

ART DEALERS ASSOCIATION OF AMERICA
GUIDELINES REGARDING
ART LOOTED DURING THE NAZI ERA

Between 1933 and 1945, an untold quantity of art was looted by the Nazi regime. While some of this art was retained by Hitler or other top Nazi officials for their own collections, many other items were sold for hard currency. After World War II, the Allied powers endeavored to round up this looted art. These works were returned to their respective countries of origin, each of which was responsible for ensuring that the works were given back to their rightful owners. However, no such process existed to track and return the many works that had already entered the art market. Nor was there any central registry where claims could be recorded and made internationally accessible to collectors, museums and the art trade. As a result, dealers in the past often lacked the resources necessary to identify unrestituted looted art.

In an attempt to redress the horrendous wrongs of the Holocaust, greatly increased scrutiny is today being given to provenance. The Art Dealers Association of America supports these efforts wholeheartedly, while also recognizing that many art works do not have complete chains of provenance and never will. Sellers of works of art through the years have often, for perfectly legitimate reasons, chosen to remain anonymous. And provenance has not routinely been recorded for works of relatively low value, including many contemporary works, watercolors and drawings and most prints. As the value of these works has risen, provenance has become a matter of increased interest and concern. However, the inability to conclusively establish the ownership of a work during the Nazi period does not necessarily mean that the work in question was looted.

The Art Dealers Association of America represents the highest standards of connoisseurship, scholarship and ethical practice within the profession. As such, ADAA supports the attempt to identify unrestituted looted art and, whenever possible, to assist in its return to its rightful owners. To this end, ADAA has established the following guidelines.

A. Sales and Consignments

ADAA recommends that dealers take all reasonable steps to ensure that they do not purchase, accept on consignment, or sell unrestituted looted art.

1. A dealer should, wherever reasonably possible, obtain from all sellers and consignors as complete a provenance as is available to that owner, as well as a written warranty of title and an indemnification.
2. Where the Nazi-era provenance is incomplete for a given work, the dealer should consult appropriate sources of information, including available and reasonably accessible records and outside databases with information concerning Nazi-looted art.
3. In the absence of evidence of looting, the object may be presumed not to have been looted and the sale may proceed.
4. If evidence of looting is discovered and there is no evidence of restitution, the dealer should not proceed to acquire or sell the object, and should notify the seller. Depending on the circumstances of the particular case, additional steps may be prudent or necessary, such as notifying appropriate government authorities or other interested parties of the dealer's findings. However, dealers are not law-enforcement agents, and dealers may also have a duty to protect the confidentiality of their clients.
5. To the extent that it is known, the dealer should include the provenance on all invoices for sold art works. But, in accordance with long industry practice, because of the difficulties and uncertainties involved, dealers cannot and should not warrant provenance.

B. Claims

1. The ADAA urges dealers to handle claims of ownership that may be asserted in connection with objects in their custody, or that they have sold in the past, promptly and with openness, seriousness and respect for the dignity of all parties involved. Each claim should be considered on its individual merits.
2. The dealers should request evidence of ownership from the claimant in addition to conducting his or her own research.

3. If the dealer determines that a work which he or she presently owns was looted during the Nazi era, the dealer should seek to resolve the matter in an equitable, appropriate and mutually agreeable manner. The object should be withdrawn from sale until such time as the matter is resolved.
4. If the dealer is presented with a claim for a work presently on consignment, the work should immediately be withdrawn from sale and the owner informed of the claim. The dealer should not offer or sell the work until questions about its ownership have been resolved, and should return the work to the client if so requested.
5. If a dealer is presented with evidence that a work he or she previously sold may have been looted, the dealer should endeavor to make available any records which may serve to clarify the history of the work in question. However, dealers are not empowered or qualified to take sides in disputes of title, which must ultimately be independently adjudicated.
6. When reasonably practical, dealers should seek equitable methods other than litigation to resolve claims that an object was looted during the Nazi era.