

# Monuments Men, Hidden Treasures, and the Restitution of Looted Art

By Leila Amineddoleh

The recent discovery of a hidden art trove is the stuff of which movies are made. In fact, similar stories have been featured in films. The recent announcement of Cornelius Gurlitt's art cache involves a familiar cast of players: Hitler, Goebbels, Nazi commanders, Allied forces, political figures, and even the Monuments Men (a group featured in the 2014 release of George Clooney's "The Monuments Men," based on a book of the same title). On November 3, 2013, in what some called "one of the largest and most significant discoveries of masterpieces plundered by the Nazis,"<sup>1</sup> a major piece of news was announced: "A Modernist art haul, 'looted by Nazis' recovered by German police."<sup>2</sup>

The "Gurlitt Collection" is shrouded in mystery, as the origins of the majority of the approximately 1,400 works are murky, thus prompting a large-scale investigation. What is clear is the following: the artwork, believed to be worth more than \$1.35 billion,<sup>3</sup> was seized from Cornelius Gurlitt in early 2012. Gurlitt first attracted the attention of police in 2010 after a random cash check during a train trip between Switzerland and Munich.<sup>4</sup> These suspicions led to a raid on Gurlitt's apartment in the spring of 2011. During that raid, police were confronted with a massive art collection.<sup>5</sup>

The art has a troubled past. During the Nazi regime, Hitler violently pushed forward his agenda for art and "German culture." From the start of his maniacal rule, Hitler targeted art that was not "pure" or "Germanic."<sup>6</sup> Like many failed artists (Hitler was twice rejected by the Academy of Fine Arts in Vienna), Hitler considered himself to be an art critic.<sup>7</sup> He aimed to create a pure Germanic culture by obliterating "degenerate art" and replacing it with Germanic works.<sup>8</sup> The works deemed "degenerate" included modern art that the Fuhrer thought "insulted German feeling," or would "destroy or confuse natural form or simply reveal an absence of adequate manual and artistic skill."<sup>9</sup> He hated anything that was "unfinished" or abstract.<sup>10</sup> So in 1937, the Nazis began a campaign against offending art. Nazi art experts ransacked German public collections for anything modernist to be displayed as "degenerate," to be sold abroad or destroyed.<sup>11</sup> On June 30, 1937, Goebbels issued a decree<sup>12</sup> authorizing Adolf Ziegler (Hitler's favorite painter, and the man tasked with overseeing the purging of "degenerate art") and a five-man commission to visit German museums and select works for an exhibition of "degenerate" art.<sup>13</sup> 19,500 works of art from the "Verfallszeit" (depraved period) were confiscated from museums in all states and communes in the Reich.<sup>14</sup> In July of that year, the works were gathered for an exhibit "The Entar-

tete Kunst" (Degenerate Art) that opened in Munich. The works were displayed without a proper curatorial process, and some were even partially covered by pejorative slogans.<sup>15</sup> (Ironically, it was the most successful modern art exhibition of all time.<sup>16</sup>) After the exhibition traveled and concluded, many objects were sold at auction.<sup>17</sup> Some were purchased by museums or private collectors, some by Nazi officials.<sup>18</sup> The fate of some nearly 5,000 works was more tragic, as they were burned on March 20, 1939.<sup>19</sup> Another group of approximately 4,000 paintings met the same fiery end on July 27, 1942 in a bonfire outside the Galerie Nationale in Paris.<sup>20</sup>

This is where the story takes an unexpected turn. More than 300 of the exhibited "degenerate" works were allegedly stolen by art dealer Hildebrand Gurlitt, who reported them destroyed by bombardments.<sup>21</sup> These works disappeared for over half a century. However, they appeared again in 2012, and were seized from Hildebrand's son that same year.<sup>22</sup> At least 300 of the 1,400 works in the collection are thought to belong to a body of about 16,000 works once declared "degenerate art." Others are suspected to have been the property of fleeing Jewish collectors who were forced to leave behind belongings during their devastating flight out of the Third Reich.<sup>23</sup>

Hildebrand Gurlitt (who was ironically a "quarter-Jew"<sup>24</sup>) hailed from a culturally prominent family: amongst other artistic members, his grandfather was a well-known painter and his father was an architectural historian.<sup>25</sup> At the age of 29, Hildebrand became the first director of the König Albert museum in Zwickau,<sup>26</sup> where he served as the director until 1930.<sup>27</sup> During that period, he developed contacts with important modern artists from that era.<sup>28</sup> Following his time in Zwickau, he moved to Hamburg, where he was curator and managing director of the Kunstverein (Art Association).<sup>29</sup> He and other board members were allegedly forced by the Nazis to resign in 1933. Although fired for exhibiting "degenerate art," Hildebrand was appointed as a dealer for the Führermuseum in Linz where he continued to trade in modern art, under orders from the Ministry of Public Enlightenment and Propaganda.<sup>30</sup> In the words of Nazi Propaganda Minister Joseph Goebbels, the Nazis tried to "make some money from this garbage [art deemed "degenerate"]." Hildebrand was a modern art specialist, and thus was recruited by Goebbels to raise cash for the Third Reich by selling modern art.<sup>31</sup> Gurlitt was one of four dealers appointed by the Commission for the Exploitation of Degenerate Art to sell confiscated and stolen works abroad. The dealers were permitted to buy pieces for very little from Jewish collectors (who were often under duress), to then

sell abroad for profit. Gurlitt profited from the sales, not all of which were reported to the commission.<sup>32</sup> Evidently, Gurlitt also sold art to German collectors.<sup>33</sup> In fact, some of the art seized by Gurlitt was passed along to Nazi officials.

Hildebrand Gurlitt was arrested and his collection was seized by the Allies in Aschbach, Germany in 1945.<sup>34</sup> He was interrogated by Lieutenant Dwight McKay of the U.S. Third Army about his activities as a Nazi art dealer.<sup>35</sup> During this interrogation, Gurlitt denied handling confiscated art in France.<sup>36</sup> He claimed that his collection and documentation regarding art transactions were destroyed during the 1945 firebombing of Dresden.<sup>37</sup> The "surviving" 139 works were seized by the Allies and then studied by the Monuments Men<sup>38</sup> (who were a group of Allied servicemembers and civilians working to safeguard art and cultural objects during World War II, and who helped in the restitution process after the end of conflict). The works were returned to Hildebrand after he convinced them that they were legally acquired.<sup>39</sup> However, he failed to mention that he had another 1,250 pieces hidden.<sup>40</sup> For five years, Gurlitt corresponded with the Monuments Men, asserting his innocence and rightful ownership.<sup>41</sup> In fact, he easily convinced the Allies that he was innocent; his partial Jewish ancestry and his documented history as a champion to "degenerate" modern art deemed him above suspicion.<sup>42</sup> Appallingly, Gurlitt even allegedly claimed to have helped Jews fund their escape from Nazi-occupied zones.<sup>43</sup> Designated as a victim of Nazi crimes, Gurlitt was released, and the works were returned to him in January 1951.<sup>44</sup> However, the deceit does not end there: Hildebrand Gurlitt was killed in a car crash in 1956, and in 1967, his widow told authorities that all of her late husband's paintings were destroyed in the bombing of Dresden.<sup>45</sup> Through these lies, the Gurlitts had been able to keep this cache hidden. When Hildebrand Gurlitt died, the works were passed down to his son, Cornelius, without the knowledge of the authorities.<sup>46</sup>

Finally, on February 28, 2012, based on a court order for tax-related allegations (the only assertions against Cornelius at this time),<sup>47</sup> the works were confiscated.<sup>48</sup> At that point, the public prosecutor in Augsburg commissioned German provenance researcher Meike Hoffmann to examine the collection.<sup>49</sup> Her first task was to determine the identity of artists whose works were in Gurlitt's possession.<sup>50</sup> There are countless unanswered questions about the art trove, but there are a few confirmed facts thus far. There are two different types of art in the Gurlitt collection: (1) "degenerate art" and (2) "stolen art." Degenerate art was removed from German museums and public institutions and confiscated. Stolen art refers to works that were taken, mainly from Jewish owners, under pressure or by threat or through Nazi-sanctioned purchases and exchanges.<sup>51</sup> However, determining the accurate history of each individual piece is a monumentally complex task that involves delving into historic events

without documentary evidence and very few living witnesses. Luckily, there is some paperwork to assist in this quest. Hildebrand Gurlitt claimed that his records were destroyed during the war; however, that was a lie. The documents were found in crates during the government's seizure of items from Cornelius' apartment.<sup>52</sup>

One of the controversies surrounding the art discovery relates to the lack of transparency about the works. Bavarian prosecutors handling this case have not been forthcoming in releasing information about the seized items. As of the time of this writing, officials in Augsburg would not release a complete inventory of the objects, citing privacy rights.<sup>53</sup> The head of the state prosecutor's office in Augsburg defended the lack of information by stating that German privacy laws prevented his office from making investigation details public.<sup>54</sup> The government also would not provide information about the objects' location during the inventory and research process.<sup>55</sup> Individuals and organizations around the world, including Jewish interest groups, have demanded that officials in Augsburg provide more data. Anne Webber of the Commission for Looted Art in Europe stated, "We have reminded the Bavarian authorities of the need for transparency and requested a full list of the works. So far we have had no response." The Holocaust Art Restitution Project sent a letter to Wolfgang Schäuble, the German Ministry of Finance, demanding that the German government disclose a full, complete and detailed inventory of the Gurlitt collection, and to create a commission for the restitution of works to heirs.<sup>56</sup> One of the difficulties related to restitution is that, as time moves forward, survivors pass away, and remaining heirs may be unaware of their families' looted assets. As stated by Stuart Eizenstat, the U.S. State Department's special adviser on Holocaust issues, "No one can have a fair restitution-claims process without fair access to information."<sup>57</sup>

In fact, the German federal government has urged Bavarian prosecutors to publicize the list of works in the Gurlitt collection. This has been met with resistance by local investigators who view this matter as a tax case.<sup>58</sup> Bavarian officials have defended their lack of transparency, stating that they have not publicized the list for fear that it would release a surge of false claims from fortune seekers.<sup>59</sup> The head of the German Museums Association initially went on record saying that the reluctance to publish lists of works is tied to the likelihood of large numbers of claims.<sup>60</sup> The state prosecutors also kept the trove secret for nearly two years so that it would not hinder investigations related to tax evasion and embezzlement.<sup>61</sup> Yet pressure from U.S. and Jewish groups was so great that within about a week, the German government disclosed additional information. The government stated that about 590 of the paintings could have been stolen by the Nazis, and that the government would publicize information about some of the pieces at [www.lostart.de](http://www.lostart.de), a site regularly updated.<sup>62</sup> Furthermore, the

German government is in talks with the Jewish Claims Conference (JCC) to collaborate with art provenance experts to create a task force.<sup>63</sup> The task force is now composed of six individuals, both German and international experts (although the identity of the experts has not been disclosed).<sup>64</sup> The German government recognized that: "Without transparent documentation, a complete clarification as to the origins of these works of art can hardly be achieved."<sup>65</sup> After all, how can restitution occur without disclosure of information about the objects?

Even with information about the objects in Gurlitt's treasure trove, heirs of legitimate owners and museums seeking to reclaim works will face major obstacles. Cornelius Gurlitt has fought the restitution process, stating that he will not voluntarily return the works.<sup>66</sup> He claims to be the legitimate heir of the works, and that he was unaware of their origins.<sup>67</sup> According to Cornelius Gurlitt: "I've never committed a crime, and even if I had, it would fall under the statute of limitations. If I were guilty, they would put me in prison."<sup>68</sup> In fact, Gurlitt appears to be obsessed with the works, stating that he has never loved anything more than the paintings. Compared to the deaths of his family members, Cornelius stated that "parting with my pictures was the most painful [experience] of all."<sup>69</sup>

As recognized by Gurlitt, claimants seeking restitution will face the hurdle of the statute of limitations. If Gurlitt claims to have taken the works in good faith, German law may favor him over the actual owners, the opposite approach of that taken in the United States.<sup>70</sup> Here, it may be possible for the original owners and their heirs to toll the statute of limitations in order to file a case for theft. In the U.S., the statute of limitations for theft (according to U.S. law, objects seized by the Nazis are considered stolen,<sup>71</sup> as are works sold under duress<sup>72</sup>) may be tolled by one of two doctrines: (1) the Demand and Refusal Rule or (2) the Discovery Rule. New York is the only state that follows the Demand and Refusal Rule; under that rule, the statute of limitations begins to run at the time that the original owner demands the return of his or her work and the current possessor refuses to return it.<sup>73</sup> The original owner cannot indefinitely delay making the demand,<sup>74</sup> but in the case that an artwork's location was concealed, courts may excuse a delay in demand.<sup>75</sup> The Discovery Rule tolls the statute of limitations until the time that an owner knew or reasonably should have known the whereabouts of the object.<sup>76</sup>

In Germany, the statute of limitations for civil suits is imposed by statute, primarily Sections 194 through 218 of the German Civil Code (Bürgerliches Gesetzbuch, BGB). The period generally runs for three years, but the limitations for certain matters can extend to 10 or 30 years. However, under the German civil code, the limitations period may not extend over 30 years.<sup>77</sup> U.S. representatives and art market players like Ronald Lauder (Presi-

dent of the World Jewish Congress) have insisted that German courts disregard the time constraints for cases involving works stolen by the Nazis.<sup>78</sup> German Justice Minister Sabine Leutheusser-Schnarrenberger has stated that that outcome is unlikely.<sup>79</sup> Statutes of limitations are enacted to avoid fraudulent and stale claims from arising after evidence has been lost or facts have become blurred with the passage of time or the defective memory, death, or disappearance of witnesses. However, this rationale for the statute of limitations is weak for the current case. The Gurlitt family actively hid the existence of a treasure trove, and lied to officials about the artwork. The heirs of the original owners probably never knew they had rights to any of the art because they believed their collections were destroyed during the ravages of war.

However, some promising news regarding the time limitations was reported by the German newspaper *Spiegel*.<sup>80</sup> Winfried Bausback, a law professor and member of the Bavarian state government, stated that he does not agree with the proposition that restitution claims of Holocaust victims would be ignored due to time limitations. For that reason, he instructed his ministry to draft legislation dealing with this issue. The legislation would apply retroactively and would prevent someone from acquiring an object in bad faith (including the case of someone inheriting property) and then invoking the limitations period.<sup>81</sup>

Another way to overcome the restrictive regime of German statute of limitations is to bring claims in a jurisdiction with more forgiving time restrictions. Each case involving each individual piece of art is unique. If lawsuits are filed in non-German jurisdictions, those venues may potentially apply limitations rules and tolling exceptions that are more favorable to victims (such as the Demand and Refusal or the Discovery Rules). However, bringing forth litigation in foreign jurisdictions will depend on the individual facts of each case. For example, some of the works seized by the Allies (which were subsequently returned, based upon Hildebrand's misrepresentations) had been in the U.S. for some period of time.<sup>82</sup> Those works could potentially have a connection to a U.S. jurisdiction, allowing claimants to file suit in this country.

Independent of that legal conundrum, another way for Holocaust survivors to avoid damning limitations periods is for them to urge criminal charges against Gurlitt under the "Nuremberg principles."<sup>83</sup> These principles, developed during the Nuremberg trials against Nazi leaders, classify mass looting in the context of genocide as a crime against humanity.<sup>84</sup> A war crime does not have a statute of limitations, and a German court could charge Gurlitt as an accomplice to war crimes.<sup>85</sup> However, this argument is far-fetched and unlikely to persuade the court, as Hildebrand Gurlitt was a quarter Jewish himself and faced discrimination due to his background. In addition, Cornelius cannot be held for a crime that he did

not actually commit. "His father did bad things during the Nazi period, but under our [the German] legal system you can't punish the son for that."<sup>86</sup>

Another difficulty involves adverse possession (or in Germany, "prescription"). Cornelius Gurlitt could conceivably be protected under German laws of prescription.<sup>87</sup> Under this doctrine, title to someone else's property can be acquired without compensation by holding the property for a set time (in Germany, a period of 10 years) in a manner that conflicts with the true owner's rights.<sup>88</sup> Whereas adverse possession only applies to real property in the U.S.,<sup>89</sup> prescription also applies to personal property (including art) in Germany.<sup>90</sup> Yet the law does state that: "Acquisition by prescription is excluded if the acquirer on acquiring the proprietary possession is not in good faith or if he later discovers that he is not entitled to the ownership." It has been argued by Cornelius Gurlitt himself that he is the owner, he acquired the works in good faith as the heir of Hildebrand Gurlitt, and that he believes that he is entitled to ownership. However, it has recently been indicated that Gurlitt may be willing to cooperate in the restitution process; according to his attorney, he wants to "take responsibility."<sup>91</sup> Yet this change of attitude and willingness to discuss the return of artwork does not suggest that the heirs' legal battles will be simple to overcome.

Even if claimants can overcome the hurdles of statute of limitations and prescription, proving ownership is a formidable task. When Jews and other victims of Nazi atrocities were forced to escape from their homes in fear of their lives, the ownership records of their art collections were not of the utmost importance. These people were fleeing for their lives, families were being torn apart, people were being murdered across a continent, and individuals were losing possession to every worldly object in their names. When families were forced to agonizingly abandon their lives and loved ones, were forced to march towards their deaths, most were unable to carry property with them. For those lucky enough to flee with property, such items were often family pictures and heirlooms, not documentary evidence proving ownership of modern art. For this reason, the heirs to these victims will face an uphill battle to recover property. These individuals may be facing an impossible task—proving ownership without any documentation. In order to make a restitution claim, it is essential to prove an ownership right. This task is one of the heaviest burdens facing claimants.

One of the hopes for Holocaust victims and their heirs is the possibility of new legislation directing appropriate solutions for Nazi-era appropriations. An international agreement used in the restitution battle is the Washington Principles. As the name suggests, the Washington Principles are principles, not law. They are "non-binding principles" intended to assist in the resolution of issues related to Nazi-looted art.<sup>92</sup> The draft-

ers recognized that participating nations are bound to differing legal regimes,<sup>93</sup> but that participants recognize the importance of the values articulated in this document. Although admirable in their purpose, the articles are weak, not only because they are non-binding, but they are also vague (although defensibly so since this area of the law generally involves property without clear provenance and documentation). The convention calls for "a just and fair solution," and recognizes that the fairness and justice of a solution will vary "according to the facts and circumstances surrounding a specific case." Drafters of the Washington Principles recognized the fact-specific nature of the task. In the controversy over the Gurlitt collection, the facts presented are quite complex. Works were hidden from the public for over six decades, making it impossible for any claimant to pursue art restitution and present documentation proving ownership.

Along with 44 other nations, Germany was a signatory to the Washington Principles. However, claims are being made that Germany is not abiding by the principles.<sup>94</sup> Germany has not adopted a formal, national approach to restitution; thus, claims are complicated, lengthy, and require the claimant to build a full-proof case. The Germans believe that burden of proof should rest with claimants, even in cases related to Nazi looting.<sup>95</sup> Bavarian state collections contain thousands of works acquired during the Nazi period, and that information has not yet been published.<sup>96</sup> Under the fifth article of the Washington Principles, "Every effort should be made to publicize art that is found to have been confiscated by the Nazis" in order to return the works to rightful owners.<sup>97</sup> In addition, the second article requires that "relevant records and archives" should be open and accessible to researchers.<sup>98</sup> Neither of these things has been done by the German authorities. Germany has an office solely devoted to restitution claims, the Federal Office for Central Services and Unresolved Property Issues (the BADV); the office handles applications related to illegal property seizures during the National Socialist era, expropriations in East Germany from 1949 to 1990, and compensations for expropriations under occupation law.<sup>99</sup> However, the office has not been responsive or forthcoming with information.<sup>100</sup> Furthermore, restitution claims may be difficult to enforce in this case under the Washington Principles because they apply "only to state institutions, but not for private collectors."<sup>101</sup>

Courts and law enforcement officials may determine that Gurlitt is the actual owner of the treasure trove.<sup>102</sup> According to some legal experts, Gurlitt may succeed in asserting ownership over many of the works. "The legal situation as far as I can tell is that Gurlitt is the rightful owner of a large share of the work in question—even if that is questionable from a moral and ethical point of view," said Uwe Hartmann, head of the government agency charged with researching the provenance of art in

public collections.<sup>103</sup> As the legal process is so complex, uncertain, and time-consuming (sadly, any surviving Holocaust victims may perish during this time), the best option may be for Holocaust heirs to work through this process by negotiating with Cornelius Gurlitt. There is precedent of his negotiating. In 2011, he sold a work by Max Beckmann titled "The Lion Tamer" for €864,000, which he shared with the heirs of the prior owner, a Jewish collector.<sup>104</sup>

Finally, if all else fails, hope rests with the German government and diplomatic posturing. Returning the works to Gurlitt is shocking to the collective conscience. For this reason, international politics may play a role in the search for an equitable solution; the German government may find it necessary to intervene in order to avoid a morally reprehensible outcome. U.S. and Israeli officials are calling on Germany to improve its restitution policies to find a proper resolution to these issues.<sup>105</sup>

However, besides the stolen works belonging to Holocaust victims and their heirs, there are hundreds of works (estimated to be about 380)<sup>106</sup> that were stolen from museums and found their way into Gurlitt's collection. Sadly, it is likely that the Gurlitt family will be able to keep all of the pieces that were taken from museums and deemed to be "degenerate."<sup>107</sup> The Law on the Confiscation of Products of Degenerate Art, passed on May 31, 1938, decreed that the Third Reich could appropriate art from public museums in Germany without compensation.<sup>108</sup> The confiscation law allowed the Nazis to seize "degenerate" art that Hitler viewed as un-German or Jewish in nature.<sup>109</sup> Most troubling is that this law is still valid today.<sup>110</sup> Unlike anti-Semitic laws that were revoked after the fall of the Third Reich, the 1938 law regarding degenerate art still exists. Under German law, there is no obligation to return works seized from a museum, unless they were loaned by private individuals or had foreign owners.<sup>111</sup> The German government and professionals in the art world are hesitant to repeal the law for fear that it would open Pandora's Box, as it would unravel an intricate web of agreements involving Nazi-looted art.<sup>112</sup> The law therefore makes it unlikely that any of the museums will be able to reclaim their works.<sup>113</sup>

There are so many unanswered questions related to the "Gurlitt Collection." Will this discovery prompt a change in German or international law? Will statutes of limitations be modified for cases involving Nazi-looted property? Will this case change the legal landscape for all future Nazi-looted art disputes? What will happen to stolen objects without heirs? What is the fate of the "degenerate" objects that were once part of public collections? Should these works be returned to the public realm? There are so many unanswered questions, but one thing is certain—we will be examining legal and moral questions for years, if not decades.

## Endnotes

1. Carlo Angerer & Andy Eckardt, *Nazi Art Trove in German Apartment Includes Previously Unknown Matisse*, NBC News, Nov. 5, 2013, [http://worldnews.nbcnews.com/\\_news/2013/11/05/21318847-nazi-art-trove-in-german-apartment-includes-previously-unknown-matisse](http://worldnews.nbcnews.com/_news/2013/11/05/21318847-nazi-art-trove-in-german-apartment-includes-previously-unknown-matisse).
2. Although the breaking news source to announce the find was a German newspaper (Aktualisiert am Montag, *Fahnder entdecken 1500 Werke von Picasso, Chagall und weiteren Künstlern*, Focus, Nov. 4, 2013, [http://www.focus.de/kultur/kunst/nazi-raubkunst-meisterwerke-zwischen-muell-fahnder-entdecken-kunstschatz-in-milliardenhoehe\\_aid\\_1147066.html](http://www.focus.de/kultur/kunst/nazi-raubkunst-meisterwerke-zwischen-muell-fahnder-entdecken-kunstschatz-in-milliardenhoehe_aid_1147066.html)), one of the first English-language announcements was made by The Guardian, Philip Oltermann, *Modernist art haul, 'looted by Nazis', recovered by German police*, The Guardian, Nov. 3, 2013, [http://www.theguardian.com/world/2013/nov/03/nazis-looted-modernist-masterpieces-germany-police?CMP=tw\\_t\\_gu](http://www.theguardian.com/world/2013/nov/03/nazis-looted-modernist-masterpieces-germany-police?CMP=tw_t_gu).
3. Angerer, *supra*, note 1.
4. Oltermann, *supra*, note 2.
5. *Id.*
6. Lynn Nicholas, *Spoils of War 39* (Elizabeth Simpson ed., Harry N. Abrams 1997).
7. Jonathan Jones, *What the Nazis Didn't Want You to See*, The Guardian, Aug. 15, 2005, <http://www.theguardian.com/world/2005/aug/16/secondworldwar>.
8. Rachael Bell, *The Third Reich's Pillage of European Art and Treasures*, Crim=e Library, [http://www.trutv.com/library/crime/gangsters\\_outlaws/gang/stolen\\_art/2.html](http://www.trutv.com/library/crime/gangsters_outlaws/gang/stolen_art/2.html).
9. Frederic Spotts, *Hitler and the Power of Aesthetics 151-68* (The Overlook Press 2002).
10. Nicholas, *supra*, note 6.
11. Jones, *supra*, note 7.
12. Stephanie Barron, *Modern Art and Politics in Prewar Germany, in Degenerate Art: The Fate of the Avant-Garde in Nazi Germany 9-23* (Stephanie Barron ed., Los Angeles: Los Angeles County Museum of Art, 1991).
13. *The Case of the Missing "Degenerate Art," Lost then Found*, Art Tattler International, Oct. 21, 2012-Jan. 28, 2013, <http://arttattler.com/archivedegenerateart.html>.
14. *Id.*
15. Ursula A. Ginder, *Munich 1937: The Development of Two Pivotal Art Exhibitions*, graduate student paper for University of California Santa Barbara, June 2004, <http://www.history.ucsb.edu/faculty/marcuse/classes/133c/133cproj/04proj/GinderNaziArt047.htm>.
16. Jones, *supra*, note 7.
17. United States Holocaust Memorial Museum, *1937 Munich Exhibit of Degenerate Art*, <http://www.ushmm.org/information/exhibitions/online-features/collections-highlights/julien-bryan/nazi-germany-1937/1937-munich-exhibition-of-degenerate-art>.
18. *Id.*
19. Ginder, *supra*, note 15.
20. Allison Meier, *10 of the Most Infamous Art Destructions of World War II*, Hyperallergic, Nov. 20, 2013, <http://hyperallergic.com/94427/10-of-the-most-infamous-art-destructions-of-world-war-ii/>.
21. Allan Hall, *Nazi Art Treasure Trove Valued at £1 Billion is Found in Shabby Munich Apartment*, Daily Mail, Nov. 3, 2013, <http://www.dailymail.co.uk/news/article-2486251/1bn-haul-art-Picasso-Renoir-Matisse-squalid-Munich-flat.html>; Melissa Eddy et al., *German Officials Provide Details on Looted Art*, N.Y. Times, Nov. 5, 2013, [http://www.nytimes.com/2013/11/06/arts/design/german-officials-provide-details-on-looted-art-trove.html?pagewanted=1&\\_r=1](http://www.nytimes.com/2013/11/06/arts/design/german-officials-provide-details-on-looted-art-trove.html?pagewanted=1&_r=1).

22. Eddy, *supra*, note 21; Oltermann, *supra*, note 2.
23. Oltermann, *supra*, note 2.
24. Walter Laquer, *Degenerate Art and the Jewish Grandmother*, Mosaic, Nov. 2013, <http://mosaicmagazine.com/supplemental/2013/12/degenerate-art-and-the-jewish-grandmother/> (stating that Hildebrand Gurlitt's grandmother was Jewish, and that under the Nuremberg laws, he was considered a "quarter-Jew").
25. *Id.*
26. Bernhard Fulda & Aya Soika, Max Pechstein: The Rise and Fall of Expressionism (de Gruyter 2012), at 258.
27. Städtisches Museum Zwickau [Municipal Museum Zwickau], [http://www.zwickau2000.de/z5/stadt/museum\\_zwickau.html](http://www.zwickau2000.de/z5/stadt/museum_zwickau.html).
28. Hildebrand Gurlitt—the Axis Behind the Munich Art Treasure, Freie Presse, Nov. 5, 2013, <http://www.freiepresse.de/NACHRICHTEN/TOP-THEMA/Hildebrand-Gurlitt-der-Sachse-hinter-dem-Muenchner-Kunstschatz-artikel8592544.php>.
29. Nicholas O'Donnell, *Focus Turns to Hildebrand Gurlitt's Postwar Interrogation; Cornelius Gurlitt's Whereabouts. Belvedere Official Questions Whether Collection Was Really a Secret*, The Art Law Report, Nov. 7, 2013, <http://www.artlawreport.com/2013/11/07/focus-turns-to-hildebrand-gurlitts-postwar-interrogation-cornelius-gurlitts-whereabouts-belvedere-official-questions-whether-collection-was-really-a-secret/>.
30. Hildebrand Gurlitt—the Axis Behind the Munich Art Treasure, *supra*, note 28.
31. Angerer, *supra*, note 1.
32. Lynn H. Nicholas, *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and the Second World War* (Random House 2009) at 24.
33. *Entartete' Kunstgeschäfte*, [‘Degenerate’ Art Shops], Der Standard, Aug. 6, 2008, <http://derstandard.at/1216918696497/Entartete-Kunstgeschaeffe>.
34. Commission for Looted Art in Europe, Gurlitt Case: Hildebrand Gurlitt: Allied Documents, Interrogation and Collection List 1945-1950, [http://www.lootedart.com/QDES4V964951\\_print;Y;GuyWalters,Revealed:TheOddballWhoHid£1bnofArtinHisSqualidFlat...andtheExtraordinaryStoryofHowHisFather,whoStolePaintingsfortheNazis,ConnedAlliedInvestigators](http://www.lootedart.com/QDES4V964951_print;Y;GuyWalters,Revealed:TheOddballWhoHid£1bnofArtinHisSqualidFlat...andtheExtraordinaryStoryofHowHisFather,whoStolePaintingsfortheNazis,ConnedAlliedInvestigators), The Daily Mail, Nov. 12, 2013, <http://www.dailymail.co.uk/news/article-2504403/Cornelius-Gurlitt-oddball-hid-1bn-Nazi-art-flat.html>.
35. *Id.*
36. Declassified reports re: Hildebrand Cornelius Gurlitt, [http://www.lootedart.com/web\\_images/pdf2013/Supporting%20documentation%20provided%20by%20Gurlitt%20and%20related%20documentation%20from%20the%20Allies%20regarding%20the%20collection.pdf](http://www.lootedart.com/web_images/pdf2013/Supporting%20documentation%20provided%20by%20Gurlitt%20and%20related%20documentation%20from%20the%20Allies%20regarding%20the%20collection.pdf).
37. Reports <http://www.fold3.com/document/231981211/>.
38. Walters, *supra*, note 34. See generally, Robert Edsel, *The Monuments Men: Allied Heroes, Nazi Thieves and the Greatest Treasure Hunt in History* (Center Street 2010).
39. Mary M. Lane, et al., *The Strange Tale of Nazis, Mr. Gurlitt and the Lost Masterpieces*, Wall Street Journal, Nov. 8, 2013, <http://online.wsj.com/news/articles/SB10001424052702303309504579185861314057386>.
40. *Id.*
41. Walters, *supra*, note 34.
42. Hildebrand Gurlitt—the Axis Behind the Munich Art Treasure, *supra*, note 28.
43. Oltermann, *supra*, note 2.
44. Walters, *supra*, note 34.
45. *Id.*
46. Oltermann, *supra*, note 2.
47. Dietmar Hipp & Conny Neumann, *Art Investigation: Empathy Alone Doesn't Help Us Any Further*, Spiegel, Nov. 25, 2013, <http://www.spiegel.de/international/germany/bavarian-justice-minister-says-empathy-for-gurlitt-is-no-longer-any-help-a-935560.html>.
48. Bernhard Shulz, *Comment: What Next for the Gurlitt Treasures?*, The Art Newspaper, Dec. 2, 2013, <http://www.theartnewspaper.com/articles/Comment-What-next-for-the-Gurlitt-treasures/3113.7>
49. *Id.*
50. Shulz, *supra*, note 48.
51. *Id.*
52. *Id.*
53. Eddy, *supra*, note 21.
54. Soeren Kern, *Germany: The Greatest Double Robbery in the History of Art?*, Gatestone Institute, Nov. 8, 2013, <http://www.gatestoneinstitute.org/4048/germany-stolen-art>.
55. Eddy, *supra*, note 21.
56. Press Release, *Plundered Art, a Perspective from the Holocaust Art Restitution Project* (Nov. 8, 2013), [http://plundered-art.blogspot.com/2013/11/the-holocaust-art-restitution-project.html?utm\\_source=feedburner&utm\\_medium=email&utm\\_campaign=Feed%3A+plundered-art+%28plundered+art%29](http://plundered-art.blogspot.com/2013/11/the-holocaust-art-restitution-project.html?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+plundered-art+%28plundered+art%29).
57. Mary M. Lane, U.S., *Israel Step Up Pressure on Germany Over Looted Art*, Wall Street Journal, Dec. 9, 2013, <http://online.wsj.com/news/articles/SB10001424052702304744304579248491947641318>.
58. *Munich Art Fund: Government Plans to Publish List to Gurlitt Treasure*, Nov. 11, 2013, <http://www.spiegel.de/kultur/gesellschaft/muenchner-kunstfund-bundesregierung-will-aufklaerung-beschleunigen-a-932850.html>.
59. Mary M. Lane, *Germany Plans to Publish List of Nazi-Looted Works in Art Trove*, The Wall Street Journal, Nov. 14, 2013, <http://online.wsj.com/news/articles/SB10001424052702303789604579198263866899006>.
60. Mark Hudson, *Nazi art: does Germany have a problem returning art stolen by the Nazis?*, The Telegraph, Nov. 4, 2013, <http://www.telegraph.co.uk/culture/art/art-news/10425983/Nazi-art-does-Germany-have-a-problem-returning-art-stolen-by-the-Nazis.html>.
61. Mary M. Lane, *supra*, note 59.
62. Kirsten Grieshaber, *Germany Starts Identifying Munich Art Found Online*, Associated Press, Nov. 11, 2013, <http://heraldnet.com/article/20131111/NEWS02/711119883/Germany-starts-identifying-Munich-art-found-online>.
63. *Id.*
64. Lane, *supra*, note 59.
65. *Id.*
66. *Cornelius Gurlitt wants to keep Nazi art: "I haven't loved anything more,"* Reuters, Nov. 18, 2013, <http://www.smh.com.au/entertainment/art-and-design/cornelius-gurlitt-wants-to-keep-nazi-art-i-havent-loved-anything-more-20131118-2xpxm.html#ixzz2o2IPYe1p>.
67. Angerer, *supra*, note 1.
68. Simon Shuster, *Why the Man Who Hoarded Nazi-Looted Art May Get to Keep It All*, Time, Nov. 19, 2013, <http://world.time.com/2013/11/19/why-the-man-who-hoarded-nazi-looted-art-may-get-to-keep-it-all/>.
69. *Cornelius Gurlitt wants to keep Nazi art: "I haven't loved anything more,"* *supra*, note 66.
70. Nicholas O'Donnell, *First List of Art Found in Gurlitt Collection is Released, Website Overwhelmed as Claimants Consider Legal Options*, Art Law Report, Nov. 12, 2013, <http://www.artlawreport.com/2013/11/12/first-list-of-gurlitt-collection-released-website-overwhelmed-as-claimants-consider-legal-options/>.

71. *Republic of Austria v. Altmann*, 541 U.S. 677 (2004).
72. See *Vineberg v. Bissonnette*, 548 F.3d 50 (1st Cir. 2008) (the first case to equate a forced sale with a theft).
73. *Menzel v. List*, 24 N.Y.2d 91, 246 N.E.2d 742, 298 N.Y.S.2d 979 (1969).
74. *Kunstsammlungen zu Weimar v. Elicofon*, 678 F. 2d 1150 (2d Cir. 1982).
75. See *Bakalar v. Vavra*, 819 F. Supp.2d 293 (S.D.N.Y. 2011) (finding that with the tumultuous circumstances after the fall of the Third Reich, "a certain amount of delay or specificity might be excused.").
76. *O'Keeffe v. Snyder*, 83 N.J. 478 (1980).
77. See *Bürgerliches Gesetzbuch [BGB] [Civil Code]*, 2 Jan. 2002, Federal Law Gazette, Title 1, § 202.
78. *US reportedly pushing Germany for transparency on return of Nazi-looted art*, Fox News, Nov. 7, 2013, <http://www.foxnews.com/world/2013/11/07/us-reportedly-pushing-germany-to-return-nazi-looted-art/>; World Jewish Congress, *Lauder: Germany must address Nazi-looted art in private hands* (Nov. 20, 2013), [worldjewishcongress.org/en/news/14154/lauder\\_germany\\_must\\_address\\_nazi\\_looted\\_art\\_in\\_private\\_hands](http://worldjewishcongress.org/en/news/14154/lauder_germany_must_address_nazi_looted_art_in_private_hands).
79. Alex Webb, *Germany Can't Extend Art Theft Statute, Minister Tells Paper*, Bloomberg News, Nov. 21, 2013, <http://www.businessweek.com/news/2013-11-21/germany-can-t-extend-art-theft-statute-minister-tells-paper>.
80. Dietmar Hipp & Conny Neumann, "Art Investigation: 'Empathy Alone Doesn't Help Us Any Further,'" Spiegel Online, Nov. 25, 2013, <http://www.spiegel.de/international/germany/bavarian-justice-minister-says-empathy-for-gurlitt-is-no-longer-any-help-a-935560.html>.
81. *Id.*
82. Mary M. Lane & Harriet Torry, *Works of Dealer Behind Nazi Art Trove Toured U.S.*, Wall Street Journal, Nov. 7, 2013, <http://online.wsj.com/news/articles/SB10001424052702304744304579248491947641318>.
83. Simon Shuster, *Why the Man Who Hoarded Nazi-Looted Art May Get to Keep It All*, Time, Nov. 19, 2013, <http://world.time.com/2013/11/19/why-the-man-who-hoarded-nazi-looted-art-may-get-to-keep-it-all/>.
84. *Id.*
85. *Id.*
86. *Claims on German Art Trove Face Legal Hurdles*, New Zealand Herald, Nov. 15, 2013, [http://www.nzherald.co.nz/world/news/article.cfm?c\\_id=2&objectid=11157684](http://www.nzherald.co.nz/world/news/article.cfm?c_id=2&objectid=11157684).
87. *Bürgerliches Gesetzbuch [BGB] [Civil Code]*, 2 Jan. 2002, Federal Law Gazette, Title 3, Subtitle 2, § 937, [http://www.gesetze-im-internet.de/englisch\\_bgb/englisch\\_bgb.html#p3639](http://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p3639).
88. *Id.*
89. *O'Keeffe v. Snyder*, 83 N.J. 478 (1980).
90. *Bürgerliches Gesetzbuch [BGB] [Civil Code]*, 2 Jan. 2002, Federal Law Gazette, Title 3, Subtitle 2, § 937.
91. Mary M. Lane, *Son of Nazi Art Dealer Signals Readiness to Discuss Restitution*, Wall Street Journal, Jan. 24, 2014, [online.wsj.com/news/articles/SB10001424052702303448204579340922947502270](http://online.wsj.com/news/articles/SB10001424052702303448204579340922947502270).
92. U.S. Dept. of State, Bureau of European and Eurasian Affairs, *Washington Conference Principles on Nazi-Confiscated Art* (Dec. 3, 1998), <http://www.state.gov/p/eur/rt/hlcst/122038.htm>.
93. *Id.*
94. Mark Hudson, *Nazi Art: Does Germany Have a Problem Returning Art Stolen by the Nazis?*, The Telegraph, Nov. 4, 2013, <http://www.telegraph.co.uk/culture/art/art-news/10425983/Nazi-art-does-Germany-have-a-problem-returning-art-stolen-by-the-Nazis.html>.
95. Susan McArthur & Andrew Wood, *Looted Treasures, Patient Sleuthing*, The Globe and Mail, Nov. 14, <http://www.theglobeandmail.com/globe-debate/looted-treasures-patient-sleuthing/article15419453/>.
96. *Id.*
97. U.S. Dept. of State, Bureau of European and Eurasian Affairs, *Washington Conference Principles on Nazi-Confiscated Art* (Dec. 3, 1998), <http://www.state.gov/p/eur/rt/hlcst/122038.htm>.
98. *Id.*
99. Bundesamt für zentrale Dienste und offene Vermögensfragen (BADV) [Federal Office for Central Services and Unresolved Property Issues], <http://www.badv.bund.de/EN/UnresolvedPropertyIssues/start.html>.
100. Mary M. Lane, *U.S., Israel Step Up Pressure on Germany Over Looted Art*, Wall Street Journal, Dec. 9, 2013, <http://online.wsj.com/news/articles/SB10001424052702304744304579248491947641318>.
101. Tim Ackermann and Marc Reichwine, "So dreist organisierten die Nazis den Kunstraub" ["So brazenly, the Nazis organized art theft"], *Die Welt*, Nov. 12, 2013, [welt.de/kultur/kunst-und-architektur/article121770948/So-dreist-organisierten-die-Nazis-den-Kunstraub.html](http://www.welt.de/kultur/kunst-und-architektur/article121770948/So-dreist-organisierten-die-Nazis-den-Kunstraub.html).
102. Erik Kirschbaum, *Germany Could Challenge Recluse's Ownership of Nazi-Looted Art*, Reuters, Nov. 6, 2013, <http://in.reuters.com/article/2013/11/06/germany-art-idINL5N0IR3B220131106>.
103. *Id.*
104. *Claims on German Art Trove Face Legal Hurdles*, New Zealand Herald, Nov. 15, 2013, [http://www.nzherald.co.nz/world/news/article.cfm?c\\_id=2&objectid=11157684](http://www.nzherald.co.nz/world/news/article.cfm?c_id=2&objectid=11157684).
105. Mary M. Lane, *U.S., Israel Step Up Pressure on Germany Over Looted Art*, Wall Street Journal, Dec. 9, 2013, <http://online.wsj.com/news/articles/SB10001424052702304744304579248491947641318>.
106. Eddy, *supra*, note 21.
107. Shulz, *supra*, note 48.
108. Richard J. Evans, *The Third Reich in Power* 76 (Penguin Group 2005); Freie Universität Berlin, *The Confiscation of "Entartete Kunst" in 1937 and its Consequences*, [http://www.geschkult.fu-berlin.de/en/e/db\\_entart\\_kunst/geschichte/beschlagnahme/index.html](http://www.geschkult.fu-berlin.de/en/e/db_entart_kunst/geschichte/beschlagnahme/index.html).
109. Eddy, *supra*, note 21.
110. *Id.*
111. Shulz, *supra*, note 48.
112. Melissa Eddy & Alison Smale, *Enduring Nazi Law Impedes Recovery of Art*, N.Y. Times, Nov. 19, 2013, <http://nytimes.com/2013/11/20/arts/design/enduring-nazi-law-impedes-recovery-of-art.html>.
113. *Id.*

**Leila Amineddoleh is Of Counsel to Lombard & Geliebter, where she founded the firm's Art Law Group. Leila focuses on art, cultural heritage, and intellectual property law; she is involved in all aspects of due diligence, and arts transactional work, and has represented major art collectors in disputes related to multi-million dollar contractual matters, art authentication, international cultural heritage law violations, and complex fraud schemes. Leila teaches Art & Cultural Heritage Law at both Fordham University School of Law and St. John's University School of Law. In addition, she serves as the Executive Director of the Lawyers' Committee for Cultural Heritage Preservation. In her spare time, Leila is a musician who regularly performs as a pianist.**