

PRESS RELEASE December 27, 2018

Last Friday, on December 21 2018, the heirs of the Lewenstein family served a writ of summons to the Municipality of Amsterdam and the Stedelijk Museum to appear at the Amsterdam District Court, thereby reclaiming the painting 'Bild mit Häusern' of the Russian artist Wassily Kandinsky. On October 22, 2018, the Dutch Restitution Committee rejected the heirs' request to return the painting, a decision which was strongly criticized both nationally and internationally.

[The binding expert opinion](#) of the Dutch Restitution Committee is unacceptable, according to the Lewenstein heirs. Moreover, it contradicts the internationally accepted standards for restitution of Nazi looted art as laid down in the [Washington Principles](#). These principles dictate that *fair and just solutions* must be found for Nazi looted art. In dealing with these claims the lack of proof, caused as a result of passage of time, may not be used against claimants.

For years, James Palmer (Mondex Corporation) has been supporting and guiding heirs of holocaust victims, who have been robbed or forced to sell their property during World War II: *"For decades, The Netherlands has ignored the interests of expropriated families. After an initial good start in 2001, the Restitution Committee is now turning back the clock by relying on the post war, formalistic policies that are hard and cold and contrary to the Washington Principles. Despite international criticism the situation has not yet changed. As a result, the Lewenstein heirs are forced to turn to the Amsterdam District Court in order to determine their rights."*

Twenty years ago, 44 countries worldwide agreed on a set of principles regarding the return of Nazi looted art. Currently, the Netherlands is being criticized vehemently by the authors of these principles and other interested parties. As a result of a change in restitution policies in 2007, Dutch museums are able to oppose restitution claims by invoking the argument that the claimed artworks are simply too important for the museum collection.

Before World War II, the painting *Bild mit Häusern* was part of the art collection of Emanuel Lewenstein and his wife Hedwig Weijermann. They had two children, Robert and Wilhelmine Lewenstein, who inherited the painting on the death of the widow Hedwig Lewenstein-Weijermann in 1937. On October 9, 1940, the painting was auctioned at the Dutch auction house, Frederik Muller, where it was bought by the Municipality of Amsterdam. From that moment onwards, the painting was in the collection of the Stedelijk Museum. At the auction, the family involuntarily lost possession of the painting as a consequence of circumstances directly linked to the Nazi regime. The Dutch Restitution committee affirms this fact.

Nevertheless, the claim for restitution has been rejected because it was regarded as being 'less strong' given that the auction was possibly linked to the (alleged) financial issues of the Lewenstein family existing before the war. As a consequence, the committee applied a biased, balance of interest test, which ruled in favor of the museum given the importance of the work.

[Gert Jan van den Bergh](#), attorney of the Lewenstein heirs, states: *"The Restitution Committee based its rejection decision on a series of unproven assumptions. The crucial point here is that the war circumstances obviously don't leave any room for a balance of interest test with a possibly favorable outcome for the current possessors, even if it would turn out that these possessors or their predecessors*

acted in good faith. Families such as the current plaintiffs were either expropriated and robbed or forced to sell their possessions due to the Nazi occupation, and the fact that they belonged to the group that was persecuted. Had the war not taken place, then obviously these works would not have been sold. There is no reason whatsoever to apply the rules of a good faith-acquisition to a period in which the original owners were victims of crimes such as discrimination, persecution and extermination. According to the current rules, the sale of an art work by a Jewish person from May 10, 1940 (date of the Nazi occupation of the Netherlands) onwards, is to be regarded as a forced sale unless there is explicit evidence of the contrary. Such evidence is non-existing in this current case. Therefore, the painting should have been restituted. Period. We request the court to return the painting and to annul the decision of the Dutch Restitution Committee.” Please also be referred to [the opinion article in NRC of 14 December 2018](#).

The position of the Lewenstein heirs is being supported by a wide range of people. Historian Gerard Aalders wrote in the [Volkskrant on December 18, 2018](#) that the committee applies rules of evidence that are simply too restrictive and at the very least more strict than initially intended by the Dutch government at the very start of the Restitution process after the acceptance of the Washington Principles. Wesley Fisher (Conference on Jewish Material Claims Against Germany; World Jewish Restitution Organization) and Anne Webber (Commission for Looted Art in Europe) argue that because of the current developments, The Netherlands runs the risk of becoming a pariah of art restitution, where it used to be a leader.

[The Guardian](#), [The Art Newspaper](#) and [Die Suddeutsche Zeitung](#) consider the case a very serious matter and called the decision ‘tendentious’. Moreover, it is being stressed that the decision harms the reputation of the committee. Even supporters of the current policy admit *the decision made them frown* (former Restitutions committee researcher Helen Schretlen) or are of the opinion that *the committee causes confusion* by a lack of clarity in the this decision (former secretary of the committee [Evelien Campfens](#)).

If it turns out that the committee wrongfully rejected the request for restitution of the painting, the court may decide that the painting is to be returned or that the committee has to redo the case.

For further queries:

Gert Jan van Bergh, attorney Lewenstein heirs

Office: +31(0)206202288

Cell: +31(0)622489626

vandenbergh@berghstoop.com

James Palmer HBA, MBA, International Consultant

+1(0)4169721877

JP@mondexcorp.com