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Whatever Happened to Klimt's Golden Lady?

with E. Randol Schoenberg

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58 minutes, 40 seconds

Speaker: E. Randol Schoenberg

Transcribed by: Rachel E Lieu

[Holocaust Living History Workshop](#)

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Time Transcription

00:00 [UCTv University of California Television / www.uctv.tv]

00:17 [Read Write Think Dream The Library UC San Diego Channel /
www.uctv.tv/librarychannel]

00:27 The UC San Diego Library and The Judaic Studies Program at UC San Diego
present]

00:33 [The Holocaust Living History Workshop / Whatever Happened to Klimt's Golden
Lady? Featuring E. Randol Schoenberg / Partner, Burriss & Schoenberg LLP /
Lecturer, University of Southern California Gould School of Law / President, The
Los Angeles Museum of the Holocaust / May 6, 2015]

00:40 E. Randol Schoenberg: Welcome everybody it's terrific to be down in - I say down
in San Diego because I'm from Los Angeles - but it's always wonderful to come
down here. It's a beautiful drive and I get to see my cousins, my first cousin Arnie
Schoenberg here and and my mom's second cousin Ruth [unclear], and so many
other friends and, and possibly family members in the audience. It's really a real
honor and a pleasure to be here to speak to you tonight. So I've been on this
incredible journey because of the film *Woman in Gold* and we didn't know, it's true,
when we set up this this talk, that it would come right as the film has just opened
and it's been really overwhelming for me to be able to, to see people learning now
about the story of Maria Altmann and her family and the work that I was lucky
enough to do for her. So I want to walk you through that story from perhaps a little
bit different perspective than you might have seen in the film or read in the book.
You can put the three of them together and hopefully come up with a good idea of,
of what the truth really is.

01:40 E. Randol Schoenberg: Okay so here is my client Maria Altmann. That is, that's
Maria. If you saw the film Helen Mirren is short and Ryan Reynolds is tall. It was
the opposite. Maria was very tall and stately and I'm of course not. And she, Maria
was my grandmother's closest friend. My mother's mother Gertrude Zeisel and the
Zeisels and the Altmans were very close friends, especially after they came from
Vienna to Los Angeles. And my mother really grew up with the Altman children.
Their four children, that Maria and Fritz had, as her surrogate siblings because my
mother was an only child. And so the families were, were extremely close and
that's really how I got involved in the story. But we'll go back now, over a hundred
years to Vienna at the turn of the 20th century. So 1900 - Vienna 1900 - a little bit
of background, Vienna was the capital of Austria-Hungary, this enormous empire -
which is now, I think, 12 or 13 different countries. So it was really a vast empire
and one of the great world powers, and Vienna was the capital. And after 1867,
when Jews were fully emancipated in Austria-Hungary - which is shortly after the
U.S. [United States] Civil War here just to put in perspective - Jews were able to

move into Vienna. They were able to own property. They were able to work in businesses for the first time and so a number of them came from the outlying areas of the empire to Vienna, where they were now allowed to live. And this coincided with the the Industrial Revolution, and great opportunities for business and wealth generation. And so a number of Jewish families, not all of them, became wealthy. But a number of them became extremely wealthy during this timeframe, as did many non-Jews. And one of those wealthy families - actually two of them - were the Blochs and the Bauers. So the Bauers were, were banking. They were involved in banking and railroads and real estate. The Blochs were sugar magnates.

03:45 E. Randol Schoenberg: They had a sugar company that started it up in Czechoslovakia and they came to Vienna and ended up owning pretty much a monopoly on sugar production in Central Europe. And if you've ever been to Central Europe and eaten the pastries you know how important sugar was to their lifestyle. When I first came across this case, I didn't understand. I said, how could you grow cane sugar in, in Austria Hungary? It wasn't cane sugar it was beets. They made sugar beets and they changed - turned that into sugar. Anyway, they became fabulously wealthy and the families combined when first, the older brother Gustav, married the older sister Therese. So and then there was the younger brother Ferdinand Bloch married Adele Bauer. So two brothers married two sisters. The older ones, this is Gustav and Therese, they all combined their name right because Bloch is really ordinary and Bauer is really ordinary, but Bloch-Bauer sounds a little bit fancy. The, the Bauer's brother died and so they combined the name to preserve the name, made it a little fancy.

04:49 E. Randol Schoenberg: Gustav and Therese had five children the youngest of which was Maria. She was a what we might call an accident or afterthought baby. She was eight years younger than the next youngest, her sister Louisa and then she had three older brothers after that. So she was really the baby of the family. The younger siblings Ferdinand and Adele could not have children. Adele, I think, had several failed pregnancies, stillborn children, very tragic. And perhaps to compensate for that Ferdinand and Adele amassed an enormous art collection. And Adele herself was, was a very socially engaged person. She liked to entertain and have a salon with artists and intellectuals and politicians of her day. She was also very Left-leaning. Her niece Maria called her a socialist socialite in a way but she was very, very civic-minded. And you'll see, when we get to her will, some of the bequests that she made reflected that. But before we do, let's turn to, to the Palais where they lived. Pretty nice. This is, if you know the ring in Vienna, this is one block outside of the ring. Just a block away from the opera. So a very, very nice part of town, and this was their home. And here are some of the paintings that they had.

- 6:07 E. Randol Schoenberg: Now Ferdinand was a little bit older, a little bit more conservative. His taste was for this style which they call Biedermeier paintings. Painters you may have never heard of but were very famous at the time Ferdinand Waldmüller, Rudolf von Alt, people like that - [Josef] Donhauser, [Johann Matthias] Ranftl, anyway. They had had dozens of these type of paintings. They had the largest collection of antique porcelain in the world, over 300 settings. Each setting is a cup and saucer and these are some examples of them. Not bad. This was their summer home outside of Prague, where the Blochs were from. Just one aside, so I don't forget about the summer home. When the Nazis came into Czechoslovakia in 1939, they confiscated this home and used it as the residence of what they called the Reichs Protector of Bohemia and Moravia, like the Nazi governor of that whole area. And so this was the home of Reinhard Heydrich who, many of you may know, was the architect of the final solution. He is the one that held the infamous Wannsee Conference where they plotted out the extermination of the Jews. He was living in Ferdinand's home with his family at that time.
- 07:21 E. Randol Schoenberg: And then was assassinated leaving the castle and driving into Prague. Which led to a famous massacre of, of Czech, Czech men and boys in a town called Lidice, which there a number of films were made about - even during the war. So this is sort of a storied location in and of itself. But beyond that, Adele, as we said, and Ferdinand were very involved in the arts. And at the time, at the beginning of the 20th century, the most famous artist in Austria was Gustav Klimt. He had started out as an absolutely wonderful academic style painter. He received a number of official commissions from the government to paint murals in large buildings. But he pointed, poked his finger - the finger in the eye of maybe too many officials, started painting things that were not necessarily approved by the Academy and ultimately broke with the Academy and formed something called the Secession which was a separate group of artists. He then didn't like the secessionists and went out on his own and really operated on his own until his death, relatively young in 1918 during the flu epidemic at the end of World War I.
- 08:35 E. Randol Schoenberg: You can see him here in his smock, apparently, he liked to paint in a long smock with nothing on underneath. As a result, with his various models, he sired as many as 18 illegitimate children - who claimed parts of his estate when he died. So, but, he, all, most of those children were from the nude models - maybe working-class girls. But then he also had his patrons. And his patrons consisted, because he was modern, right, and, and avant-garde, in a way - most of his patrons were the sort of nouveau riche Jewish elite in Vienna, including the Bloch-Bauers. But it wasn't just the Bloch-Bauers - the, the Leiderer family, the Zuckerkandl family - those three families bought about 30 percent of the paintings that Klimt did. So they were really his, his support. And Ferdinand then commissioned Klimt to draw a portrait or to paint a portrait, I'm sorry, of Adele. These are sketches. He did hundreds of sketches over a period of years before finally finishing the portrait in 1907 and this is the famous *Woman in Gold* or *Lady*

in Gold or *Gold Portrait of Adele Bloch-Bauer*. It's one of four gold layered paintings the Klimt made. It's probably the best-preserved these days.

- 09:56 E. Randol Schoenberg: The slightly more famous one that you might see in in all the dorm rooms here at UCSD would be *The Kiss* which you probably know and this, this is maybe the next most famous painting by Gustav Klimt, his *Portrait of Adele Bloch-Bauer #1*. Five years later he painted a much different portrait of her. Now some people suggest that perhaps Adele might have had an affair with Klimt, after all, he was that type of person who liked to fool around with his models, but those who think that say that whatever heat was in the relationship here had vanished by 1912. Whether that's true or not, I don't know. You could notice there's some Japanese influence on this one. It's an interesting painting. So besides the two portraits, the Bloch-Bauers also purchased a number of landscapes by Klimt. This is his *Beechwood* or birch trees, depending on whether you look at the thick trees or the thin ones, it has a different title. The *Apple-Tree*, this may have been painted at the Bloch-Bauer estate outside of Prague, that summer castle. Klimt was a visitor there several times and this could have been painted there. They had this slightly unfinished painting [*Houses in Unterach am Attersee*], as you see can see, in the right, in the right corner here it's a little bit unfinished.
- 11:18 E. Randol Schoenberg: This was probably purchased from Klimt's estate when he died in 1918. And then this beautiful *Schloss Kammer am Attersee III*, one of a series of four paintings that he did on this lake in Austria. Just to give you an idea. So, they had these six paintings in their beautiful home in Vienna. And then, unfortunately, Adele Bloch-Bauer died very young. She was 42 years old in 1925. She developed meningitis and in those days, before penicillin was available, that was a deadly and fatal disease and she died in a matter of days. She had written a will several years earlier, probably instigated by the death of her mother in, in 1922, and it's a four-page will and these are two, two of the handwritten pages. And it's written in her hand but in what we might call legalese. It has a lot of sort of legal construction and so it's possible that she was advised in this by Maria's father, her brother-in-law, Gustav Bloch-Bauer, who was a lawyer for the family. And in this will, she makes a number of bequests, and remember I said she was very civic-minded, and, and social-minded. She makes bequests to the, to the orphan society, and the worker society. She wants her, her library to go to the worker, the people and workers library for example.
- 12:47 E. Randol Schoenberg: And there are vari - various other bequests here - but the important one for our purposes is this section here where she says my two portraits and the four landscapes by Gustav Klimt - see this word "bitte ich meine Ehegatten" that means - I ask please, my husband after his death to leave them - here's the verb at the end - to the Austrian state Gallery in Vienna. So among her civic-minded bequests was the idea that her husband, after his death, should give

these Klimt paintings - the two portraits and four landscapes - to the Austrian Gallery, which was a newly formed Gallery, museum in Vienna for Austrian art, that was formed from one of the Habsburg palaces after World War I. Here, here it is the beautiful Belvedere Gallery. So she made these requests in her will. And interestingly enough, in the what we would call probate proceedings in 1926, Maria's father - Gustav, again who's the lawyer and and executor for Adele - filed a document where he says Adele, or the deceased, makes certain requests in her will which do not have the binding character of a testament. And I'll explain that, then he says, but her husband dutifully promises to fulfill her wishes. It should be noted that the Klimt paintings were not her property, but his property.

14:09 E. Randol Schoenberg: So, this is 1926. So what does that mean? So the last one first. The paintings were his property, not her property. It wasn't as if she didn't have property; she owned half of the Palais. She had inherited from her father the banker quite a quite a fortune but the Klimt paintings were considered for whatever reason not her property but his in 1926. And the rule at that time of course was, even if there was a dispute, it was not a community property state. Not very feminist at that time even even if there was a dispute all property was presumed to be owned by the husband. So, however, whatever you think the facts might have been, the law at that time pretty clear that her husband would have been considered the owner of the paintings. So she makes these requests which are considered not binding. What does that mean? We have a term in the law, here in the United States also, that refers to certain requests in a will as precatory language. Now, what is precatory language? The way I like to describe it is, let's say we had a dog - which we don't but, let's say we have my wife and I had a dog. And I said in my will, please my dear wife after my death continue to take care of the dog. And I drop dead and she says, oh thank god that dog is out of here. Okay, that's fine because it's just precatory language. It's please take care of the dog. If, on the other hand, I said - as a condition of receiving a penny of my estate, you must agree to take care of the dog until its dying day in the manner to which it's become accustomed - right, that would be clearly binding. Now it's, it's often unclear the line between precatory language and binding language - but it's interesting that even in 1926 inside Adele's family these were considered non-binding requests. But at the time Ferdinand absolutely intended to fulfill her wishes and donate these paintings to the Austrian Gallery when he died.

16:02 E. Randol Schoenberg: Ferdinand actually purchased then, after Adele's death, another portrait. This one you'll see in the movie actually. It's of their friend Amalie Zuckerkandl who was killed in Belzec, in the Holocaust. This painting hung in Ferdinand's bedroom and still has not been returned by the Austrians. In 1936 Ferdinand, who was the president of the Friends of the Austrian Gallery decided to give this painting [*Schloss Kammer am Attersee III*], so one of the six paintings mentioned in Adele's will he actually gave to the Austrian Gallery in 1936 before the Nazis came in, leaving him with five plus the Zuckerkandl painting that I just

showed you. So he had six again. Makes it a little confusing. In 1937, at the end of [19]37 Maria, Maria Altmann, or Maria Bloch-Bauer, then married Fritz Altman. Maria is Ferdinand's niece. If you saw the film, she receives a necklace of Adele's - a diamond necklace - for her wedding. Fritz and Maria then go on a honeymoon into the Alps and they return, and a few weeks later, March of 1938 is the Anschluss - the famous Nazi annexation of Austria. This is the day when world was turned upside down for Austrian Jews. Jews in Germany had had since 1933, five years, to adjust slowly to the increasing difficulties, and regulations, and discriminatory laws related to Jews, but for Austrian Jews, it went from freedom to pariah status in one day. And this is what Maria and her family faced.

17:43 E. Randol Schoenberg: Let's see the next slide is is already 1939, but let me tell you what what happened to Maria's family. So Ferdinand Bloch-Bauer fled immediately on the eve of the Anschluss, first to his castle in Prague, and then as the Nazis annexed Czechoslovakia over the next 6 to 12 months he went to Zurich, Switzerland. And he actually lived in a hotel in Zurich, Switzerland until the end of the war in 1945 when, when he died in November 1945, never having returned back to Austria, never having seen any of his family again, never having recovered any of his property. His property was confiscated by the Nazis who imposed taxes on Jews in various different ways. With Ferdinand, because he had owned this large sugar company, what they did was they said the sugar company had made illegal donations to the previous government - advertising and things like that - and so they said there were deficiencies on the corporation's taxes. The company didn't pay the right amount of taxes. Rather than have his company pay the taxes, they charged the directors of the company - Ferdinand and others, other Jewish directors of the company - to pay the taxes that the company had owed. And so Ferdinand in exile was faced with this huge tax judgment that then allowed the Austrians to confiscate all of his property. And in January 1939 - this is less than 12 months after the Anschluss - there is a meeting in Ferdinand's home with members, says who was there, all the members of the various official agencies, including the Gestapo, including a representative of Adolf Hitler, including members of the Austrian museum world, and they went through and listed all of the artworks in his home and made little check marks and notations of which - who was going to get what, where each one was going to go.

19:41 E. Randol Schoenberg: You can see the Klimt paintings actually listed first here. But this is, this is all of the artworks because what the Nazis did when they invaded countries - and Austria was the first country they invaded - was they targeted Jewish families to take away their wealth and take away their art as part of that wealth. And one of the reasons they were so interested in art is that Hitler himself had been a failed artist. He had actually tried to study in Vienna and applied to the Academy [of Fine Arts Vienna], was not let in. Unfortunately, as Maria liked to say, and it's in the film, too bad they didn't let him in because all the whole world would have been much better if he could have just painted little

pictures. But he, he decided he wanted to be a great art collector and what that meant was going and taking whatever he wanted from Jewish families who had fled or were imprisoned or deported as a result of Nazi persecution. And he had a competitor, his henchmen Hermann Goering also thought of himself as a great art connoisseur. And so the two of them would, would go around and try to compete and, and snap up all of the artworks. And so some of the Bloch-Bauer paintings went to Hitler, some went to Goering - most of mostly the old old-fashioned Austrian Biedermeier paintings. The Klimts however were too modern for the for the big Nazis, but they did attract the eye of the Austrian museum officials - who were themselves Nazis but not, not the same.

21:11 E. Randol Schoenberg: And they liked the Klimts and so the Klimt paintings were were sold off by a lawyer who was appointed to liquidate Ferdinand's estate. His name was Eric Fuhrer, which is sort of an unfortunate name but he was a big Nazi. And he came in and liquidated all of Ferdinand's property to pay off this judgment. And so he, he sold a number of the paintings to various Austrian museums or traded them. So let's, let's walk through that. I think that's - sorry before I do that - the painting that Hitler took you can see it in the movie, is this Waldmüller [*Graf Esterhazy with a White Rabbit*] portrait of Count Esterhazy. Okay, let's go back to the paintings let me show you where they all went. So Dr. Fuhrer in 1941 went to the Austrian Gallery and said, uh, you know we have these these paintings. The Austrian Gallery was interested and so they made a trade and he actually traded the gold portrait and the Appletree picture and in return got back this *Schloss Kammer am Attersee III*, so it was a two-for-one deal. He took this one back and then flipped it and sold it. This is all to pay off the taxes that have been imposed on Ferdinand.

22:24 E. Randol Schoenberg: Who did he sell it to? He sold it to a man named Gustav Ucicky. Who is Gustav Ucicky? He's a very famous Nazi film director who whose most successful Nazi film was called *Heimkehr* or returning home, about the invasion of Poland. But his other claim to fame was that he was one of those eighteen illegitimate kids of Gustav Klimt and he used all the money from his Nazi propaganda films to buy up whatever Klimt paintings were around, including this one [*Schloss Kammer am Attersee III*], the one that Ferdinand had actually donated to the museum. Okay what happened to the other ones? The second portrait of Adele [*Portrait of Adele Bloch-Bauer II*] was then sold two years later by Dr. Fuhrer to the Austrian Gallery. So the Austrian Gallery ended up with the two portraits and the *Apple-Tree*. The birch trees [*Beechwood*] was sold to the City Museum of Vienna, another Vienna Museum and the Houses on Unterach [*Houses in Unterach am Attersee*] was taken by Dr. Fuhrer along with eleven other paintings to pay himself for a job well done liquidating the estate. The, the *Portrait of Amalie Zuckerkandl* was - somehow went through the hands of her son-in-law, into the hands of a dealer, who then sold it to her husband and had a much

different story. And it's one of the reasons it hasn't been returned because her family also claims it should be returned to them.

23:44 E. Randol Schoenberg: Okay, what happened to the rest of Ferdinand's family? Maria and Fritz, some of you may have seen the film. Their escape was, was every bit as dramatic as portrayed in the film. What actually happened was probably even worse. Fritz was actually sent to Dachau for two months in the summer of 1938. Why? Because his older brother Bernard was like Fernand Bloch-Bauer, a very wealthy industrialist. He was a sweater manufacturer and he fled as soon as the Nazis came into Vienna. And he - a very smart guy - he immediately wired all of his customers and said, don't send any money to Vienna I'll come and pick it up. And so we went to Budapest and Rome and Paris and London and picked up the receivables that were due his company - picked up all the money and started a new business in Liverpool. Okay, he was the type of person I think you could drop him on a deserted island on Friday and on Monday he'd already be a millionaire. So he starts up a new company in Liverpool and the Nazis are upset because they want to take his whole, his whole business, and he's stolen the money from his own business. So they decided to arrest Fritz, his younger brother and sent him to Dachau and held him hostage until his older brother agreed finally to return the money and sign away his company to the Nazis, which he managed to do miraculously in, in several months.

25:10 E. Randol Schoenberg: So Maria was actually flown to Berlin with the Gestapo and an agent of Fritz's brother went to Berlin and they signed documents and traded the money and, and Fritz was ultimately released. But even after he was released they were under house arrest and they made three failed attempts to escape before finally going to a dentist office and escaping out the back - similar to what you saw maybe in the film and, and to safety. Of course, it wasn't immediately to safety. They had to get out of Germany. They flew to Cologne, where the person they were supposed to meet didn't make it and they had to make their way north to the border with Holland and managed to find someone who, who was able to smuggle them across the border. Maria had to go through barbed wire and scratched herself apparently, getting into Holland, where they were still not safe. Because, at that point, they were illegal aliens in Holland and Holland had the practice that time of returning escaping Jews back to Germany. So they had to actually then evade the Dutch police once they were in Holland. Until finally, they met up with Fritz's brother Bernard who flew them to safety in Liverpool. They then went to Fall River, Massachusetts where Bernard set up yet another factory to make sweaters in the United States. And from there they came to Los Angeles, to Hollywood, in around 1942. And there, they connected again with their friends the Zeisel's, my mother's parents, and that's that's how my family gets involved with the, with the Altman's after, after the war.

26:42 E. Randol Schoenberg: Maria's, the rest of her family - her sister managed to go to Yugoslavia initially, with her husband, who was a Jewish lumber baron - Bern Guttman. They hid through the war in Croatia. There was a deportation - almost all of the the Jews in Yugoslavia were deported first to Jasenovac and then to Auschwitz and murdered. Almost none of them survived. But they managed to avoid deportation, last-minute, and hide out the end of the war. At the end of the war, Tito and the Communists came in and then arrested Louise's husband and executed him for being a capitalist. So after surviving as a Jew in hiding in Yugoslavia under the Nazis, he then was executed. And Maria's sister and their two young children escaped then to Israel. And from there to Vancouver, where they were reunited with Maria's mother and, and the three older brothers who all went to Vancouver. Okay, so what happened then? After the war ended, as I mentioned, Ferdinand died and he left behind a will that gave his estate to his two nieces and one of his nephews. There's no mention of any gift of paintings to the Austrian Gallery of course because he didn't have them - the paintings were stolen - only to, only his nieces and nephews, and their, and their only claim, after he died, was the hope for restitution.

28:12 E. Randol Schoenberg: Now this is in the end of 1945. When I first became involved I didn't understand why, after the war when, when the Allies conquered Austria - why couldn't you just walk in and get your property back? Civilians were not allowed into Austria until almost two years after the end of the war and it wasn't until 1948 that Austria enacted restitution laws that allowed Jewish families to try to recover their property. So it took three years from the end of the war before it was possible to recover anything and the heirs of Ferdinand Bloch-Bauer hired a friend in Vienna, Gustav Rinesh - sorry everybody's named Gustav in the story - it's Gustav Klimt, and Gustav Bloch-Bauer, Gustav Rinesh. Gustav Rinesh is the lawyer for the family and his job is to try to recover as much as he can of the Bloch-Bauer property, so the shares of the sugar company, the, the home the, the artworks principally, and he, his job was not so easy. The Austrian Gallery was closed at that time and he wrote letters and ultimately he discovered that some of the Klimt paintings, three of them, were in the Austrian Gallery and he wrote to the museum at the end of 1947 beginning of 1948 and said, what is your position with regard to my client's restitution claim - which was just coming into effect. And the museum said, what restitution claim? These paintings were donated to us by Adele Bloch-Bauer in her will and her husband was only allowed to keep them during his lifetime but the paintings belong to us. We only have three of them and it's your responsibility to find the other three and bring them to us, otherwise, we're going to sue the estate. So they took a very aggressive approach.

29:48 E. Randol Schoenberg: And Dr. Rinesh didn't have the will of Adele Bloch-Bauer. He actually looked for it, but the file was with the state attorney. And in the meantime, he had managed to recover some other paintings. So, remember I said twelve paintings were taken by Dr. Fuhrer - the Nazi lawyer liquidating the estate -

including one of the Klimt's? And so he found these twelve. There were other paintings that also he was recovering at that time - if you saw the monuments men last year with George Clooney, right? So George Clooney and his merry band band of men find these giant caves full of artworks that were taken by Hitler and Goering and for the planned Führermuseum in Linz and they find these in in salt mines in Salzburg and they bring them back to Munich. And from Munich, rather than set up a procedure where people could claim their stolen property, they said, no we're not going to deal with that. We're going to just return the artworks to their country of origin.

30:50 E. Randol Schoenberg: So in this case Gustav Rinesh had to ask the Austrians to ask the Americans in Munich to send the paintings to Austria. And then he had to apply to the Austrian government to get them back. And once he got them back in Vienna, he wanted to send them off to his clients in Canada and the United States. So then he had to go back to the Austrians and ask for an export permit. Austria, like many countries, had laws in place that limited the export of cultural artifacts, including paintings. And so you were not allowed to export artworks, even to families who had survived and escaped the Nazis, without permission. And what the Austrians then did, is they took advantage of this situation and they denied export permits for Jewish families. Not just the Bloch-Bauers, but the Rothschild family, the Laderer family, and Zuckerkandl family, all of these families that had large collections. Whoever survived wanted to take what was recovered out and they had to face this export restriction. And what the Austrian authorities would do is they'd say, no nothing can leave. And if you appealed they would say, well you've got 20 paintings if you would donate five of them to our museum we'll let the other 15 go. And so they used this law to extort donations from Jewish families who, for very good reason, did not want to come back and live in Austria after World War II. And Dr. Rinesh was faced with this dilemma - what to do with the paintings that he recovered - what to do about the Klimt paintings given the the museum's position. And so he had a meeting in April 1948 with the authorities and he said, the heirs will acknowledge the will of Adele Bloch-Bauer and leave the Klimt paintings in the museum. We'll try to help you recover the other ones - one of them he had already. He said, and I hope by that to get your agreement to let the other paintings out - several dozen other paintings, porcelain, drawings, etc. They still had to donate some porcelain, some of the drawings that were recovered but he was successful and he managed to export to his client's several dozen artworks.

33:01 E. Randol Schoenberg: I, Maria had a couple of them in her home in Los Angeles. But the Klimt painting stayed in Vienna, and if you had asked Maria, the baby of the family, what had happened to the Klimt paintings before 1998 she would have said well it's too bad my Aunt Adele gave them to the museum so we never got, we never saw them again. They went from from her uncle's home where they were in a memorial room to her aunt and, and they were then lost after the after the war.

But then in 1998 everything changed. There was a, an exhibit in New York at the Museum of Modern Art of artworks by another Austrian painter, contemporary of Klimt named Egon Schiele, and two of those paintings were alleged to be stolen from, from Jewish families. And the district attorney in New York Mr. [Robert M.] Morgenthau decided to seize the paintings as stolen property. And this was right at the end of 1997, caused a big outcry, especially in Austria. And the Austrian Minister said this is ridiculous, we don't have stolen paintings in Austria. Everything was given back after the war. We can't be accused of this. Whereupon this amazing journalist, Hubertus Czwenin, decided to do some research and he went into the archives in the Austrian Gallery and in the federal monument agency and discovered this extortionate procedure that had happened after the war. And he discovered that many of the provenance stories around Austrian paintings were false.

34:36 E. Randol Schoenberg: So, for example in the guidebook to the Austrian Gallery the gold portrait of Adele Bloch-Bauer said donated in 1936 and he found the letter signed Heil Hitler, Eric Fuhrer with trading it in 1941. So he wrote this big series of articles in *Expose* about the fishy way that Austria obtained a lot of these paintings. And to Austria's credit the minister, Minister [Elisabeth] Gehrler proposed a new law. And the new law said that if our federal museums, if our public museums have artworks that either were never returned or were returned and then traded to our museum in exchange for export permits, we're going to give them back. And this was around September 1998. So Maria Altmann got a call from a former Austrian General Consul in Los Angeles Peter Moser, who later became the Ambassador from Austria, and he told her about this new law. And she hung up the phone and then decided to try to call my mother. My grandmother, her best friend, had died about 10 years earlier but she kept up with my mother and knew that I was a lawyer. My parents actually were not in town and so she looked me up and called me directly in my office. And at that time I was, I was working in a small office of a large New York firm, downtown Los Angeles named Fried, Frank, Harris, Shriver & Jacobson - and the Shriver is Sargent Shriver for example - so it's a big New York firm. And I got this call from Maria Altmann, who I knew as my grandmother's good friend. I'd probably last seen her when my sister got married. And she said, Randy, I just got this call from Vienna about this new law in Austria and I'd like to speak to you about possibly recovering my family's paintings,

36:21 E. Randol Schoenberg: And, and I said, I sort of know what you're talking about because I had gone online to see what was going on in Vienna because my parents were in Vienna at that time and had seen an article about this. And so, just by coincidence, I had read that and she called and so I was very excited about it. I didn't know at the time what the story of the paintings was. I had seen the portrait of Adele Bloch-Bauer when I was a teenager and went to Vienna for the first time. And I remember my mom pointing the painting out and saying, you know your grandmother's friend Maria Altmann - that's her aunt Adele Bloch-Bauer. And

I remember it just because Adele Bloch-Bauer is such a weird name that, for an American kid to hear, and so I remember seeing the painting and knowing about the painting, but I didn't have any idea about what had happened to it - that even that her family had owned it. But Maria then met with me and told me her story, and she told me about her escape with Fritz, and she told me about these paintings. And her sister had just died and she had obtained from her niece some of the documents her sister had left behind, including a letter from this lawyer Gustav Rinesh talking about this meeting he had in 1948 with the officials trying to get export permits, etc. And it really looked like this new law would apply to the recovery of these paintings. But what to do? We waited for the law to go into effect and what Austria did actually did not allow anybody to file a claim or file a lawsuit.

37:51 E. Randol Schoenberg: They set up an internal procedure with an advisory board that was going to decide what painting should be returned. So I helped Maria approach this board and say we had documents and sent them the documents and we waited really for a decision which came then in June of 1999. The Bloch-Bauer was the the third case that they handled. They returned hundreds of artworks to the Rothschild family, some artworks to the Laderer family, and then turned to the Bloch-Bauer. And for the Bloch-Bauers they agreed to give them back some drawings and some porcelain but they said the Klimt paintings must stay because they were donated by Adele Bloch-Bauer in her will. So at that point, Marie and I had to decide what to do and I actually asked the Austrians at that time if they would arbitrate the issue of the will because remember I had already seen that Maria's father had said these requests were not binding in 1926. Also, Dr. Rinesh had said it doesn't look like they're binding and so I thought this should be a legal issue decided by Austrian arbitrators but I was told by a Minister Gehrler in a letter if you don't like it go to court. So I'm a lawyer, right? You'd never say, go to court, to a litigator. That's really not a very smart thing. So I decided, okay Maria we should try to sue and, and recover this.

39:13 E. Randol Schoenberg: So I found an Austrian lawyer, because of course the paintings were in Austria - it seemed like that would be the place you would want to file a lawsuit. And I found an Austrian lawyer who said, well there's no real right to file a lawsuit under this new law but maybe we could do some sort of declaratory relief action over this issue of the will. And I said, well that sounds great why don't you prepare it and he prepared it and then he said you know to file a lawsuit in Austria you have to pay court costs. I said, okay that's the same here - what are the costs? He said, no you don't understand - it's a percentage of the value at stake in the litigation. So in this case, to file the lawsuit you have to have about \$2 million. So Maria, who at that point was was in her mid-80s, still selling dresses out of her home, obviously did not have \$2 million to throw away on a lawsuit in Austria which already had, you know, a lot of hurdles that we would have to get over. And so we sort of thought of giving up but I, I wouldn't give up. And I, I looked very naively at the idea of suing in the United States. I thought Maria

Altmann came to the United States in the early 1940s. She was already a citizen when this trade happened. She's been here for 60 years why shouldn't she be allowed to sue in the United States? And so I looked in the law books in our Federal Rules and there is a, there's a statute called the Foreign Sovereign Immunities Act of 1976.

40:42 E. Randol Schoenberg: You can tell by the title of the act that the ordinary rule is that foreign states are immune from lawsuits. You cannot sue a foreign state in US courts. But there are exceptions - and they're small exceptions. And one of the exceptions said, that you can sue a foreign state if the case concerned property taken in violation of international law, okay, where the property is owned or operated by an agency or an instrumentality of a foreign state which is engaged in a commercial activity in the United States. So I read that and thought, okay the Nazis took it that should be a violation of international law. They're owned or operated by the museum which is an agency or instrumentality of Austria - a foreign state - and the museum is engaged in commercial activities in the United States. They sell books. They, I found a book that they published with Yale University Press. They advertise. They accept US credit cards. They have connections with the United States, so I think we can sue. And I tried to convince my big law firm to do this but they were not really in the business of tilting at windmills and suing foreign countries. And, and so I ultimately decided to leave the big firm that I was in and I opened up my own small office.

42:02 E. Randol Schoenberg: I rented out a tiny office from from a friend of mine who had a real estate company. And I drafted a complaint against Austria. And I went down to court and I filed this complaint and it didn't cost \$2 million, it cost about \$165. And there's an email I wrote to Maria at the time saying, I just hope that we can keep the case alive because my hope always was that if, if we haven't lost completely there's something could happen and we could win. And, and so we filed this lawsuit, and Austria, of course, hired a big firm to represent it and they did what any lawyer would do they filed a motion to dismiss the lawsuit at the outset. And they had a number of different grounds and one of them was that we should not be able to rely on this Foreign Sovereign Immunities Act of 1976 because the case concerns events that took place in the [19]30s and [19]40s. It would be impermissible retroactively to apply a law from 1976 to events that took place earlier. Fortunately, we had a terrific District Court Judge the late Florence-Marie Cooper. And much to everybody's surprise, she ruled in our favor and denied the motion to dismiss. So Austria had an immediate right to appeal. Normally you don't, but if it's a foreign sovereign immunity issue it goes immediately on appeal and they went to the Ninth Circuit Court of Appeal in Pasadena and I argue then for the first time in front of three judges in the Ninth Circuit and again with a miracle, we won a 3/0 opinion.

43:32 E. Randol Schoenberg: So we were feeling really good, right? Everything's going our way. Austria then filed a motion for reconsideration or rehearing and they were joined by the US government. Apparently, the US government started getting calls after the Ninth Circuit decision saying, what's going on in crazy California? Are we going to be sued? Right Mexico and Japan and Poland and France, everybody was worried that all historic wrongs would now be litigated in California. And in the US government the State Department, their job is to, is to pacify foreign States, so that we can fly our planes over them or do whatever we want and so they took actually Austria's side and asked the Ninth Circuit to reconsider its decision. Fortunately, the Ninth Circuit did not. The judges did not reconsider and, but then Austria petitioned the US Supreme Court and the US Supreme Court doesn't grant a lot of petitions for cases. They hear only about 75 or 80 cases a year but when you have a foreign country complaining and the US government is on the foreign country's side it's a little unusual and so they took the case. And then of course all bets were off. I think if you would talk to any lawyer in the country about this they would have said that I had had less than a zero chance of winning but I prepared to go to the US Supreme Court to argue this case for Maria Altmann and I did several moot court practice sessions.

44:58 E. Randol Schoenberg: These are, law schools set them up for lawyers going to the Supreme Court, to practice, judges, people, professors, and other lawyers will pretend to be the justices and asks you lots of questions. I did three of these and I really thought I was ready and I went to Washington in, in February of 2004 and I had sort of a gallows humor because no one thought I was, had any chance of winning. And my goal was really just to get one justice on our side. To tell our side of the story. But I really didn't have any expectations beyond that. But by the time I got up to speak, I was the last speaker - first Austria's lawyer and then the US government lawyer spoke - I felt the justices were at least entertaining our side of the issue. And so I got up to speak and I said there are four grounds for affirming the Ninth Circuit. Ground one is - and as soon as I finished the first sentence I got interrupted by Justice Souter, in the film it's Justice Rehnquist but it was really Justice Souter - who very smart, very smart justice. He's since retired but he had this heavy New England drawl. It was a little hard to understand and and to me, the question sounded like da like that. And and I had, I, I had no idea what he had just asked me. And, and unfortunately, there's a tape of this. You can go online and hear it, but I, I said, um I'm sorry Your Honor. I didn't understand the question. And you can hear the gasps in the audience behind me. But all the other justices smiled as if to say, oh he does that all the time; we didn't understand it either. It was, it was this incredible ice-breaking moment because they realized I was, who was I? I was just a kid from Los Angeles representing my grandmother's friend trying to convince the US Supreme Court that we should be able to sue Austria to recover paintings that had never left Vienna.

46:57 E. Randol Schoenberg: Right so I, it was a crazy situation. And, and so he rephrased. He was very nice. He replaced the question. I answered as best I could and moved on and the rest of the argument went like a dream. Really I just, I floated out of the courtroom. I was so happy and my father, who was a retired judge, for the first time he said, you know I think you might have a chance. And, and we were just so ecstatic. And I returned home and I opened up the daily journal, which is our legal, legal newspaper for, for Southern California - for Los Angeles - and the headline was, court likely to reverse Altman suit. It was all about how we were going to lose. A full page about all the arguments. And, and so I called up the reporter, this guy Dave Pike, and, and I said, you know you could have at least said, Randy does a good job but court likely to reverse right because no one saw what had happened. It was so terrific, and he's not. Trust me I've been reporting for 34 years of the Supreme Court. I can tell by the body language; you don't stand a chance. So, I said, okay everybody thinks that anyway. I said, do me a favor, when the court announces the decision - they don't tell the lawyers in advance they just announced one day later in the term. And I said you'll be there first, can you give me a call? Here's my home number, you can call me. So, sure enough, three months later I'm making breakfast for the kids, right, and, and there's this call and it's this journalist Dave Pike. And I said, okay give me the bad news. And he said, no not bad news you won. Right, and I just I dropped the phone. I can't even remember what, what else happened. I was so excited. I got dressed and, and raced over to Maria's house and her kids came over. We hugged and celebrated and then we realized - what did we win? Right, nothing, we won the right to start a lawsuit in Los Angeles.

48.51 E. Randol Schoenberg: And it was 2004, six years into this. So, we entered in what I lovingly call Discovery Hell, which is where litigators like me - we torture each other back and forth writing letters and interrogatories and making our lives miserable. And we did that for about a year and a half. And then we had to do a court-ordered mediation. Now up to this point, Austria had refused every request I made to sit down and discuss a resolution of the case. They wouldn't even talk to us. And so when we had to do a mediation I said, I'm not going to waste my time. You bring a mediator. You tell us where; we'll show up. We'll get it over with and be done with it because I'm tired of this. So, we brought Maria to the the other attorney's office and Austria brought a mediator from, from Austria, a professor from Austria. And very quickly he sat us down and he said, I sense from both sides you want this over with. So of course, we did. I think each side had a different idea of what over with meant. And, and he said, well I have an idea. Why don't we have an arbitration in Austria? You pick one arbitrator, they pick the other, those two pick a third and have it decided in Austria.

50:01 E. Randol Schoenberg: And I thought, wow they finally came around. It's only been seven years since I proposed that. And I was, I was very excited and I pulled Maria aside. I said, isn't this great? We can have this arbitration. And she said, are you

crazy? Why would I want my case to go back to Austria? The district court judges love us; the Ninth Circuit loves us; even six out of nine Supreme Court justices love us. Why would I want to do this? And I said, Maria, you're 89 years old. This case has a lot of procedural hurdles still to get over. They could drag it out for another four or five years. It could go back up to the US Supreme Court. Even if we win in the United States, Austria would not have to comply with the US judgment. We don't actually have a treaty with Austria on enforcement of judgments, as crazy as that is. I said, Maria, I think we need to take this chance and fortunately she trusted me and allowed me to do it. And I went back to Austria and argued the case. It was mostly in German. I had a translator there but I could, I could do most of it in German. And, and of course, there are no live witnesses to the will of Adele Bloch-Bauer from 1923 or [19]25, so it was all about the documents and, and reading things that were hard to read, and some of the legal issues. And and we submitted the case.

51:21 E. Randol Schoenberg: It's not like in the, in the film. For those of you seen it, it's sort of immediate gratification but, but the filmmakers, I think nicely, decided not to have everybody wait for five months in the theater for the decision. The reality was that, that it was about five months later. I, I was returning home from a, from a Sunday night poker game where I'd lost a little money, and feeling dejected and I checked my Blackberry after midnight and there it was the decision of the arbitrators. And of course, you can't read anything on a Blackberry, so I had to go to my computer open up the decision. And it's in German and the verb is like on page 5 and, but it took me a while and I realized we won, we won. All three arbitrators agreed with the position we had taken from the very beginning, which was that Maria's aunt died and made these requests to her husband which were not binding. The paintings were owned by him. He died in exile after the paintings were confiscated, and left his estate to his heirs and not the museum. And so the only reason that the paintings were in the museum was that Dr. Rinesh the, the family's attorney gave up these paintings to get export permits for other paintings and get them out of the country, which was exactly what this law was designed to reverse. So these paintings were essentially donated in exchange for export permits.

52:40 E. Randol Schoenberg: They did not agree with the Austrian position on Adele's will and so we won. And then we really did celebrate because it was a huge event. I have some pictures here from the Supreme Court and then following the decision of the arbitrators, we, we took the paintings out. It's different than in the film. Austria had actually required that we agree to a whole long procedure that could have taken several months, where they could have purchased the paintings but very quickly they abandoned that. The Austrians said they didn't want to purchase the paintings and so we had to decide what to do with them. And so I called up Stephanie Barron, who's a curator at the LA [Los Angeles] County Museum of Art, and I said, Stephanie, how'd you like to have a Klimt exhibit tomorrow, right? And

she she said, yes, maybe not tomorrow, but in a couple weeks. And in about four weeks she put together an exhibit of these five magnificent paintings. And for me, that was really the greatest moment because we had Maria and these five paintings that were once in her family home, in her uncle and aunt's home all in one room, just like they had been back in Vienna. And she was there with her children and her grandchildren and her great-grandchild at that time and her nieces and nephews and everybody came to be as a family with these paintings. And that, for me, was, was the moment of the whole case - that I could have achieved that for Maria, my grandmother's good friend. So thank you very, very much

54:12 Speaker 1: Thank you, Randy, very much for all you've done. It really did a marvelous job. It's just outstanding. Everybody appreciates it. Could you just fill us in on where the Este Lauder family came into this whole thing? And, and maybe bring us up to date as to what happened with them. There was a lot of money floating around here. Could you bring that up to date too?

54:37 E. Randol Schoenberg: Sure, they actually, it fits with this slide that I thought I was putting on while you were speaking. The, the painting the gold portrait of Adele Bloch-Bauer was purchased by Ronald Lauder. And with that, he agreed to put it on permanent display at the Neue Galerie in New York, which is on 86th and 5th - sort of near the the Met [Metropolitan Museum of Art] and the Jewish Museum - up there in that area, on the Upper East Side. And I love this, this juxtaposition here because you see these two statues here. So these were listed on that inventory in Ferdinand's house as two statues by George Minne. George Minne is a Belgian symbolist sculptor but they didn't have a photograph of, the family didn't have a photograph. And they were never recovered. And after the gold portrait was returned, the Austrians realized that these two statues they had in the Austrian Gallery had had arrived at the Austrian Gallery in 1942 and that they must be the same as the ones that Fernand Bloch-Bauer had lost because here they are in the first exhibit of the Gold Portrait in 1907 in Mannheim. So they ended up returning these two sculptures to the family in 2007. And it was my idea, I convinced the family to donate them then to the Neue Gallery, so they could be reunited 100 years later with the Gold Portrait and that's where you'll see them today. I was there last month to see them.

56:14 E. Randol Schoenberg: The, the other paintings were auctioned off at Christie's. It was, at the time, the largest, or the most successful, auction of all time, was, of course. You couldn't know that in advance, when you put so many paintings by one artist up for auction, that Maria was not the only heir. There were, there were four other heirs. The heirs of her brother and sister and, and really none of them wanted or could afford to have one of these paintings in their home You can imagine a 90-year-old woman living with, with a painting like this in her home wouldn't necessarily be a safe thing. And so they decided, rather than wait for

estate taxes to force them to sell, that they would, they would dispose of the property that way - return the gold portrait to a museum setting by selling it to Ronald Lauder and allowing the other four to go back into private hands of people who live like Ferdinand Bloch-Bauer did with, with perhaps too much money and, and the, and the love of beautiful art. And so, so four of the paintings are in private collections. The, the other portrait of Adele the white portrait if we go back to that was just put on loan by whoever owns it - who's apparently remodeling - at the Museum of Modern Art. So, now if you go to New York you can see both portraits of Adele Bloch-Bauer. And I, I presume that over time the other landscapes will, will come back into public view as well. So, I hope that answers your question. Thank you very much for coming tonight.

- 57:56 [Read Write Think Dream / The Library UC San Diego Channel]
- 58:02 [Read Write Think Dream / www.uctv.tv/library-channel]
- 58:07 [The Holocaust Living History Workshop / Whatever Happened to Klimt's Golden Lady? Featuring E. Randol Schoenberg / Partner, Burris & Schoenberg LLP / Lecturer, University of Southern California Gould School of Law / president, The Los Angeles Museum of the Holocaust / May 6, 2015]
- 58:13 [Presented by / The Judaic Studies Program at UC San Diego / and / The UC San Diego Library / With Special Thanks To / Daniel and Phyllis Epstein]
- 58:18 [Brian E.C. Schottlaender, The Audrey Geisel University Librarian / Dolores Davies - Director of Communications and Outreach / Deborah Hertz, Director, The Judaic Studies Program, UC San Diego / Susanne Hillman - Program Coordinator, The Holocaust Living History Workshop]
- 58:24 [UCTV / Producer- Shannon Bradley / Camera - Matt Alioto, Jacob Parker / Audio - Lara Sievery ACMS / Editor - Mike Weber]
- 58:28 [The views, contents and opinions expressed herein do not necessarily represent those of the University of California]
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