



# **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**

---

January 15, 2010

Richard H. Neiman  
Superintendent of Banks  
New York State Banking Department

## Table of Contents

<b>I. Background</b>	<b>4</b>
<b>II. Overview of Operations and Accomplishments</b>	<b>6</b>
A. Conferences, Panels and Symposia Regarding Holocaust-era Assets	
i. Prague Conference on Holocaust Era Assets	12
ii. "Unraveling the Past: Archival Resources and the Nazi Era"	12
<b>III. Summary of Holocaust-era Asset Restitution Processes and Developments</b>	<b>14</b>
A. Assicurazioni Generali S.p.A., Italy	14
i. The Generali Fund in Memory of the Generali Insured in East and Central Europe Who Perished in the Holocaust	16
B. Austrian Bank Settlement, Austria	17
C. Austrian the National Fund for Victims of National Socialism and General Settlement Fund, Austria	17
D. Claims Resolution Tribunal, Switzerland	19
E. Claims Filed Directly with Insurance Companies	21
F. Commission for the Compensation of Victims of Spoliation, France	22
G. The Company for Locating and Retrieving Assets of People Who were Killed in the Holocaust, Ltd., Israel	23
H. Enemy Property Claims Assessment Panel, United Kingdom	24
I. Foreign Claims Settlement Commission, United States	25
J. French Orphan Fund, France	25
K. The German Foundation and the International Organization for Migration, Germany	26
L. German Federal Office for Central Services and Unresolved Property Issues ("BADV"), Germany	27
i. Goodwill Fund	27
M. Holocaust Foundation for Individual Insurance Claims, The Netherlands	28

N. International Commission on Holocaust Era Insurance Claims	28
O. The Jewish Community Indemnification Commission, Belgium	30
i. Solidarité 3000	30
P. Nazi-Looted Art	
i. Collection of Dr. Max Stern	31
ii. Collections of Alfred Sommerguth	32
iii. Collection of Kommerzienrat Heinrich Morgenstern	33
iv. Collection of Dr. Arthur Felmann	34
v. Conferences, Panels and Symposia Regarding Nazi-era Looted Art	
a. Council of American Jewish Museums (CAJM)	35
b. US Department of State Town Hall Meeting To Review the Implementation of the Terezin Declaration Provisions Relating to the Restitution of Nazi-Confiscated Art	35
c. Hague Convention Conference	36
d. Second Annual Art Litigation and Dispute Resolution Symposium	36
Q. U.S. Congressional Activity	
i. Holocaust Insurance Accountability Act	36
ii. Resolutions Supporting the Goals and Objectives of the Prague Conference on Holocaust Era Assets	38
<b>IV. Holocaust Claims Processing Office Expenses in 2009</b>	<b>39</b>

## **I. Background**

For over 12 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. The processes for filing such claims, however, 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. 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 between 1933 and 1945.

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) and when applicable that the lost asset be restituted to the claimant. To ensure rigorous review of these inquiries, the HCPO maintains frequent contact with entities to which it submits claims. Staff members regularly update claimants on the status of their claims. Claimants 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.

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 the many claims they submitted and since each agency has unique and often complex guidelines, the HCPO helps claimants 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 process 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's experience has been that the knowledge and expertise of its staff alleviates 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. 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 and the HCPO has worked directly with almost all restitution and compensation processes in existence today. (See Figure 1).

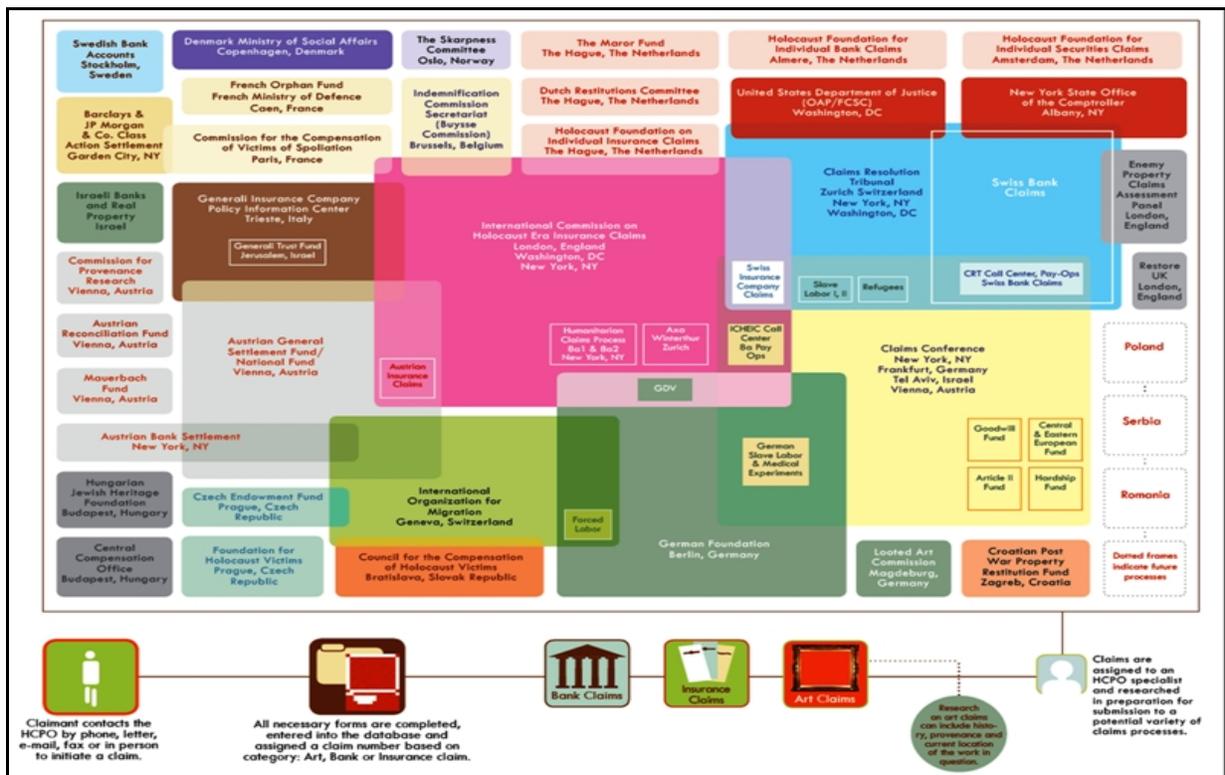


Figure 1 - Compensation Organizations and the HCPO

## II. Overview of Operations and Accomplishments

From its inception through December 2009, the HCPO has responded to more than 13,000 inquiries and received claims from 4,809 individuals from 45 states, the District of Columbia, and 38 countries. (See Figures 2 and 3).

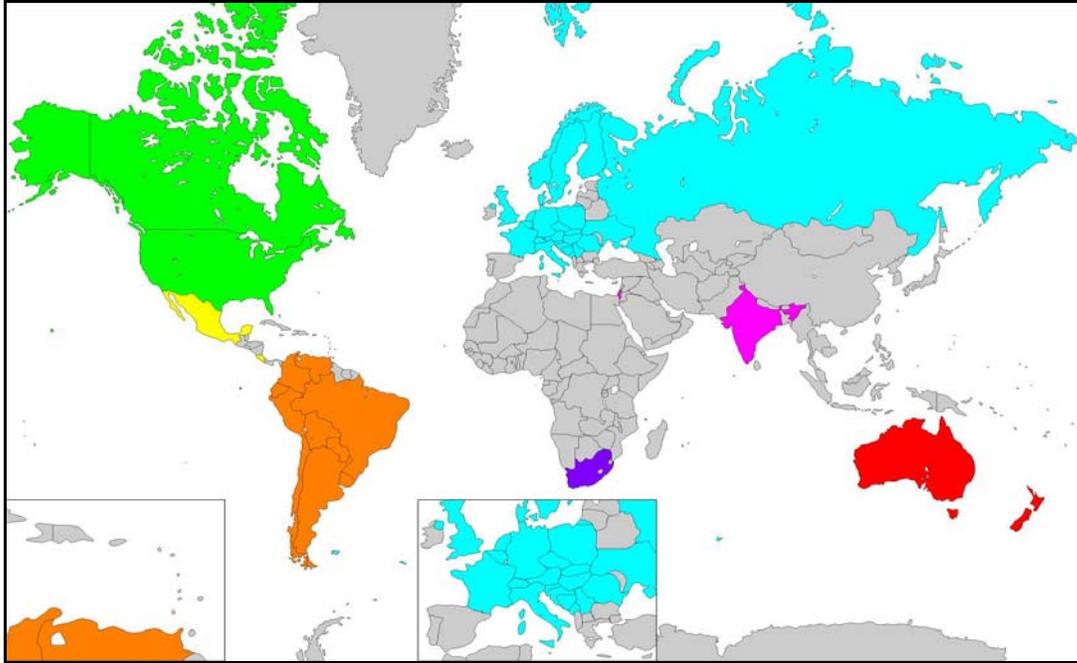


Figure 2 – International Geographic Distribution of HCPO Claimants  
(Areas appearing in color represent countries where HCPO claimants reside.)

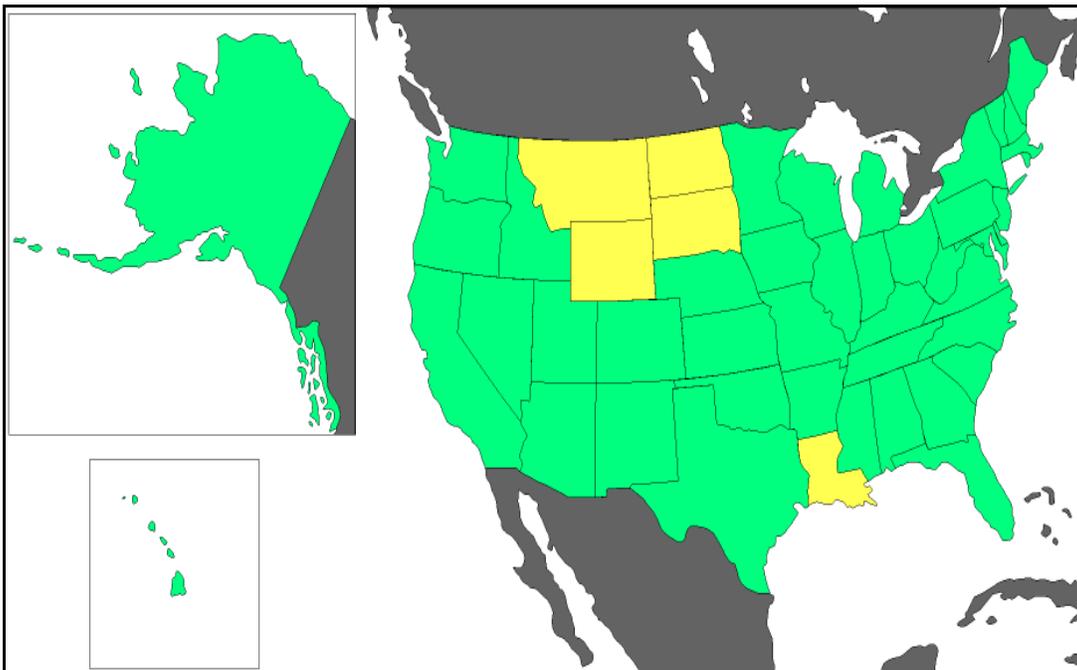


Figure 3 - Domestic Geographic Distribution of HCPO Claimants  
(Areas shaded green represent states where HCPO claimants reside.)

In total, the HCPO has successfully closed the cases of 1,725 individuals in which either an offer was accepted, the claims process to which the claim was submitted issued a final determination, 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 3,084 individuals remain open.

The combined total of offers extended to HCPO claimants for bank, insurance, and other asset losses amounts to \$153,030,991, this represents an increase in offers of \$16,983,326 from the previous year. (See Figure 4).

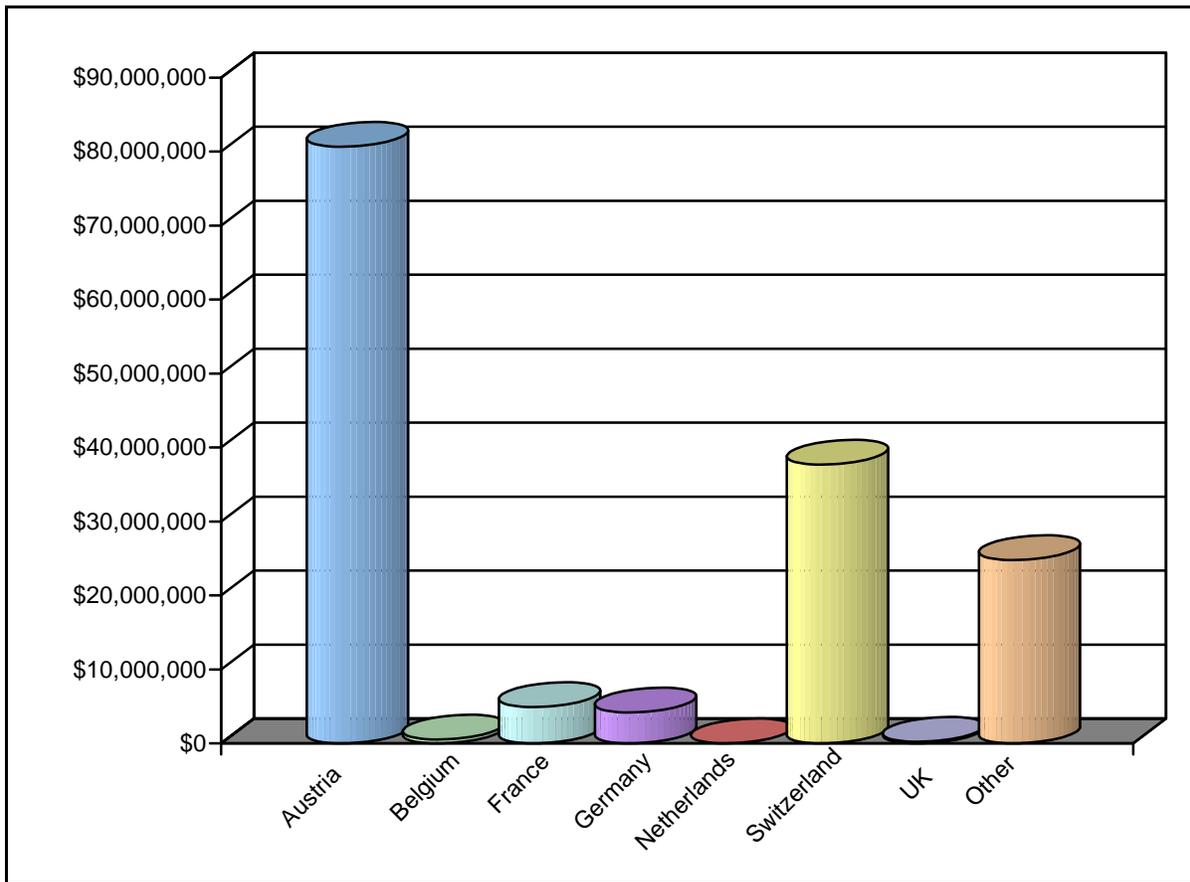


Figure 4 - Total Offers Extended to HCPO Claimants To Date By Country

Of the claims filed with the HCPO to date, 2,356 individuals (from 42 states, the District of Columbia, and 36 countries) submitted claims for assets deposited in banks referencing 3,699 individual account-holders. The HCPO has closed the claims of 453 individuals; 2,356 individuals currently have open bank claims which have been submitted to a number of parallel claims processes.

To date, offers extended to HCPO claimants seeking the return of bank assets total \$71,060,225<sup>1</sup>, this represents an increase in offers of \$5,379,300 from the previous year. (See Figure 5).

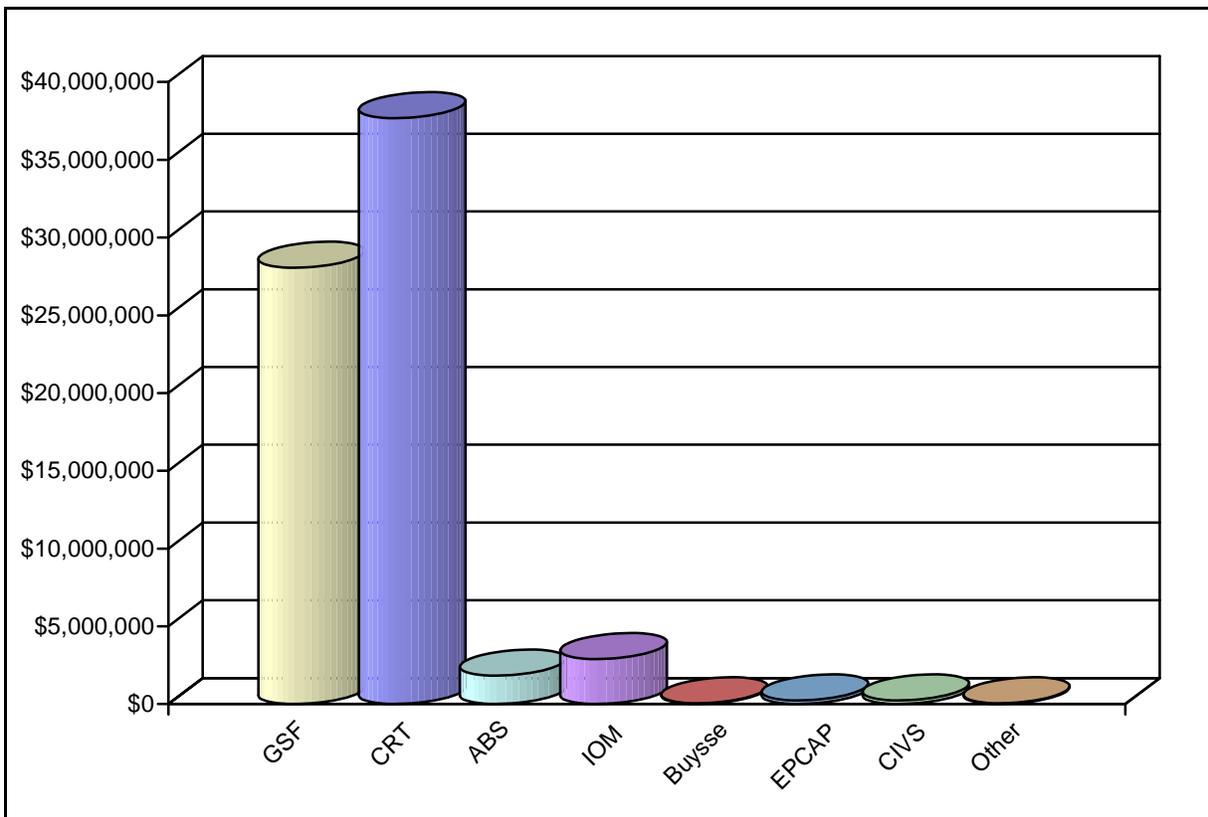


Figure 5 - Bank Claims

<sup>1</sup> This sum includes two dormant Lithuanian Holocaust era bank accounts, previously held by Citigroup, transferred to The Foundation for the Lithuanian Jewish Heritage.

Furthermore, 2,297 individuals (from 42 states, the District of Columbia, and 25 countries) submitted insurance claims referencing 3,427 individual policy-holders. The HCPO has closed the insurance claims of 1,246 individuals; 1,051 individuals currently have open insurance claims most of which are under review for imminent closure in light of the dissolution International Commission on Holocaust Era Insurance Claims. Claims for unpaid insurance policies have been submitted into a number of parallel claims processes for consideration.

To date, offers extended to HCPO claimants seeking the proceeds of insurance policies total \$31,476,724, this represents an increase in offers of \$1,180,087 from the previous year. (See Figure 6).

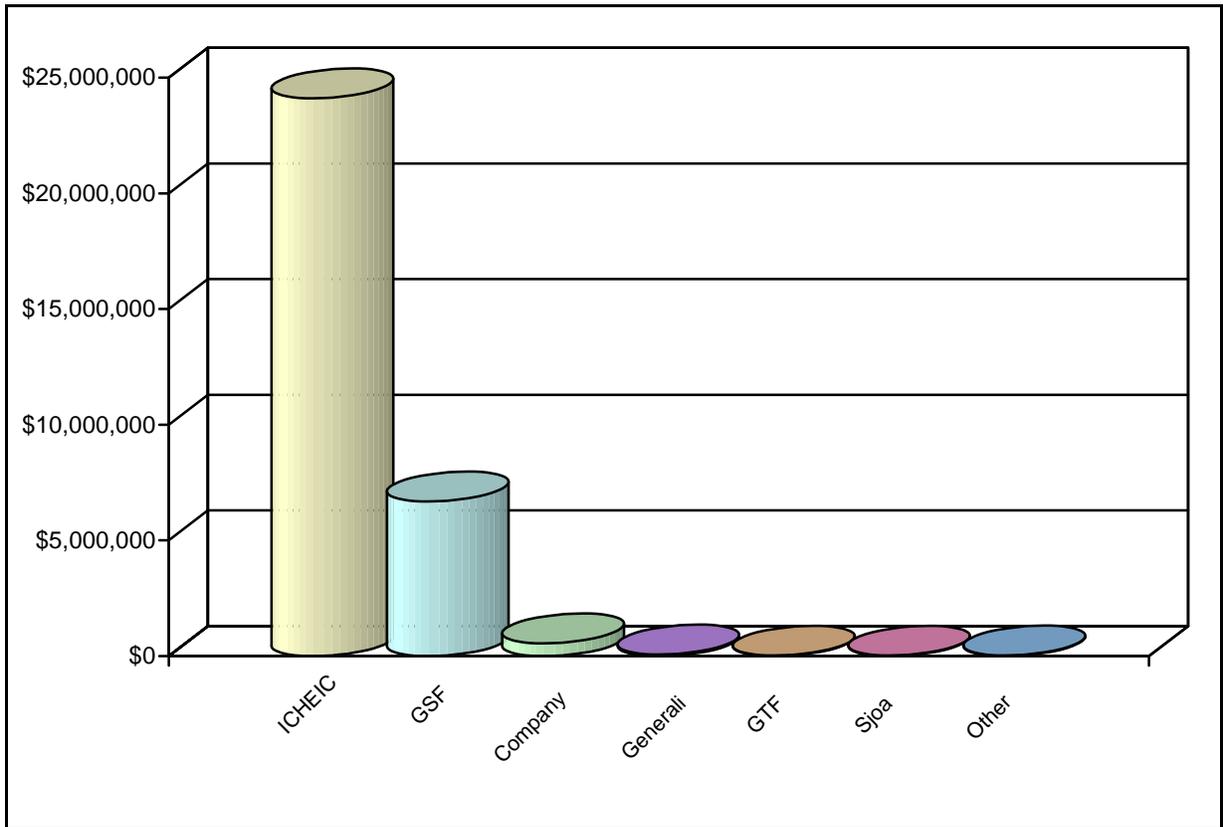


Figure 6 - Insurance Claims

The HCPO has accepted 156 art claims (from 19 states, the District of Columbia, and 11 countries) referencing thousands of items, approximately 8,000 of these in sufficient detail to permit additional research. The office has closed the claims of 26 individuals, 130 individuals currently have open art claims. To date, 42 cultural objects have been restituted to HCPO claimants. (See Figure 7).

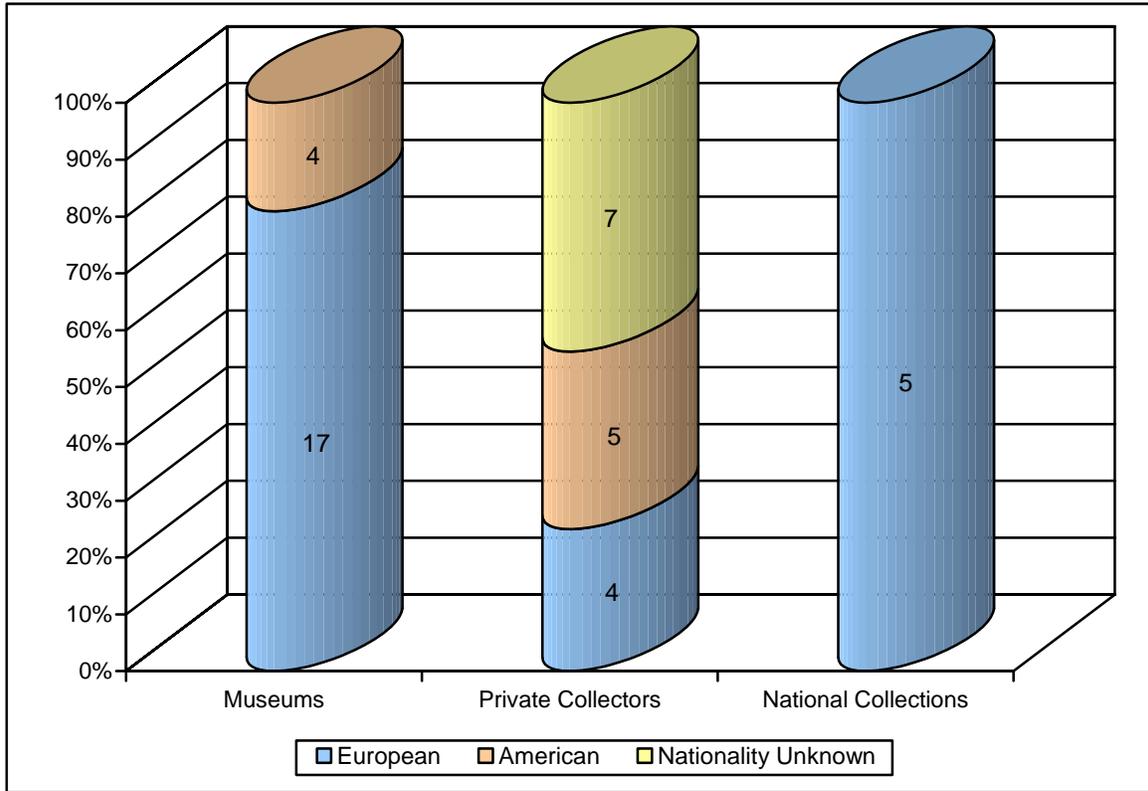


Figure 7 – Location of Objection at Time of Present-day Discovery

Several compensation agencies administering programs covering bank account and/or insurance policy losses also assess claims for material and/or other losses resulting from Nazi persecution. Of the 4,809 individuals who filed claims with the HCPO 615 of them were found eligible for compensation under material asset, real property loss or other schemes. To date, offers extended to HCPO claimants seeking other material losses total \$50,494,042, this represents an increase in offers of \$10,453,939 from the previous year. (See Figure 8).

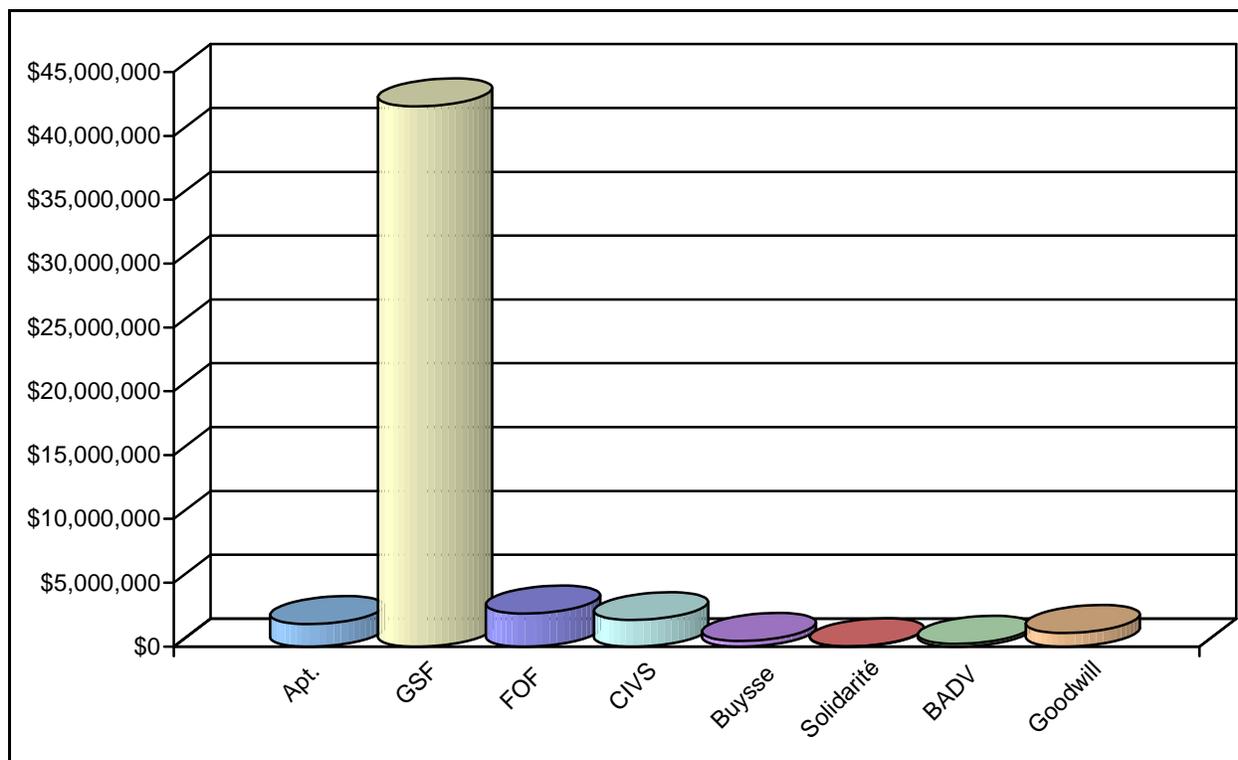


Figure 8 – Other Compensation Claims

The HCPO anticipates that claims will require monitoring through the end of 2010 and beyond given that: the claims processing entity for dormant bank accounts, securities, and other assets established by the government of Israel is still accepting and handling claims; members of Congress continue to express an interest in adopting legislation to address unresolved claims for Holocaust-era insurance policies; the United States Court of Appeals for the Second Circuit recently requested a statement from the new administration on the question of whether court adjudication of Holocaust-era insurance claims against the Italian insurance company *Assicurazioni Generali S.p.A.* conflicts with the foreign policy of the United States and the court has yet to issue a decision; Generali continues to review and process claims submitted under the settlement approved in the case of *In re: Assicurazioni Generali S.p.A. Holocaust Insurance Litigation*; and the Federal Government is considering established a US Art Commission to mediate claims regarding Holocaust-era looted art and the proposal currently in circulation requests that the HCPO assist with such a process. Ultimately, therefore, the time

required for submitting and processing claims is determined by circumstances beyond the HCPO's control.

## **A. Conferences, Panels and Symposia Regarding Holocaust-era Assets**

### **i. Prague Conference on Holocaust Era Assets, June 26-30, 2009**

On May 4-5, 2009, in preparation for the Holocaust Era Assets Conference, the Director of the HCPO attended Town Hall Meetings in Washington, D.C. organized by the State Department. She was thereafter appointed by Secretary of State Hillary Rodham Clinton to serve as an official member of the U.S. delegation to the conference, headed by Ambassador Stuart E. Eizenstat.

The objectives of the Conference were: to assess the progress made in the areas of the recovery of looted art, property restitution and financial compensation schemes<sup>2</sup>; to review current practices regarding provenance research and restitution and, where needed, define new effective instruments to improve these efforts; to review the impact of the Stockholm Declaration of 2000 on education, remembrance and research about the Holocaust; to strengthen the work of the Task Force on International Cooperation on Holocaust Education, Remembrance and Research; and to discuss new, innovative approaches in education, social programs and cultural initiatives related to the Holocaust and other National Socialist wrongs and to advance religious and ethnic tolerance in our societies and the world.

Representatives from 49 countries and nearly two dozen nongovernmental organizations participated in the Conference. On June 27, 2009, the Director of the HCPO presented a paper<sup>3</sup> which drew on the experience of the HCPO working with numerous international restitution organizations to suggest practices that could provide valuable guidelines with respect to filling provenance gaps.

On June 30, 2009, 46 countries approved the Terezin Declaration<sup>4</sup> which set forth a series of recommendations to advance the return property and artifacts confiscated by the Nazi regime.

### **ii. "Unraveling the Past: Archival Resources and the Nazi Era"**

The HCPO co-hosted the evening panel discussion "Unraveling the Past: Archival Resources and the Nazi Era" at the Austrian Cultural Forum in New York on October 22, 2009. The panel was an informal discussion about the contents and

---

<sup>2</sup> According to the Washington Principles endorsed on December 3, 1998 by 44 governments participating in the Washington Conference on Holocaust-Era Assets, as well as the Vilnius Forum Declaration endorsed on October 5, 2000 by 38 countries participating in the Vilnius International Forum on Holocaust-Era Looted Culture Assets.

<sup>3</sup> *Presumptions: Applying Lessons Learned from Compensation Programs*

<sup>4</sup> <http://www.holocausteraassets.eu/program/conference-proceedings/declarations/>

accessibility of various archival collections in Europe and the United States that contain critical records concerning the Second World War and its aftermath. Speakers included Dr. Diane Afoumado, Lead Researcher at the United States Holocaust Memorial Museum, Registry of Holocaust Survivors; Dr. Patricia K. Grimsted of the Harvard Ukrainian Research Institute (HURI) and the International Institute of Social History, Amsterdam, The Netherlands; Dr. Michael Kurtz, Assistant Archivist for Records Services at the US National Archives and Records Administration; Dr. Frank Mecklenburg, Director of Research and Chief Archivist at the Leo Baeck Institute; and Dr. Hubert Steiner an archivist from the Austrian State Archives.

### **III. Summary of Holocaust-era Asset Restitution Processes and Developments**

Please note that the processes described herein are not inclusive of all processes that the HCPO works with or that are currently handling or have handled HCPO claims but rather represent a sample comprised of the largest and most well known claims processes. In addition to the processes described below the HCPO works with a variety of partner organizations, law firms and other professionals to research and resolve claims for property lost during the Holocaust-era.

#### **A. Assicurazioni Generali S.p.A., Italy**

Three class action suits were brought in the United States District Court Southern District of New York (the "Court") against Assicurazioni Generali S.p.A.<sup>5</sup> ("Generali") alleging that: (a) Generali withheld the value and/or proceeds of insurance policies sold to Holocaust 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 litigation, the lawsuits were dismissed with prejudice by the Court on October 14, 2004, principally on the ground that the claims 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 ("Second Circuit"). While that appeal was pending, the parties entered into the Settlement Agreement on August 25, 2006 which was finalized and approved by the Court on February 27, 2007.

On October 2, 2007, the Second Circuit in New York vacated a prior order of the Court approving the Settlement Agreement and remanded the matter so that appropriate individual notice of the proposed settlement could be given to class members. Another fairness hearing was held on January 7, 2008 at which time the Court issued an order re-approving the settlement agreement. In June 2008 the Second Circuit affirmed the Court's approval of the settlement, and denied a motion for rehearing.

On August 1, 2008, the Second Circuit requested clarification from the Executive Branch on whether court adjudication of these Holocaust-era claims against Generali would conflict with the foreign policy of the United States. In response the DOJ submitted a brief to the Second Circuit noting that "[i]t has been and continues to be the foreign policy of the United States that the International Commission on Holocaust Era Insurance Claims (ICHEIC) should be regarded as the exclusive forum and remedy for claims within its purview. The fact that ICHEIC

---

<sup>5</sup> *In re: Assicurazioni Generali S.p.A. Holocaust Insurance Litigation* Docket No. 05-5602, et al. filed in the United States District Court for the Southern District of New York.

has now concluded its operations does not alter the foreign policy of the United States.”<sup>6</sup>

Plaintiffs-appellants filed a petition for *writ of certiorari* with the Supreme Court of the United States asking the Court to review the decision of the United States Court of Appeal for the Second Circuit. On February 23, 2009 the petition was denied.

On July 29, 2009, the Second Circuit inquired whether the current administration adheres to the position expressed by the DOJ’s letter brief of October 30, 2008. The DOJ submitted a supplemental letter brief in response on October 18, 2009. The supplemental brief affirms the position originally articulated in 2008. In addition, the brief quotes Amabassador Eizenstat’s statement from the *Opening Plenary Session Remarks at the Prague Holocaust Era Assets Conference*<sup>7</sup> which recommends that individuals who believe they are entitled to the proceeds of an unpaid Holocaust-era insurance policy apply to that company or the HCPO.

In response, on December 18, 2009, an *Amici Curiae* brief was filed on behalf of professors of constitutional law and foreign relations law of the United States in support of plaintiffs-appellants and a letter brief was submitted by plaintiffs-appellants’ attorney. The brief argues in support of plaintiffs-appellants seeking the reversal of a 2004 District Court decision preventing suits against the large Italian insurer accused of failing to honor Holocaust-era policies. The plaintiffs-appellants’ letter brief adds that any "voluntary" mechanism described by DOJ "is facially unacceptable as a legally exclusive, binding alternative to survivors' and heirs' state law rights. Whatever the process will entail, it does nothing more than create a new ICHEIC-style mechanism...."

The Second Circuit has yet to render a decision.

The deadline for submitting a claim to Generali’s Policy Information Center (“PIC”) in Trieste, Italy was December 31, 2007; however, the deadline for submitted claims based on documents obtained from ITS was extended to August 31, 2008. To date, the HCPO submitted 81 claims on behalf of 29 claimants to the PIC for resolution. Subsequently, one of those claimants opted out of the Settlement. Of the remaining 28 claimants, decisions have been made on 60 of their claims, with 21 claims remaining open. To date, the HCPO recorded six offers to three HCPO claimants in the amount of \$70,988. The valuation formula implemented under the Settlement Agreement uses the Consumer Price Index to determine the interest rates to be applied to the policies to reach present-day values.

---

<sup>6</sup> Letter Brief, *In re: Assicurazioni Generali S.p.A. Holocaust Insurance Litigation*, 2008 U.S. Dist. LEXIS 744 (S.D.N.Y. Jan. 7, 2008) (Nos. 05-5602, et al.).

<sup>7</sup> <http://www.state.gov/p/eur/rls/rm/2009/126158.htm>

ICHEIC used the US Treasury long bond rate to reach the 1999 base value for policies. However, because the long bond rate was set quite low during the early part of the 1990s, ICHEIC decided to fix the annual interest rates at 5% per year after 2003, regardless of the corresponding long bond rate. The change in the Consumer Price Index during the comparable period has been far lower than 5% (roughly around 1%), as the Federal Reserve has consistently cut rates to combat potential inflation. Therefore, offers made outside the settlement are nearly one-quarter less than a comparable ICHEIC offer.

It should be noted that Generali submitted a letter dated February 4, 2008, to the U.S. House of Representatives Committee on Financial Services, in which they indicated that they would continue to process claims submitted to them even after the Settlement filing deadline had lapsed. For those claims submitted after the Settlement filing deadline, Generali noted that ICHEIC valuation guidelines and relaxed standards of proof would be applied.

**i. The Generali Fund in Memory of the Generali Insured in East and Central Europe Who Perished in the Holocaust**

In June 1997, Generali announced it would set up a \$12 million in memory of those insured by Generali in East and Central Europe who perished in the Holocaust. The fund, The Generali Fund in Memory of the Generali Insured in East and Central Europe Who Perished in the Holocaust ("GTF" or Generali Trust Fund), was established shortly thereafter. The GTF was set up in Israel to provide support to organizations dedicated to preserving the memory of the Holocaust; assist Holocaust victims and their families; and make "ex gratia" payments to beneficiaries and heirs of Generali insurance policies issued in Europe.

For nearly 10 years, individuals were able to submit claims for insurance policies directly to the GTF. In addition, the GTF carried out processing of Generali claims submitted through the International Commission on Holocaust Era Insurance Claims ("ICHEIC") between April 2001 and November 2004. ICHEIC terminated this agreement effective November 30, 2004. Thereafter, claims were handled by Generali itself.

As of the approval of the Settlement Agreement it is no longer possible to submit a claim to the GTF and all claims are filed directly with the PIC. Two 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.

## **B. 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 97 offers for a total of \$1,841,425. The average bank award value is \$21,148, with the largest award being \$182,250 and the smallest \$151. 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. According to the claims processors, compensation to qualified deposited asset claims was based on a formula that provided a limited upward adjustment from the 1938 value of the account(s). The settlement was not large enough to allow full payment of interest or present-day value. Each claimant with an eligible claim was to be paid a minimum of \$5,000.

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.

## **C. Austrian National Fund for Victims of National Socialism and the General Settlement Fund, Austria**

The Austrian National Fund for Victims of National Socialism ("National Fund") was established by the Austrian parliament in 1995 to make amends to persons persecuted by the Nazis in Austria<sup>8</sup>. In accordance with the Washington

---

<sup>8</sup> All Austrian survivors of Nazi persecution are awarded a symbolic payment of €5,087.

Agreement<sup>9</sup>, a total of \$150 million was made available to the National Fund to compensate individuals for apartments and small business leases, household property and personal valuables and effects. Compensation was offered in the form of \$7,000 lump-sum payments. After processing 23,000 applications, the remaining funds were distributed to claimants as second payments of €1,000. Total amount secured for HCPO claimants to date is at least \$1,505,000 through the initial process and \$266,328<sup>10</sup> in secondary payments.

The Washington Agreement also called for the creation of a compensation scheme that would acknowledge Austria's moral responsibility for the property losses that the victims of the Nazi regime suffered, hence the establishment of the General Settlement Fund ("GSF"), which the National Fund oversees. The Austrian federal law creating the GSF went into effect on May 28, 2001. The GSF was endowed with \$210 million, \$25 million<sup>11</sup> of which was earmarked for insurance policies. The GSF accepted applications for losses in the following categories: liquidated businesses, real property, capital assets (bank accounts, stocks, bonds and mortgages), movable property, insurance policies<sup>12</sup>, occupational or educational losses, and any other losses or damages.

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 promised \$210 million and began making advance payments. 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. As of July 8, 2009, the GSF began issuing final payments. The overall allocation allows for payments equal to 10.56% of the offer extended through the claims-based process, 20.74% for any insurance policies and 17.16% for decisions extended under the equity-based process<sup>13</sup>. All awards are subject to a pro rata reduction, given that the funds available are not sufficient for all successful claims.

---

<sup>9</sup> 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 on January 17, 2001.

<sup>10</sup> Currency exchange rate as of September 30, 2004, as this is when the second payment of €1,000 was announced.

<sup>11</sup> The Austrian Insurance Association and its member companies passed a unanimous resolution in April 2001 to contribute \$25 million to the GSF.

<sup>12</sup> Pursuant to an agreement between ICHEIC and the GSF, ICHEIC transferred all claims for Austrian insurance policies, which fell under the GSF's purview, to the GSF for evaluation and settlement.

<sup>13</sup> When an individual has already received an advance payment, their final payment will equal 0.56% for offers extended through the claims-based process, 5.73% for any insurance policies and 2.16% for decisions extended under the equity-based process.

The GSF Claims Committee reviews all applications using relaxed standards of proof and employs two types of procedures, the claims-based process and the equity-based process. The amount of evidence available determines which process is applied. Claims decided under the claim-based process are subject to appeal whereas decisions rendered under the equity-based process are not.

As of the filing deadline of November 28, 2003, 375 HCPO claimants submitted applications to the GSF for compensation for a variety of asset losses. The HCPO continues to monitor these claims and conduct additional research. To date 200 HCPO claimants have received positive decisions from the GSF totaling \$28,060,689 for bank related assets. The average value of awards made for bank assets is \$150,228, with the largest total award being \$2,310,490 and the smallest \$98. Through the GSF's material loss claims process, 293 HCPO claimants have received positive decisions totaling \$42,315,263. The GSF has also issued decisions to 160 HCPO claimants for unpaid insurance policies totaling \$6,678,726. The average award value for insurance policies is \$20,936.45, with the largest being \$280,699.06 and the smallest \$39.

In cases where the value of the lost asset is known, the GSF Claims Committee calculates the award amount by converting the 1938 value of the property to the May 2003 US Dollar value. This, in principle, yields a value of 1 Reichsmark (RM) to \$4.91. In the event that no information is available regarding the 1938 value of the lost property, the Claims Committee awards lump sums based on the average comparable historic values. For the valuation of insurance policies the GSF applies *mutatis mutandis*<sup>14</sup>, the rules of ICHEIC. Insurance claims are subject to the same pro rata reduction guidelines as with other assets. Based on the awards reviewed by the HCPO, we have not been able to ascertain how the GSF values insurance policies.

#### **D. Claims Resolution Tribunal, Switzerland**

On February 5, 2001, a claims process was established as a result of the Settlement Agreement in the Holocaust Victim Assets Class Action Litigation in the U.S. District Court for the Eastern District of New York. In accordance with the Settlement Agreement, \$1.25 billion was paid to settle claims by members of five represented classes: the Deposited Assets Class, the Looted Assets Class, the Refugee Class, and two Slave Labor Classes. Of the \$1.25 billion settlement, up to \$800 million was set aside for awards to Deposited Assets class members.

The claims process was created to provide Nazi victims or their heirs with an opportunity to make claims to assets deposited in Swiss banks in the period before

---

<sup>14</sup> "With the necessary changes in points of detail, meaning that matters or things are generally the same, but to be altered when necessary, as to names, offices, and the like. *Housman v. Waterhouse*, 191 App.Div. 850, 182 N.Y.S. 249, 251." ("Mutatis Mutandis." Black's Law Dictionary With Pronunciations. 6th ed. 1990. 1019).

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 ("ICEP") 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, approved the release of Plausible Undocumented Awards ("PUAs") 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.

On November 12, 2009 and November 18, 2009, Chief Judge Edward Korman, adopted the recommendation that in cases in which six or more claimants or groups of claimants plausibly have identified the account owner, rather than dividing the account on a pro rata basis, the claims instead are considered for PUAs, and as such are reviewed in accordance with the criteria established for the issuance of a PUA.

As of the July 13, 2005 filing deadline, 1,820 HCPO claimants submitted claims to the CRT for resolution. To date, the CRT has offered 3,109 settlements on published accounts and the total number of PUAs approved to date is 12,567 less 268 full and partial deductions<sup>15</sup>. Of the awards based on documentary evidence, 216 are to 182 HCPO claimants for a total of \$33,515,019 and 831 HCPO claimants have received PUAs for a total of \$4,155,000; the combined total of all CRT awards to HCPO claimants to date is \$37,670,019. To date, the average

---

<sup>15</sup> Full and partial deductions are made based upon payments made to documented awards.

award value is \$140,819, with the largest total award being \$2,397,544 and the smallest \$122.

The CRT applies relaxed standards of proof when assessing claims and bases the amount of the award upon the historic value of the account, adjusted for fees and interest. If the value of the account cannot be determined by the bank records than an average value of a similar account during that period is applied. In addition, if the known amount of the account is less than the presumed average value of an account during the time period then the average value is applied. As of August 25, 2003, all account values are multiplied by a standard factor of 12.5 to adjust them to current values.

In the event a claimant passes away before receiving payment, the claimant's legal successors are entitled to receive the award. In order to obtain payment, the claimant's legal successors must establish an estate account.

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.

#### **E. Claims Filed Directly with Insurance Companies**

Prior to the establishment of International Commission on Holocaust Era Insurance Claims ("ICHEIC"), the HCPO submitted claims for unpaid life insurance policies directly to the issuing insurance company or its present-day successor<sup>16</sup>. To date HCPO claimants who submitted claims directly to companies for settlement have received offers totaling \$550,178.

At ICHEIC's final meeting in March 2007, all ICHEIC member companies as well as over 70 companies in the German Insurance Association ("GDV" or Gesamtverband der Deutschen Versicherungswirtschaft), 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 relaxed standards of proof.

---

<sup>16</sup> 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.

Moreover, in a letter dated April 23, 2008, the GDV informed the U.S. Department of State that their member companies would not only continue to address claims that specifically mention a company but would also consider inquiries that do not list a particular company. In September 2008 the GDV resumed providing market-wide research and acting as a central coordination point for all insurance inquiries as they did under ICHEIC. The GDV member companies have also decided to report their processing results to the GDV on a regular basis. To promote transparency the GDV publishes these results on its website<sup>17</sup>.

Since ICHEIC's closedown at the end of March 2007, the HCPO resumed dealing with insurance companies directly to resolve outstanding claims. As of April 2007 the HCPO has received 46 inquiries and/or claims for Holocaust-era insurance policies. For most of these cases the insurance policies were either compensated through a postwar program; related to a former ICHEIC claim; related to a GSF claim; were otherwise ineligible for compensation (i.e., the policies in question were purchased from an Eastern European company which does not have a present-day successor to whom a claim can be filed); or were general inquiries regarding Holocaust-era insurance policies. Several of these inquiries are still in the process of being researched for possible compensation and/or the individual did not return the forms necessary to begin processing the claim.

The HCPO submitted eight new claims directly to the GDV; four of these claims have been rejected because no record of an unpaid policy was found. The other four are still pending investigation. The HCPO continues to work with the GDV on matters related to Holocaust-era insurance claims either in connection with newly filed claims or with respect to former ICHEIC cases.

#### **F. Commission for the Compensation of Victims of Spoliation, France**

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 (i.e., furniture, personal property, professional equipment) that resulted from anti-Semitic legislation enforced during the occupation by either German authorities or the Vichy Government.

On January 18, 2001, the Governments of France and the United States signed the Washington Agreement which regulated bank-related compensation. Up until February 2, 2005, claimants for whom no documentation of a bank account was found were permitted to submit an affidavit declaring that a bank account was owned during the relevant period. It is still possible to submit a claim for bank-related spoliations, but compensation will be paid only on accounts/safe deposit boxes that are identified in the archives and were never compensated or restituted after the war.

---

<sup>17</sup> <https://secure.gdv.de/entschaedigung/>

The HCPO continues to submit applications to CIVS for bank-related losses, as well as material spoliation. There is currently no deadline for submitting a claim to CIVS. To date, 74 HCPO claimants have submitted claims seeking the return of bank accounts in France. The HPCO is aware of decisions to 49 claimants resulting in \$239,037 in payments. The average award value for bank assets is \$4,371, with the largest being \$36,562 and the smallest \$1,500. In addition, 87 HCPO claimants have submitted claims for material losses and the HCPO is aware decisions to 66 claimants resulting in payments totaling \$2,072,494<sup>18</sup>.

Once CIVS recommends that compensation be paid for bank-related claims the banks are responsible for compensation payments. Two separate funds, totaling \$72,500,000 have been created and are financed by the banks which held on to accounts not returned after the war. The CIVS implements a valuation factor for bank-related spoliation which adjusts the rate of 1941 French Francs to Euros. This rate has been set at 0.317 for 2009.

In the event a claimant passes away before the claim is settled, his/her heirs must inform the CIVS so that they may take over the claim should they wish to do so.

#### **G. The Company for Locating and Retrieving Assets of People Who were Killed in the Holocaust, Ltd., Israel**

The Company for Location and Restitution of Holocaust Victims Assets Ltd. ("Hashava 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 16<sup>th</sup> 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<sup>19</sup> and other assets whose owners are presumed to have perished during the Holocaust.

The Hashava 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 Hashava 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.

---

<sup>18</sup> Currency exchange rate based on date of individual decisions. This amount includes \$45,000 issued to three claimants (\$15,000 award to each claimant), under the March 2006 provision of Washington Agreement, as direct survivors.

<sup>19</sup> The Parliamentary Inquiry Committee (the "Committee") audited the five 'Palestinian' banks (Bank Le`umi Leyisrael, Bank Hapo'alim, Bank Hamizrahi Hame`uhad, Mercantile Discount Bank, and Discount Bank Ltd.) that were active in Israel, then Mandate Palestine, prior to the Second World War.

In July 2007, the Hashava Company launched its website and their online searchable database currently contains over 55,000 assets in Israel, previously owned by 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. Applications continue to be accepted by the Hashava Company.

To date, 46 HCPO claimants submitted applications for 58 accounts to the Hashava Company for review. The HCPO continues to review claims for bank accounts and other assets to determine eligibility for submission. In addition, the HCPO assists the Hashava Company with locating claimants and heirs of Israeli assets to ensure all individuals receive the property to which they are entitled.

In June 2009 the Jerusalem Post reported that Hashava Company filed a lawsuit in Israel against Bank Leumi for approximately NIS 300 million in assets which the company stated belong to Holocaust victims and their heirs. The vast majority of bank accounts opened by Holocaust victims were in Leumi. Hashava Company stated it found about 300 other accounts opened by Holocaust victims before the war in four other Israeli banks, with deposits totaling NIS 28 million.

In its three-year existence, the company located about NIS 700 million in Holocaust victims' assets in Israel, including 524 parcels of real property and 26,000 shares in banks. To date the Hashava company has paid nearly NIS 240 million to heirs.

#### **H. Enemy Property Claims Assessment Panel, London**

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 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 31 claims filed by HCPO claimants for assets seized by the British government. To date 25

claims have been completed, for a total \$244,477<sup>20</sup>. The average award value for is \$16,298 with the largest being \$78,503 and the smallest \$349.

To calculate the compensation due EPCAP multiplies the value of property at the date of confiscation or liquidation by the rate of increase in the Retail Prices Index from confiscation/liquidation date to the payment date. Eligible claimants received 100% of their award.

#### **I. Foreign Claims Settlement Commission, United States**

In 1981 the Foreign Claims Settlement Commission ("FCSC") completed a program to determine the validity and amount of claims against the German Democratic Republic (GDR) for losses which arose from the nationalization or other taking by that government of property interests of nationals of the United States. When the program was authorized, no funds were available for payment of the awards issued by the Commission. The program was completed on May 16, 1981. The Department of State subsequently conducted negotiations with the German Democratic Republic--and, after unification, with the Federal Republic of Germany--to obtain a claims settlement to provide funds for the payment of awards. Those negotiations culminated in the signing of a settlement agreement on May 13, 1992.

The FCSC granted awards to 2,437 claimants and a settlement agreement, which provided funds for the payment of the awards, was concluded with the Federal Republic of Germany on May 13, 1992. The Department of the Treasury, Financial Management Service, began advising claimants on the status of the program on September 25, 1992.

Following the reunification of Germany, in September 1995, the United States and the Federal Republic of Germany also concluded an agreement to settle claims of individuals who, as United States nationals, suffered "loss of liberty or damage to body or health" through persecution by the German Nazi regime, as a result of confinement in concentration camps.

The FCSC through US Department of the Treasury continues to accept claims for German losses. To date, 1 HPCO claimant has received payment from the FCSC totaling \$821.

#### **J. French Minister of Defense**

On July 13, 2000 the French government passed Decree 200-657 creating a fund for child survivors who were orphaned as a result of the deportations of Jews from France carried out during the German occupation of France during World War II.

---

<sup>20</sup> Currency exchange rate based on date of individual decisions.

Applications are restricted to people who were under 21 at the time and who had one or both parents murdered as a consequence of deportation by the French collaborationist authorities. Eligible applicants receive either a one-time payment of approximately €27,440 or a monthly pension of approximately €468. There is no deadline for submitting an application to receive this pension

Payments are made through the offices of the Minister of Defense. To date, 53 claimants have received lump sum payments and 20 claimants are receiving monthly pensions. The combined total of all payments received by HCPO claimants under this program to date is \$2,589,511<sup>21</sup>.

#### **K. The German Foundation and the International Organization for Migration, Germany**

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.

Under the German Foundation Act the IOM received €102.3 million (\$95,906,250<sup>22</sup>), in equal parts from the German Government and German companies, to pay eligible claimants for property losses. Of the funds available to settle property loss claims, approximately €76 million was set aside for claimants for property loss who were persecuted by the Nazi regime for their race, political convictions, faith or ideology and approximately €25.5 million for property losses suffered by non-persecutees.

In assessing claims the Property Loss Claims Commission implemented relaxed standards of proof. The IOM received approximately 35,000 claims of which 10,653 received positive decisions. Decisions were issued on a rolling basis, however, payments were not completed until all claims and appeals were resolved. All awards were reduced based on a uniform percentage, given that the funds available for property claims were not sufficient for all successful claims. Claimants received 86.5% of the total award offered.

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

---

<sup>21</sup> Currency exchange rate based on date of individual decisions.

<sup>22</sup> The USD value is based on the exchange rate at the time the legislation was passed in Germany, July 14, 2000.

claimants; negative decisions were issued in 332 cases and 112 appeals were filed. 132 claims received positive decisions with an aggregate award amount of \$2,900,304<sup>23</sup>; in most cases, awards included compensation for non-bank assets. The average award value was \$21,972, the largest award was \$410,497 and the smallest \$14.

IOM valuation guidelines adopted a method of valuation which classified each compensable item within a grid of standardized amounts based on the nature and size of the property lost and the location of the property loss.

In the event a claimant passed away before receiving payment, the legal successor had six months from the date of death of the claimant to notify the IOM. Failure to notify the IOM within the requisite time frame resulted in forfeiture of the claim.

#### **L. German Federal Office for Central Services and Unresolved Property Issues, Germany**

In a joint declaration issued on June 15, 1990, the governments of the Federal Republic of Germany and the German Democratic Republic established basic parameters for settling unresolved property issues, and these parameters were subsequently included in the Unification Treaty of August 31, 1990 as the Act for the Settlement of Unresolved Property Issues ("Property Act").

The German Federal Office for Central Services and Unresolved Property Issues (Bundesamt für zentrale Dienste und offene Vermögensfragen or "BADV") was established on January 1, 2006 as a senior federal office operating under the aegis of the German Federal Finance Ministry. The BADV now combines the activities formerly handled by the Federal Office for the Settlement of Unresolved Property Issues ("BARoV") and the Service Centre of the Federal Office for Finances.

In the area of unresolved property issues the BADV administers proceedings relating to applications filed under the Property Act and the Law on Compensation for the Victims of National-Socialist Persecution for restitution of and compensation for property confiscated during the Nazi Period. The BADV is also involved with investigating the provenance of artworks, tracing the owners of land and/or buildings and accounts, and remittance of compensation.

To date, 3 HCPO claimants have received payment from the BADV totaling \$213,342<sup>24</sup>. Claimants receive 100% of the proceeds as well as interest.

##### **i. Goodwill Fund**

To enable former Jewish property owners and their heirs to receive compensation

---

<sup>23</sup> The US Dollar amount is calculated based on the exchange rate at the time each award was received.

<sup>24</sup> Currency exchange rate based on date of individual decisions.

after the BADV application filing deadline of 1992, the Conference on Jewish Material Claims Against Germany -- the successor to unclaimed Jewish properties under German law -- established the Goodwill Fund in 1994.

Through the Goodwill Fund, former owners and heirs could apply for the proceeds of properties. Claimants receive 80% of the net proceeds of the sales price minus all costs and charges incurred by the Goodwill Fund.

The deadline for submitting applications to the Goodwill Fund was March 31, 2004. To date, 7 HCPO claimants have received a total of \$1,060,758<sup>25</sup> through this program.

#### **M. Holocaust Foundation for Individual Insurance Claims, The Netherlands**

The Holocaust Foundation for Individual Insurance Claims ("Sjoa Foundation" or Stichting Individuele Verzekeringsafspraken Sjoa) 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. The Sjoa Foundation will continue to accept claims until December 31, 2009. To date HCPO claimants who submitted claims to the Sjoa Foundation have received offers totaling \$20,863<sup>26</sup>.

#### **N. International Commission on Holocaust Era Insurance Claims**

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 National Association of Insurance Commissioners ("NAIC") 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 2,115 individuals to ICHEIC before the December 31, 2003 filing deadline. Offers extended to HCPO claimants through the ICHEIC processes on specific policies amount to \$22,341,726<sup>27</sup>. In addition, 1,579 HCPO

---

<sup>25</sup> Currency exchange rate based on date of individual decisions.

<sup>26</sup> Currency exchange rate based on date of individual decisions.

<sup>27</sup> Currency exchange rate based on date of individual decisions as well as currency exchange rate as of March 31, 2007 in the case of several offers extended in Euro. This sum includes payment made for two Holocaust-era insurance policies issued by a government sponsored compensation scheme (Lastenausgleichsgesetz or "LAG").

claimants received awards, for a total of \$1,767,000<sup>28</sup> through ICHEIC's humanitarian claims process (8A1), which offered \$1,000 to claimants who had only anecdotal information, did not name a specific insurance company, and for which no additional documentation could be found. The combined total of all ICHEIC awards to HCPO claimants is \$24,108,726. The average ICHEIC award value for insurance policies was \$15,064.86, with the largest award for a single Holocaust-era insurance policy received by a claimant being \$808,044 and the smallest \$137.

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 that 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 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 dissolved. During its seven years of operation, a total of \$306.24 million was offered or awarded to 48,000 claimants through 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

---

<sup>28</sup> 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.

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.

#### **O. The Jewish Community Indemnification Commission, Belgium**

By Royal Decree of July 6th, 1997, and subsequently by the Act of January 15th, 1999, The Study Commission on Jewish Assets was established to investigate the fate of the Belgian Jewish Community's assets which were plundered, surrendered or abandoned during the Second World War. The Study Commission examined the ways in which looting took place during the occupation, as well as the measures taken after the war, by the Government and the private sector, to restore the looted property to its owners or to pay compensation.

As an outgrowth of the Study Commission's final report, published July 12, 2001, the Belgian government enacted legislation creating the Belgian Jewish Community Indemnification Commission ("Buysee Commission") to consider claims for assets originally belonging to the Belgian Jewish community, which were plundered, surrendered, or abandoned during the Second World War.

The HCPO submitted 53 claims for accounts and securities held in Belgium. The Buysee Commission reported receiving claims from more than 6,000 individuals. The Commission started processing claims towards the end of 2003, giving priority to the oldest claimants. As of the Buysee Commission's final meeting, 47 HCPO claimants received positive decisions for a total of \$46,185 for bank related assets and \$443,628 for material losses. The average award value for bank assets is \$5,773, with the largest total bank award being \$10,529 and the smallest \$1,996. The Buysee Commission offered two types of compensation for lost assets; the first was calculated on the basis of clearly identified and valued goods and assets using multipliers ranging from 24.78 to 37, while the second was based on lump-sum values where details of the despoiled assets were unavailable.

On December 17, 2007 the Commission held its final meeting and issued decisions on all remaining claims. Subsequently, the Buysee Commission Secretariat was dissolved and all HCPO claimants received decisions. At the request of the Chancellery of the Prime Minister, the HCPO continues to locate claimants and heirs of Belgian bank accounts to ensure all individuals receive their decisions.

#### **i. Solidarité 3000**

The Foundation established the Solidarité 3000 project to compensate individuals who were persecuted because of their Jewish descent and were in Belgium at any time between May 1, 1940 and the end of the Nazi regime and received little or no compensation to date. The maximum amount paid to qualified applicants is €3,000.

As of the June 30, 2006 filing deadline 17 HCPO claimants applied to Solidarité 3000. To date, 10 HCPO claimants have received payments totaling \$27,718<sup>29</sup>.

## **P. Nazi-Looted Art**

The Nazi use of art was directly linked to their efforts to seize power, conquer Europe and fulfill their anti-Semitic agenda; indeed the Nazi's turned looting into an official policy. From 1933 to 1945 the Nazi regime carried out the greatest spoliation of works of art in history Nazi plundering, which ranged from outright seizure to sales made under duress, was not limited to museum quality pieces but included works by lesser-known artists, decorative arts, and Judaica.

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 require working with a variety of entities, from museums to private collectors, and must be resolved on a painting-by-painting or object-by-object basis. In 2009, 7 works of art were restituted to HCPO claimants, some of which are described below. In addition, the HCPO has located over 20 other objects lost during the relevant period and is presently working towards their recovery.

### **i. Collections of Dr. Max Stern<sup>30</sup>**

In August 1935, less than a year after Dr. Max Stern inherited Galerie Julius Stern in Düsseldorf from his father, he was prohibited from buying and/or selling art by the Reich Chamber for the Visual Arts, a sub-chamber of the Reich Chamber of Culture. Dr. Stern appealed this order for two years, until receiving final notice on September 13, 1937 to dissolve his gallery and liquidate his inventory.

Dr. Stern sold over 200 pictures at a forced sale at Lempertz auction house in Cologne on November 13, 1937<sup>31</sup>. Dr. Stern fled Germany for England on December 23, 1937 and was interned on the Isle of Man as an "enemy alien" at the outbreak of war in September 1939. After being released in 1940, Dr. Stern immigrated to Canada, where he spent another two years interned as a "civilian alien." Dr. Stern finally settled in Montreal, Canada where he became one of the country's most influential art dealers and director of the Dominion Gallery. Upon his death in 1987, he bequeathed the bulk of his assets, including any potential recovery of lost artworks, to three non-profit institutions: McGill University (in Montreal), Concordia University (also in Montreal), and Hebrew University of Jerusalem (in Israel).

---

<sup>29</sup> The US Dollar amount is calculated based on the exchange rate at the time each award was received.

<sup>30</sup> <http://maxsternproject.concordia.ca>

<sup>31</sup> <http://auktion392.com>

With the aid of the U.S. Immigration Customs and Enforcement (ICE) and the U.S. Attorney's Office for the Southern District of New York, *Portrait of a Musician Playing a Bagpipe* by an artist of the Northern Netherlandish School (Figure 8) was restituted to the Estate of Dr. Max Stern. The painting was formally returned to the Estate at a press conference at the Museum of Jewish Heritage on April 21, 2009.

A second painting, *St. Jerome* by Lodovico Carracci (Figure 9), was also returned to the Estate with the assistance of ICE and Richard L. Feigen, the New York dealer who possessed it and came forward with the picture as a result of the widespread media coverage of the recovery of *Portrait of Musician Playing a Bagpipe*. The painting was handed over to the Estate at a repatriation ceremony at the Leo Baeck Institute on May 6, 2009.



Figure 8



Figure 9

## ii. Collection of Alfred Sommerguth

Alfred Sommerguth, a prominent member of Berlin society and the director and co-owner of Loeser & Wolff, one of the largest tobacco factories in existence before WWII, was forced to sell a substantial part of his art collection due to Nazi persecution. By 1939, Sommerguth had amassed an eclectic art collection of 106 artworks, which included Dutch and Italian Renaissance masterpieces as well as works by various French Impressionists.

After the Nazis rose to power, the Sommerguths, like all German Jews, were subjected to the horrors of anti-Semitic legislation that resulted in their persecution and expropriation of their personal property. On February 2, 1939 a significant part of the Sommerguth art collection was sold at the notorious auction house Hans W. Lange in Berlin. The proceeds from the auction were used to pay the discriminatory taxes levied on the Sommerguths by the Nazis.

In 1941, the then 82 year old Sommerguth fled with his wife to Cuba via Portugal. His bank account was frozen by the authorities leaving him without resources. In Cuba, Sommerguth fell ill with typhus and was confined to a hospital for one year.

Alfred Sommerguth and his wife eventually immigrated to New York, where he passed away 10 years later; his wife died 3 years after.

This past summer, with the aid of Sotheby's auction house, a claim for the painting *House by a Lake* by Karl Blechen (Figure 10) was settled between the Sommerguth heirs and current possessor. The HCPO discovered the painting in the Sotheby's London May 30, 2008 auction catalogue and immediately notified the auction house of the painting's origins at which time the item was withdrawn from the sale. In close conjunction with Cornelia Muggenthaler and Joel Levi, representatives of the Sommerguth heirs, as well as Sotheby's and the consignor of the painting, the HCPO worked to amicably secure a settlement agreement that was satisfactory to all the parties involved.



Figure 10

### iii. Collection of Kommerzienrat Heinrich Morgenstern

After the rise of Nazi regime, Kommerzienrat Heinrich Morgenstern a Jewish businessman from Fürth, Germany, was subject to the many anti-Semitic measures adopted by the Nazis. Morgenstern's lucrative manufacturing business was Aryanized, exorbitant punitive taxes were levied on him, and he subsequently fled Germany.

The Nazi authorities prohibited Morgenstern from taking his art collection. Morgenstern was, therefore, forced Morgenstern to sell over 200 pieces from his extensive and eclectic art collection at Rudolph Lepke's Kunst-Auctions-Haus in November 1938. Morgenstern passed away before the conclusion of the Second World War, and in 1946 his son began the diligent pursuit of locating and recovering his father's collection.

In November 2008, The Art Loss Register (ALR) notified the HCPO that the oil painting *The Village Well* by Augustin Salinas y Teruel (Figure 11) was consigned to the November 21, 2008 sale at Van Ham Kunstauktionen in Cologne, Germany. Through amicable and forthright discussions with Van Ham, the representative of the current owner of the painting, the picture was withdrawn from the sale, and

the consignor and the heirs of Heinrich Morgenstern were able to reach a settlement with regard to the painting's restitution.



Figure 11

#### **iv. Collection of Dr. Arthur Feldmann**

Dr. Feldmann, a prominent Jewish lawyer from Brno, Czechoslovakia, was also a well-known collector of Old Master drawings. His collection consisted of over 750 drawings by Dutch, Italian and French 16th and 17th century artists.

On March 15, 1939, the Nazis invaded Brno and requisitioned the Feldmann villa for use as officer quarters and looted all the Feldmann's household goods and possessions, including the drawings collection. Like the fate of many European Jews at the time, Dr. Feldmann lost his livelihood, all of his property, and eventually his life after being arrested, tortured, and suffering a stroke. His wife Gisela was sent to Theresienstadt and later perished at Auschwitz. Dr. Feldmann's two sons fled Czechoslovakia in 1940 and survived the war.

In February 2008, Uri Peled, one of Feldmann's heirs, approached the HCPO with his initial research that identified the drawing *City on a Mountain Lake* by Tobias Verhaecht (Figure 12) in a catalogue for the 1975 exhibition Pieter Breughel d. Ä. Als Ziechner: Herkunft und Nachfolger at the Staaliche Museun Preussischer Kulturbesitz, to which the Metropolitan Museum lent the drawing. The HCPO subsequently contacted The Metropolitan Museum of Art about the provenance of the drawing. The Museum promptly confirmed that the drawing was in their collection and provided the HCPO with all of the information in their files concerning the work.

The HCPO and Mr. Peled provided the Museum with information and documentation showing that the Nazis looted the drawing from Dr. Feldmann in 1939. Acknowledging that Dr. Feldmann lost possession of the Verhaecht drawing due to Nazi persecution, the Museum agreed that it should be returned to his heirs as its rightful owner.



Figure 12

A second Feldmann drawing, *A standing bishop* by Abraham Bloemaert, was also the subject of a settlement this year. With the critical assistance of Sotheby's auction house, the claim for the drawing was resolved between the heirs of Dr. Feldmann and the private collector who currently possesses it.

#### **v. Conferences, Panels and Symposia Regarding Nazi-era Looted Art**

##### **a. Council of American Jewish Museums (CAJM)**

On February 4, 2009, the Director of the HCPO delivered a presentation at the 2009 annual CAJM (Council of American Jewish Museums) conference "Future Perfect: Jewish Museums Shaping Tomorrow". The presentation was part of a Specialist Focus Group developed by the Ben Uri Gallery - The London Jewish Museum of Art and entitled *Provenance Research and CAJM Leadership: Not an Option, An Imperative*.

The audience consisted of mid to senior level museum professionals working in Jewish museums across North America. The objective was to establish the importance of the moral as well as the legal responsibility of museums in general and Jewish Museums in the USA in particular to execute proper detailed provenance research and to retribute as a matter of principle as well as legal obligation.

##### **b. US Department of State Town Hall Meeting To Review the Implementation of the Terezin Declaration Provisions Relating to the Restitution of Nazi-Confiscated Art**

On September 22, 2009, the Director of the HCPO attended a Town Hall Meeting in Washington, D.C. convened by the US Department of State. The meeting specifically focused on whether or not the US should establish an advisory panel to either research and/or arbitrate looted art cases in an effort to curb litigation. The US museum community, which was present as well as other claimant representatives, all highly praised the work of the HCPO and consider how the HCPO handles art claims to be a model. At the behest of Ambassador Stuart

Eizenstat, the Director provided a brief overview of the HCPO, including its claims processing methodology and funding.

Pursuant to statements made by the U.S. delegation at the Prague conference and previous discussions held at the Washington Town Hall Meetings, Ambassador Eizenstat and Ambassador J. Christian Kennedy, Special Envoy for Holocaust Issues, circulated adraft proposal concerning the formation of a U.S. Art Commission. The proposal foresees the HCPO as playing a pivotal role in the creation and operation of such a commission. In order to better gauge the HCPO's perspective on its perceived involvement, Ambassadors Eizenstat and Kennedy met with Superintendent Neiman, Chief Operating Officer Diana Rulon and the staff of the HCPO on November 19, 2009.

Another Town Hall Meeting is scheduled to convene at the State Department on January 7, 2010 to further discuss the idea of a U.S. Art Commission.

#### **c. Hague Convention Conference**

With the aim of considering the domestic and international ramifications of United States' ratification of the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, the Lawyers' Committee for Cultural Heritage Preservation and U.S. Committee of the Blue Shield presented the conference, "Culture and Conflict: The United States and the 1954 Hague Convention" on October 23, 2009 at the National Trust for Historic Preservation in Washington, D.C. An HCPO art Claims Specialist was in attendance. Among the many topics discussed was the status of continuing art restitution efforts in the United States and Europe. In his presentation, the historian Mark Masurovsky, cited the HCPO's commendable role in ongoing art restitution and hypothesized how it would likely be affected by the formation of a U.S. Art Commission.

#### **d. Second Annual Art Litigation and Dispute Resolution Symposium**

On November 19, 2009, the "Second Annual Art Litigation and Dispute Resolution" symposium was held at the New York County Lawyer's Association. The first panel "Holocaust Restitution Claims: Courtrooms, ADR or a U.S. Restitution Committee?" was opened by Ambassador J. Christian Kennedy's public presentation of the State Department's U.S. Art Commission Proposal. Subsequent speakers expressed their differing perspectives on the feasibility of forming and operating a commission, and the HCPO was mentioned a number of times. The Director of the HCPO and an HCPO art Claims Specialist attended.

### **Q. U.S. Congressional Activity**

#### **i. Holocaust Insurance Accountability Act**

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.

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. Following this hearing, on February 7, 2008 the House Committee on Financial Services held a hearing entitled, *The Holocaust Insurance Accountability Act of 2007 (H.R. 1746): Holocaust Era Insurance Restitution After ICHEIC, the International Commission on Holocaust Era Insurance Claims*. The committee heard testimony from both supporters and opponents of the legislation.

The issue of Holocaust-era insurance policies was raised in the Senate and on May 6, 2008, US Senate Committee on Foreign Relations, Subcommittee on International Operations and Organizations, Democracy and Human Rights held a hearing entitled *Holocaust Era Insurance Restitution after ICHEIC*. The Director of the HCPO testified before the Committee, as did various supporters and opponents of the Holocaust Insurance Accountability Act of 2007.

The US House of Representatives Financial Services Committee held a markup hearing on June 25, 2008 to consider an Amendment in the Nature of a Substitute to H.R. 1746 ("ANOS H.R. 1746" or "Holocaust Insurance Accountability Act of 2008) offered by the Chairman of the Committee, Representative Barney Frank (D-MA). ANOS H.R. 1746 proposed by Rep. Frank passed by voice vote with one approved amendment offered by Rep. Brad Sherman (D-CA).

On July 31, 2008 the US House of Representatives Financial Services Committee issued a report in connection with the markup hearing of June 25, 2008 which considered an Amendment in the Nature of a Substitute to H.R. 1746 ("ANOS H.R. 1746" or "Holocaust Insurance Accountability Act of 2008) offered by the Chairman of the Committee, Representative Barney Frank (D-MA). Upon filing of this report the legislation was referred to the House Committee on the Judiciary for review. The House Judiciary Committee indicated that HR 1746 would not be marked at that time. As such, the bill did not move forward.

On May 19, 2009, a revised draft of the Holocaust Insurance Accountability Act was introduced by Representative Ros-Lehtinen, Ranking Member of the House Foreign Affairs Committee as Title XV -- Holocaust Insurance Accountability of H.R. 2475, *Foreign Relations Authorization an Reform Act, Fiscal Years 2010 and 2011*. Title XV, to be cited as the *Holocaust Insurance Accountability Act of 2009* provides that any State law creating a cause of action against any insurer or related company based on a claim arising out of or related to a covered policy would not

be invalid or preempted by reason of any Executive agreement between the United States and any foreign country. The bill was referred to the House Committee on Foreign Affairs and to date no further action has been taken on this matter.

Representative Ros-Lehtinen authored an op-ed published by the JTA (Jewish news service) on December 22, 2009 calling for "everyone on Capitol Hill to stand up for Holocaust survivors and the families of the victims." Rep. Ros-Lehtinen states that insurance companies should be required to disclose the names of Holocaust-era insurance policyholders, and Holocaust survivors or their heirs should be permitted to sue the insurance companies in U.S. courts.

#### **ii. Resolutions Supporting the Goals and Objectives of the Prague Conference on Holocaust Era Assets**

In June 2009 both the House of Representative and the Senate passed resolutions supporting the Prague Conference on Holocaust Era Assets. The resolutions (H.CON.RES.89 and S.CON.RES.23) applaud the government of the Czech Republic for hosting the Conference, and the participating countries for the decision to seek justice for Holocaust survivors and to promote Holocaust remembrance and education.

In addition, the countries in Central and Eastern Europe which have not already done so are urged to return looted and confiscated properties to their rightful owners or, where restitution is not possible, provide equitable compensation; and all countries are encouraged to make a priority of returning to Jewish communities any religious or communal property that was stolen as a result of the Holocaust.

The Senate resolution calls on all countries to facilitate the use of the Washington Conference Principles on Nazi-Confiscated Art in settling all claims involving publicly and privately held objects. The House resolution supports the decision to make the economic, social, housing, and health care needs of Holocaust survivors a major conference focus.

Both the resolutions call on the President to send a high-level official, such as the Secretary of State, to represent the United States at the Conference and urge other invited countries to participate at a similarly high level.

## V. Holocaust Claims Processing Office Expenses in 2009

The HCPO has approval for a full time staff of nine: current staffing includes eight filled positions and one vacancy which occurred in July of 2009. The total cost of operating the HCPO during 2009 was \$940,767, including personal service, fringe and indirect costs, and non-personal service expenditures, as follows.

### Calendar Year 2009

	Banking Department	Suballocation from Insurance Department	TOTAL
Personal Service	\$273,276	\$334,005	\$607,282
Fringe and Indirect Costs	\$181,892	\$148,311	\$330,203
Non-Personal Service	\$3,282	\$0	\$3,282
TOTAL	\$458,450	\$482,316	\$940,767