

Testimony of Ronald S. Lauder
Before the Senate Judiciary Committee
Subcommittees on The Constitution
&
Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts
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Chairman Cornyn, Ranking Member Durbin, Chairman Cruz, Ranking Member Coons, Senator Schumer, Senator Blumenthal, Members of the Committee.

Thank you for this opportunity to testify in support of S.2763, "The Holocaust Expropriated Art Recovery Act of 2016."

For many Americans, the fall of Nazi Germany and the end of World War II is a matter for history books. We know about the mass industrial murder of millions of human beings, but few people know about the mass theft of the victims' property. And even fewer know about the systematic confiscation of priceless works of art by Nazi leaders, including Hitler, Göring, and other top officials.

What makes this particular crime even more despicable is that this art theft, probably the greatest in history, was continued by governments, museums and many knowing collectors in the decades following the war. This was the dirty secret of the post-war art world, and people who should have known better, were part of it. In many cases, legal barriers like arbitrary statutes of limitations were imposed on families that had not been aware that their father's painting was hanging in a private home or state museum.

That is the issue which brings us together today... How do we find the best way to render fair and just decisions with the art works that are still in dispute and those still missing?

Make no mistake ... this crime continues to stain the world of art.

I commend Helen Mirren for bringing this massive crime to the public's attention with the wonderful film, *Woman in Gold*.

Unfortunately, most stolen art cases do not end as positively as Maria Altman's long struggle to retrieve her uncle's painting, *Portrait of Adele Bloch Bauer I* from the Austrians.

In spite of everything, this remains a very complex problem. While each of us here today would like to see every piece of stolen art returned to the rightful owner, we recognize that what a victim might decide is an equitable outcome is often quite different from what a respected

possessor of stolen artwork believes is fair. In many cases, a confiscated piece of art may have been purchased with all good intentions since the buyer was unaware that the work was stolen.

Eighteen years ago, in 1998, those of us committed to restitution concluded that international cooperation and standards were necessary to help govern how stolen art cases are handled. Along with representatives from 45 Nations, we developed what are today referred to as the “Washington Principles.”

Eleven years later, in 2009, 46 nations, including the United States, issued the Terezin Declaration, which urged the signatories “to ensure that their legal systems or alternative processes, while taking into account the different legal traditions, facilitate just and fair solutions with regard to Nazi-confiscated and looted art, and to make certain that claims to recover such art are resolved expeditiously and based on the facts and merits of the claims.”

When the United States endorsed the Washington Principles in 1998 and the Terezin Declaration in 2009, the U.S. committed itself to the recovery of art that was confiscated by the Nazis¹ during the Holocaust. Our adherence to this commitment requires that resolution of such cases be based on the merits of each case and not on procedural technicalities or the capacity of one party to outspend, or outwait, the other.

There are museums here in the United States that have been waiting out the clock to pass the Statute of Limitations. This also forces claimants to spend enormous amounts of money on legal fees – another strategy to make them give up.

This is not justice. Stalling claims is an abuse of the system. Sadly, there are museums that feel no need to uphold the Washington Principles. Many other institutions do the very least that is required and not much more.

The fundamental question posed by the HEAR Act is, have we here in the United States done enough to ensure fair and equitable solutions? I believe we have done a great deal, but we still could and should do much more.

The HEAR Act creates a uniform national statute of limitations rule for claims to Nazi-confiscated artwork.

¹ [1] The term "by the Nazis" includes the Nazis, their allies and any unscrupulous individuals regardless of their location, who took advantage of the dire state of the persecutees, and the term "confiscation" includes any taking, seizure, theft, forced sale, sale under duress, flight assets, or any other loss of an artwork that would not have occurred absent persecution during the Nazi era.

The bill provides that existing legal claims should not be denied simply because of the passage of time, especially if the claimant did not have actual knowledge of the artwork's location and the facts necessary to make a claim. Once a claimant does have the requisite knowledge, he or she cannot, and should not, sit on their rights. We are suggesting that once a claimant has actual knowledge, they must bring the case to court within six years.

This bill is also important for what it DOES NOT do – it does not prejudice the merits of each case one way or the other. It simply allows claimants to have their day in court, and not be thwarted by procedural technicalities. The bill does not create a new legal theory or rule of liability under which a case can be brought. In other words, it does not create any new causes of action.

The HEAR Act's purpose is to advance the cause of justice before the law. The bill's aim is not to inflict punishment or pass judgment on any individual who may have unsuspectingly acquired artwork that was confiscated during the Holocaust. Rather, the HEAR Act's goal is to ensure that people with claims are afforded an opportunity to have their cases heard on their merits.

Mr. Chairman, some may ask, why should we care now? This grand larceny of artwork by Nazis was part and parcel of the evil what was the Holocaust and it took place before most people alive today were born.

But I believe we should care deeply, because denying victims of the Holocaust and their families access to a just hearing based on the merits of each case is wrong, plain and simple. There's another reason as well. Denying the justice continues the crimes of the Nazis and that is unconscionable. It gives a victory to the Nazis 71 years after their unconditional defeat.

We must always keep in mind that for practically every piece of stolen art, a murder was committed. Seven decades after the end of World War II and the Holocaust, resolving this problem is long overdue. If people are truly interested in justice, if they really want to solve this issue, then they should support this legislation.

We cannot go back and change what happened. All we can do is stop the continuation of this crime. After more than 70 years, it is time to put these ghosts to rest. It is, in fact, long past time.

Thank you, Mr. Chairman, for this opportunity to speak before the Committee today. I want to personally commend you, Mr. Chairman, and Senator Schumer, Senator Cruz and Senator Blumenthal for introducing this important, bipartisan legislation.

I am happy to answer any questions you may have.