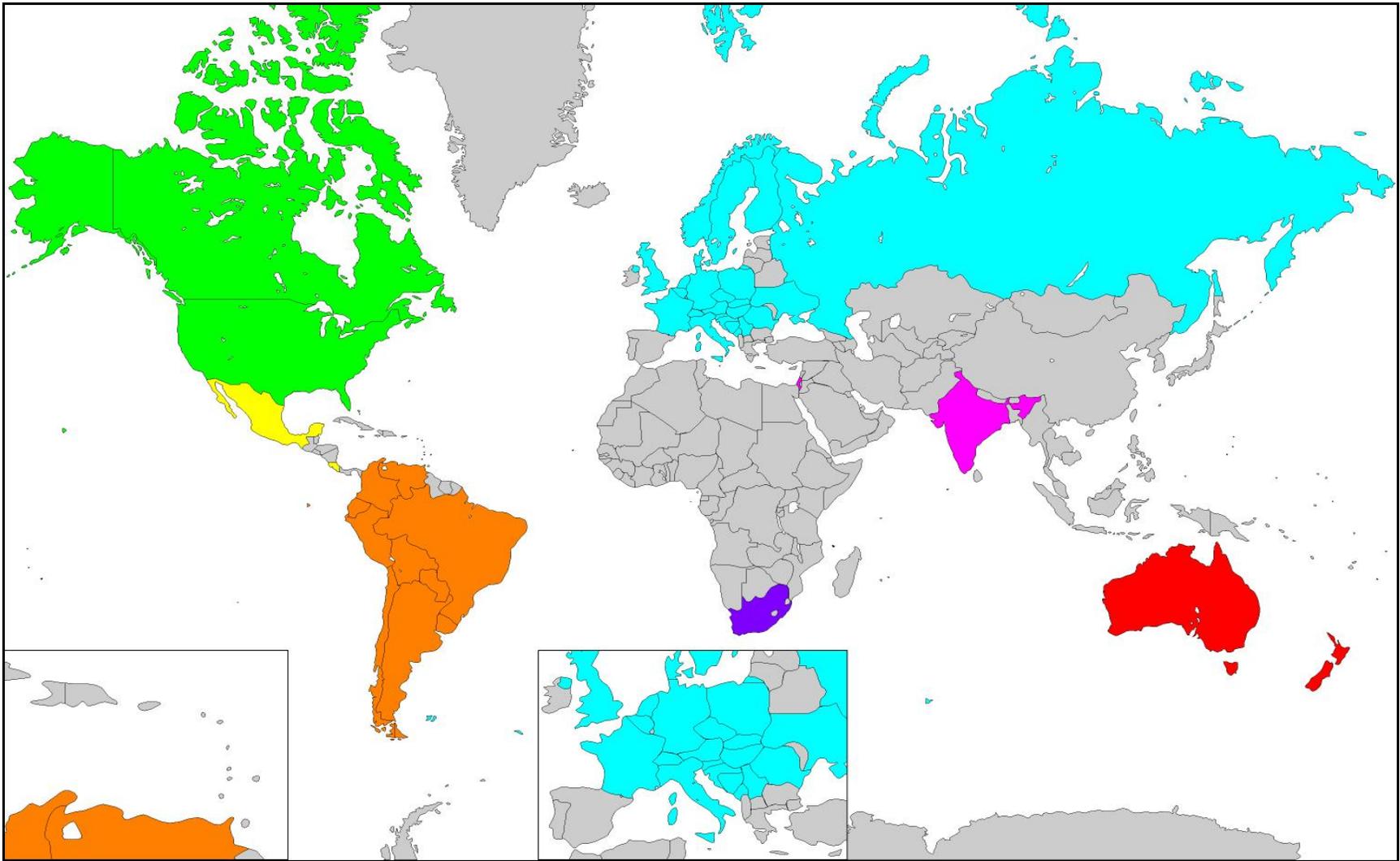


Figure 8 – International Geographic Distribution of HCPO Claimants
(Areas appearing in color represent countries where HCPO claimants reside.)

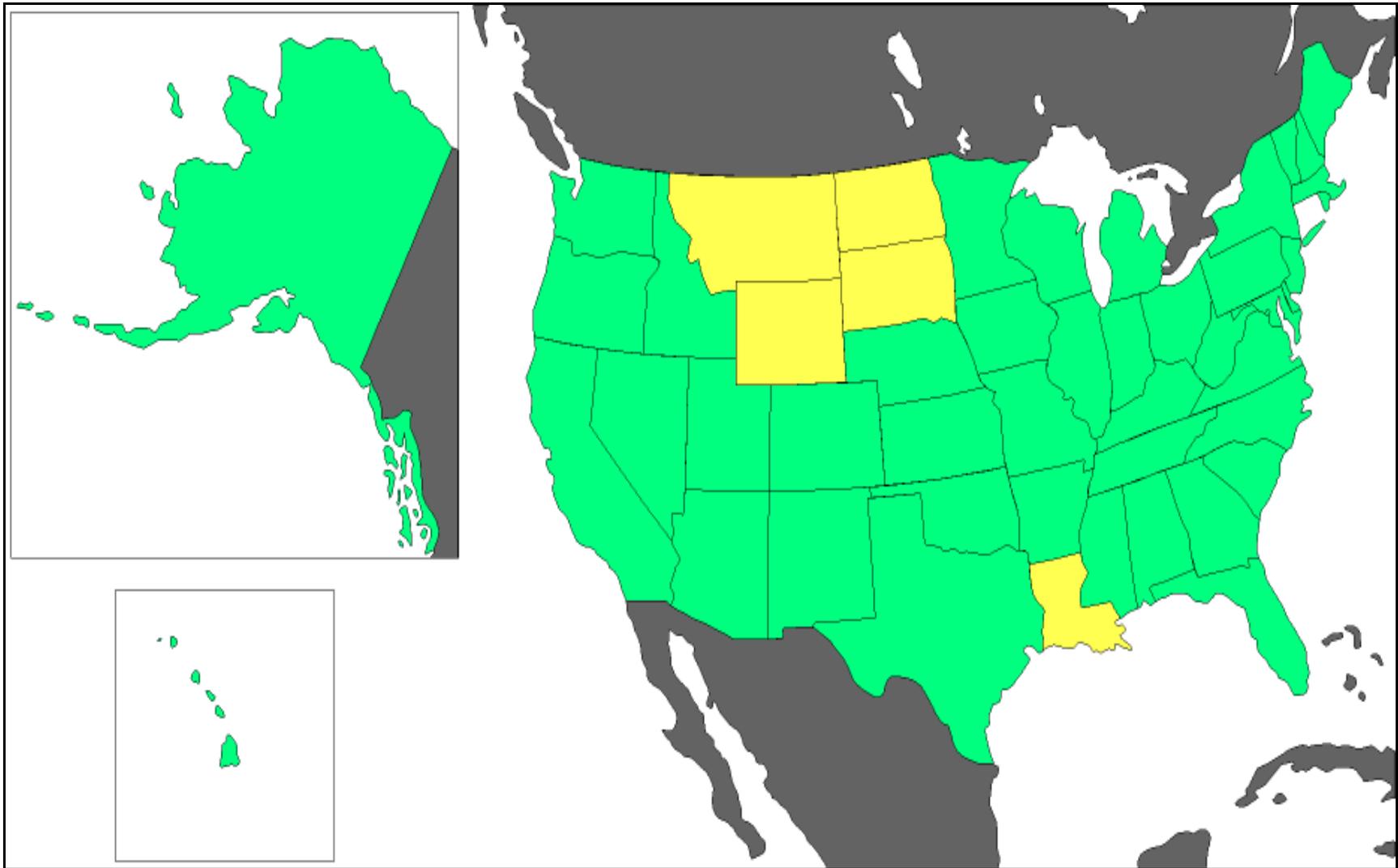


Figure 9 - Domestic Geographic Distribution of HCPO Claimants
(Areas shaded green represent states where HCPO claimants reside.)

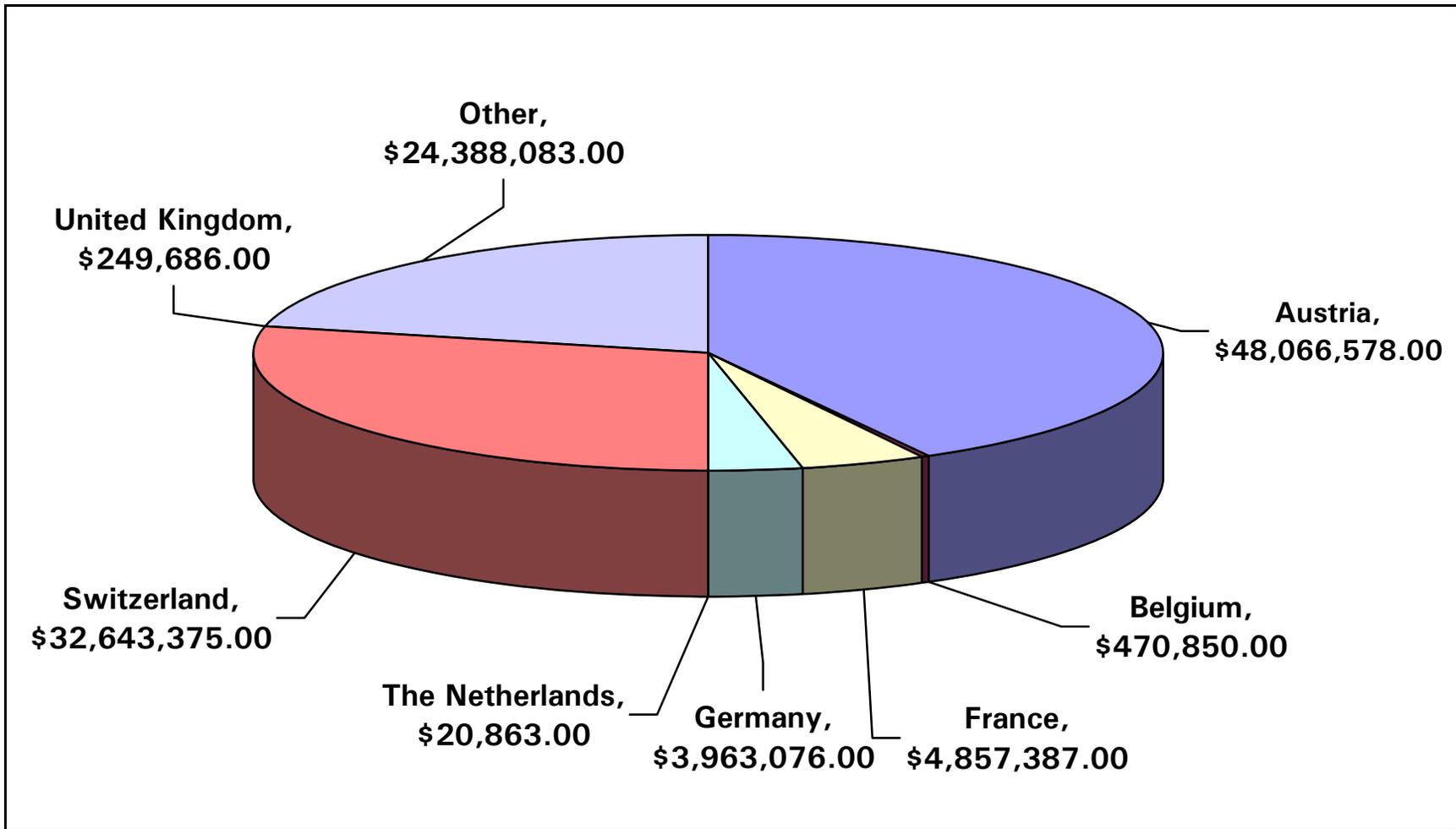


Figure 10 - Total Offers Extended to HCPO Claimants To Date By Country

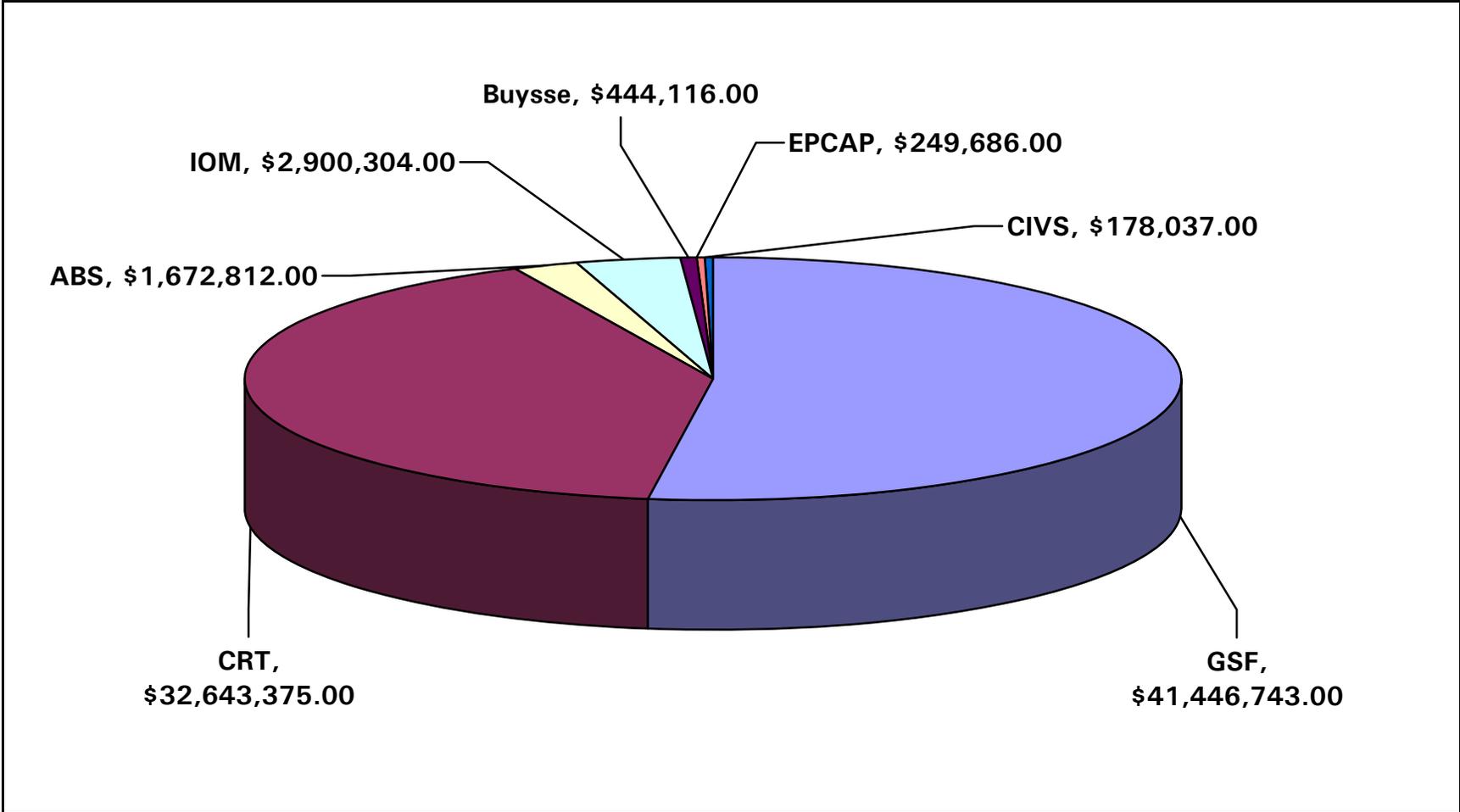


Figure 11 - Bank Claims - Over \$70 Million Offered To Date

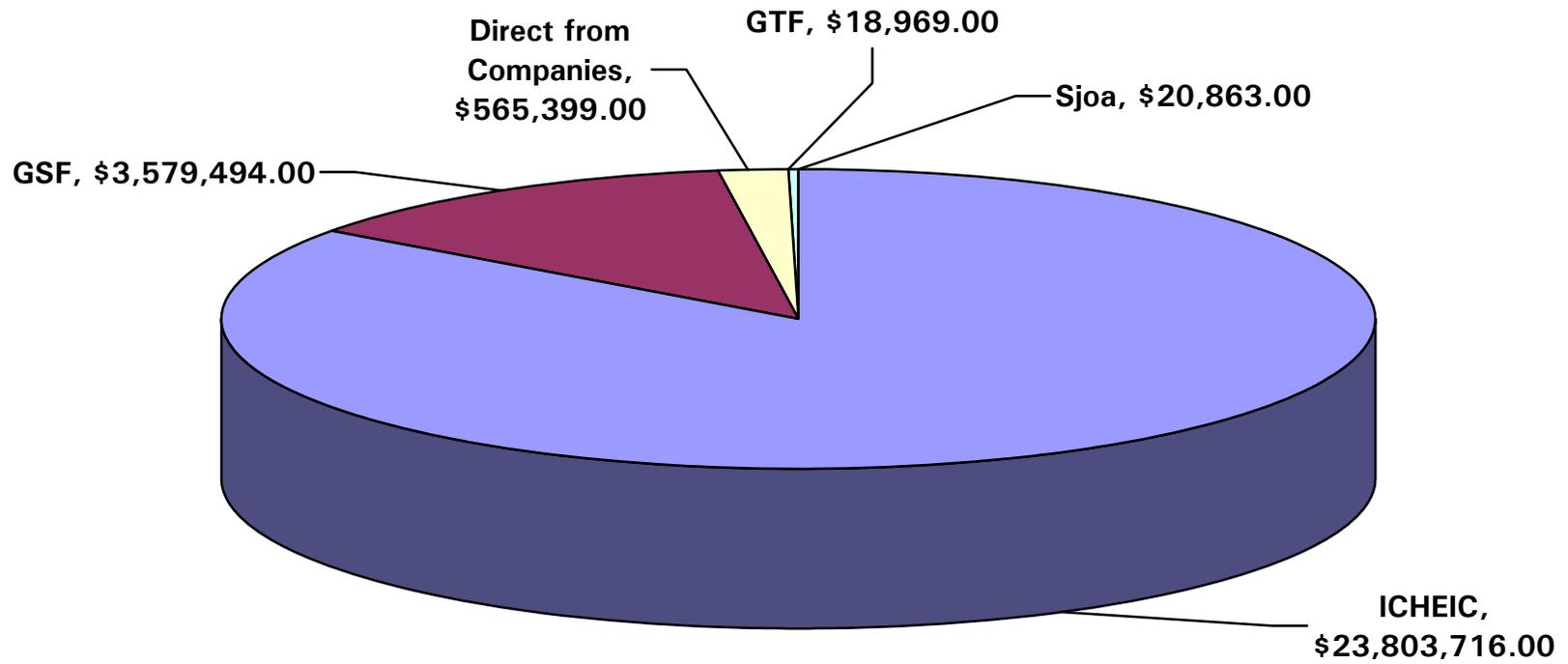


Figure 12 - Insurance Claims - Over \$26 Million Offered To Date



Figure 7 - *Portrait of Jan van Eversdyck* by Nicolas Neufchâtel



Figure 8 - *Wooded Landscape with Herd Near a Pond* by J.S. van Ruysdael



Figure 13 - *Drawing of Architecture or Interior of a Church* attributed to the school of Pieter Neeffs the Elder



Figure 14 - *Landscape with travelers on a track near a walled town with a castle, and church village beyond* by Jan de Vos II

Holocaust Claims Processing Office

For the past ten years the State of New York has played an integral role in helping individuals of all backgrounds obtain a measure of just resolution for the theft of property during the reign of the Nazi regime, 1933-1945.

The HCPO assists Holocaust survivors and their heirs with a variety of multinational restitution processes at no cost to claimants. As such the HCPO is able to pursue a claim regardless of the value of the asset(s) and successful resolution is not dependent on the item's recovery. Our primary objective has always been to resolve claims with sensitivity and as promptly as possible.

Since its inception the HCPO has responded to over 13,000 inquiries resulting in nearly 10,000 claims from 5,000 individuals from 45 US states and 38 countries. Of these, 127 individuals have presented art claims citing thousands of missing objects, including paintings, drawings and Judaica. To date, the combined total of offers extended to HCPO claimants for bank accounts, insurance policies, and other asset losses amounts to over \$100 million and has assisted in securing the return of 16 works of art.

The HCPO has worked directly and intimately with almost all restitution and compensation processes in existence today. Indeed it is fair to say that, at one point or another

since the late 1990s, nearly all roads to restitution and compensation have converged at the HCPO. As a result, the HCPO has close working relationships with archival and historical commissions, financial institutions, trade associations, and its colleagues in Federal, state and local governments all over the world.

Given the special group of people the HCPO serves, the staff has devoted a lot of time and energy to listening very carefully. Using unique investigative skills, research expertise, and their command of foreign languages, staff members corroborate this information with research in archives, libraries, and other resources.

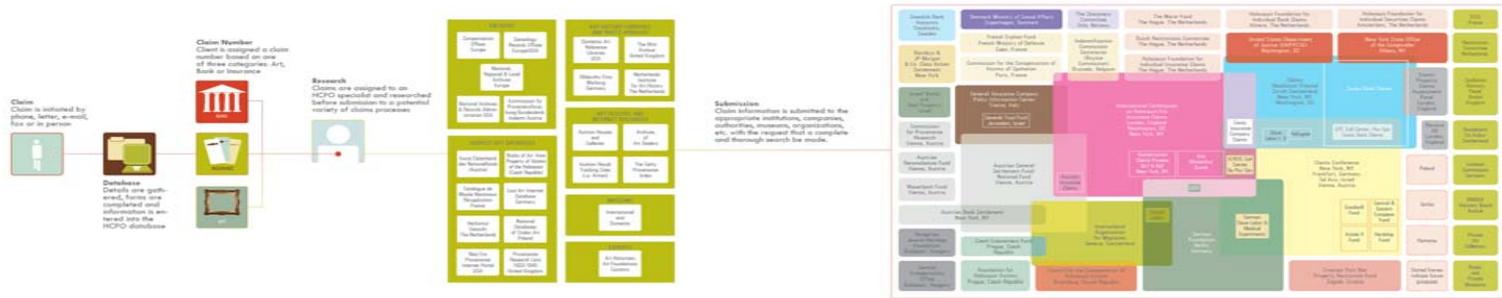
When property is located, the HCPO helps secure suitable documentation of ownership, submits the claim to the appropriate process or entity, and monitors its progress.

Unlike claims for financial assets such as bank accounts or insurance policies, claims for Holocaust-era looted art do not lend themselves to wholesale, centralized settlements. Instead, given the individualized nature of these cases, they must be painstakingly resolved on a painting-by-painting or object-by-object basis.

In negotiating restitution settlements, the HCPO presents current possessors with as much information and documen-

tion as possible. These materials include details about previous ownership of the missing artwork, persecution during the Nazi era, and of the looting of the artwork. We encourage all parties to seek resolution outside the courts as there are many reasons to avoid litigation. Instead, the HCPO facilitates cooperation between parties through open and amicable discussion. Our experience demonstrates that reasoned dialogue between parties can allow for mutually beneficial resolution of these disputes.

Over the last decade, the knowledge and expertise of the HCPO staff has alleviated burdens and costs often incurred when individuals pursue claims on their own.



selected highlights:

- 1996** NYSBD launches an investigation into the operations of Swiss banks in the New York State before and during WWII
- 1997** New York State launches an investigation into European insurance companies and their failure to compensate Holocaust victims and heirs
- 1998** Article 27 (Holocaust Victims Insurance Act of 1998) is added to the New York State Insurance Law
- 1999** "The Seamstress" by Lesser Ury is returned to Michael Lowenthal, grandson of Lewis Lowenthal
- 2000** "Madonna and Child in a Landscape" painted by Lucas Cranach the Elder (1472-1533) is returned to the great-nieces of its original owner
- 2001** "Secred Nude on Blue Cushion" by Karl Höfer and "Olewan" by Alexander Kanoldt are returned to the heirs of Dr. Ismar Uttermann
- 2004** Anselm Feuerbach's "Mädchenkopf" (1853) is returned to the heirs of Sigismund Fein
- 2005** HCPO publishes "Best Practices in Holocaust Era Claims Restitution"
- 2006** HCPO testifies before US House Subcommittee on Domestic and International Monetary Policy, Trade, and Technology hearing entitled "Review of the Repatriation of Holocaust Art Assets in the United States"
- 2006** The combined total of offers extended to HCPO claimants for bank accounts, insurance policies, and other asset losses amounts to over \$50 million
- 2007** The combined total of offers extended to HCPO claimants for bank accounts, insurance policies, and other asset losses amounts to over \$100 million
- 2007** To date The HCPO has secured the return of 16 works of art...

Artworks and Documents shown:

- "The Seamstress" by Lesser Ury
- "Madonna and Child in a Landscape" by Lucas Cranach the Elder
- "Secred Nude on Blue Cushion" by Karl Höfer
- "Olewan" by Alexander Kanoldt
- "Mädchenkopf" by Anselm Feuerbach
- "Almea, a Young Egyptian" by Emile Leconte-Vernet
- "Wooded Landscape with Herd Near Pond" by Jacob Salomon van Ruysdael

Figure 11 - HCPO Panel at the Ben Uri Gallery: The London Jewish Museum of Art