

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In re: : Case No. CV 96-4849 (ERK)(MDG)
HOLOCAUST VICTIM ASSETS : (Consolidated with CV 96-5161 and
LITIGATION : CV 97-461)
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This Document Relates to: All Cases :
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**SPECIAL MASTER'S INTERIM REPORT ON DISTRIBUTION
AND RECOMMENDATION FOR ALLOCATION OF EXCESS
AND POSSIBLE UNCLAIMED RESIDUAL FUNDS**

JUDAH GRIBETZ
Special Master
SHARI C. REIG
Deputy Special Master

Bingham McCutchen LLP
399 Park Avenue
New York, New York 10022
October 2, 2003

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1. Sample Payment Recommendations and Approval Orders for the Deposited Assets Class, Slave Labor Class I, Slave Labor Class II, and the Refugee Class:
 - September 30, 2003 Letter from CRT Special Master Michael Bradfield to the Hon. Edward R. Korman recommending payment of the thirty-sixth set of Certified Awards of the Claims Resolution Tribunal, appended to Court Order Approving 31 Awards Certified by the Claims Resolution Tribunal Pursuant to Article 31(2) of the Rules Governing the Claims Resolution Process and Authorizing Payment from the Settlement Fund, September 30, 2003 (Ex. 1-2 to 1-10);
 - Report and Recommendations of the Conference on Jewish Material Claims Against Germany, Inc. For the Thirteenth Group of Slave Labor Class I Claims in In re Holocaust Victim Assets Litigation (Swiss Banks), September 23, 2003, appended to Court Order approving the Claims Conference's Thirteenth Group of Slave Labor Class I Claims, September 23, 2003 (Ex. 1-11 to 1-15);
 - Report and Recommendations Made by the International Organization for Migration for the Fifth Group of Claims Under the Holocaust Victim Assets Programme (Swiss Banks), May 23, 2003, appended to Court Order approving the IOM's Fifth Group of Claims, May 27, 2003 (Ex. 1-16 to 1-26); and
 - Report and Recommendations of the Conference on Jewish Material Claims Against Germany, Inc. for the Seventeenth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, September 25, 2003, appended to Court Order approving the Claims Conference's Seventeenth Group of Refugee Class Claims, September 26, 2003 (Ex. 1-27 to 1-39).
2. CRT Special Master Michael Bradfield, Report on the Claims Resolution Process as of June 30, 2003 (excerpts) (Ex. 2-2 to 2-18).
3. Rules Governing the Claims Resolution Process for the Deposited Assets Class (As Amended) (excerpts) (Ex. 3-2 to 3-20).

4. William Glaberson, "Settling Accounts, But Not Minds: Holocaust Survivors Relive Past in Case Against Swiss Banks," The New York Times, November 13, 2002, page B1 (Ex. 4-2 to 4-3).

5. Documents relating to Slave Labor Class I:
 - Chart, "Swiss Banks Settlement, Slave Labor Class I - Administered by the Conference on Jewish Material Claims Against Germany (Claims Conference) on behalf of the United States District Court: Geographic Distribution of Approved Claimants to Date by Country and Award (as of September 16, 2003)" (Ex. 5-2 to 5-3);

 - Chart, "Swiss Banks Settlement, Slave Labor Class I - Administered by the Conference on Jewish Material Claims Against Germany (Claims Conference) on behalf of the United States District Court: Geographic Distribution of Approved Claimants to Date by U.S. State and Award (as of September 16, 2003)" (Ex. 5-4 to 5-5);

 - Chart, "Swiss Banks Settlement: Slave Labour Class I - Administered by the International Organization for Migration on behalf of the United States District Court: Geographic Distribution of Approved Claimants by Country and Award (as of September 25, 2003)"; (Ex. 5-6); and

 - September 25, 2003 Letter from Greg Schneider, Chief Operating Officer of the Claims Conference, to Special Master Judah Gribetz and Deputy Special Master Shari Reig, concerning status of Slave Labor Class I claims. (Ex. 5-7 to 5-11).

6. Documents relating to IOM Slave Labor Class I research:
 - IOM Group V-Slave Labour Class I: Background Historical Summary, filed with the Court on June 6, 2003 (Ex. 6-2 to 6-23); and

 - Paul Shapiro and Radu Ioanid of the United States Holocaust Memorial Museum, "Statement on Roma Claims from Romania," August 11, 2003 (Ex. 6-24 to 6-28).

7. Documents relating to the Refugee Class:

- Chart, “Swiss Bank Settlement, Refugee Class - Administered by the Conference on Jewish Material Claims Against Germany (Claims Conference) on behalf of the United States District Court: Geographic Distribution of Approved Claimants to Date by Country and Award (as of September 16, 2003)” (Ex. 7-2);
- Chart, “Swiss Bank Settlement, Refugee Class - Administered by the Conference on Jewish Material Claims Against Germany (Claims Conference) on behalf of the United States District Court: Geographic Distribution of Approved Claimants to Date by U.S. State and Award (as of September 16, 2003)” (Ex. 7-3); and
- Chart, “Swiss Banks Settlement: Refugee Class - Administered by the International Organization for Migration on behalf of the United States District Court: Geographic Distribution of Approved Claimant by Country and Award (as of September 25, 2003)” (Ex. 7-4 to 7-6).

8. Documents relating to the appellate processes for Slave Labor Class I and Refugee Class:

- Appeals Rules for Decisions of Appeals Authority of the Conference on Jewish Material Claims Against Germany (Claims Conference), October 1, 2002, appended to Court Order approving the Appeals Rules, February 11, 2003; (Ex. 8-2 to 8-9);
- IOM Appeals Body for Forced Labour Claims: Principles and Rules of Appeals Procedure, April 15, 2003, appended to Court Order approving the independent IOM Appeals Body, April 25, 2003; and (Ex. 8-10 to 8-28); and
- May 14, 2003 Letter of Special Master Judah Gribetz to Hon. Edward R. Korman recommending changes to the Refugee Class notification and appellate process, appended to Court Order approving Special Master’s recommendations, May 15, 2003. (Ex. 8-29 to 8-33).

9. Chart, "Swiss Banks Settlement: Slave Labour Class II - Administered by the International Organization for Migration on behalf of the United States District Court: Geographic Distribution of Approved Claimants by Country and Award (as of September 25, 2003) (Ex. 9-2).
10. Documents relating to the Looted Assets Class (as administered on behalf of the Court by the American Jewish Joint Distribution Committee):
- JDC "Report on the First Eighteen Months of Welfare Programs in the Former Soviet Union, June 28, 2001 - December 31, 2002," July 31, 2003 (excerpts) (Ex. 10-2 to 10-32); and
 - JDC "Request for Second Period Funding for Welfare Programs in the Former Soviet Union for January 1, 2003 to December 31, 2003," September 18, 2003 (excerpts), appended to Court Order approving JDC Request for Second Period Funding, September 23, 2003 (Ex. 10-33 to 10-59).
11. Documents relating to the Looted Assets Class (as administered on behalf of the Court by the Conference on Jewish Material Claims Against Germany):
- "Third Claims Conference Looted Assets Class Proposal: Emergency Assistance Programs for Jewish Nazi Victims- Proposal for the Calendar Year 2003," April 7, 2003 (excerpts), appended to Court Order approving the Third Claims Conference Looted Assets Class Proposal, April 22, 2003 (Ex.11-2 to 11-21); and
 - Chart, "Swiss Banks Settlement: Looted Assets Class Emergency Assistance Program - Administered by the Conference on Jewish Material Claims Against Germany (Claims Conference) on behalf of the United States District Court: Allocations by Institution and Amount (June 28, 2001 – December 31, 2003)." (Ex. 11-22 to 11-27).

12. Documents relating to the Looted Assets Class (as administered on behalf of the Court by the International Organization for Migration):

- IOM “Request for Humanitarian Programme Funding for the Third Quarter of 2003,” July 2003, appended to Court Order approving the Request for Humanitarian Programme Funding, July 30, 2003 (Ex. 12-2 to 12-11);
- September 12, 2003 Letter of Delbert Field, IOM Deputy Director, Compensation Programmes and Team Leader, Humanitarian & Social Programmes, to Special Master Judah Gribetz and Deputy Special Master Shari Reig, updating humanitarian program statistics (Ex. 12-12);
- “HSP Presentation at the 13th Meeting of the Kuratorium, Foundation ‘Remembrance, Responsibility and Future,’ Federal Ministry of Finance, Berlin, 24 September 2003” (Ex. 12-13 to 12-17);
- IOM “Supplemental Proposal in Furtherance of the Pilot Project Proposal of 10 June 2002” (excerpts), appended to Court Order approving the Supplemental Proposal, June 24, 2002 (Ex. 12-18 to 12-34); and
- Chart, “IOM Humanitarian and Social Programmes (HSP): Cumulative Installments Paid to HSP Service Providers, March 2002 – June 2003” (Ex. 12-35).

I. *Introduction and Recommendations*

A. *Summary of Proposal*

This Interim Report is submitted to provide the Court and class members with current information concerning the status of distributions from the \$1.25 billion Settlement Fund and other relevant developments relating to implementation of the Plan of Allocation and Distribution of Settlement Proceeds (“Distribution Plan”). At the Court’s request, this report also offers a recommendation for allocation of excess funds currently available, as well as a request for proposals concerning the ultimate disposition of any residual unclaimed funds that might remain from the initial distributions to members of the five Settlement Classes – Deposited Assets, Slave Labor I, Slave Labor II, Refugees and Looted Assets.

As a result of Congress’s decision to exempt the Settlement Fund from federal income taxation, and as a result of interest income having accrued to the Settlement Fund since its creation, the fund has increased in value. In August, 2002, the Court “requested that Special Master Gribetz review the available financial and distribution information to determine whether there [were] sufficient excess funds to provide for supplemental distributions to class members.”^{1/}

On September 25, 2002, the Court, after considering the financial and distribution information submitted by the Special Master, approved the Special Master’s

^{1/} See August 19, 2002 Letter of Judah Gribetz to Hon. Edward R. Korman; see also Order dated September 25, 2002.

determination that excess funds existed, and approved his proposal to distribute any such excess funds in accordance with allocation principles that had been approved by the Court, and affirmed by the United States Court of Appeals for the Second Circuit, in connection with the adoption of the Distribution Plan. See In re Holocaust Victim Assets Litig., Case No. CV 96-4849 (ERK) (MDG) 2000 WL 33241660 (E.D.N.Y. Nov. 22, 2000), aff'd., In re Holocaust Victim Assets Litig., 14 Fed. Appx. 132 (2d Cir. July 26, 2001).

Accordingly, by order of September 25, 2002, the Court accepted the Special Master's recommendation that awards to members of the Slave Labor I, Refugee and Looted Assets Class each be increased by 45%, adhering to the relative allocations set forth in the existing Distribution Plan. In addition, the Court accepted the Special Master's recommendation that full payment of awards to members of the Deposited Assets Class be accelerated.^{2/} The Court agreed with the Special Master that alteration, if any, of payments to members of Slave Labor Class II must await the resolution of litigation concerning the precise membership of that class. Finally, the Court determined that any excess funds allocated pursuant to the cy pres administration of the Looted Assets Class should be distributed in accordance with the criteria that had been adopted

^{2/} For the Deposited Assets Class, the Court's September 25, 2002 order increased the amount of the first of two installment payments to class members, and also provided for payments in full to those aged 75 and over. Following further analysis of claims data, the Court required all Deposited Assets payments to be made in full. See Order dated February 28, 2003.

by the Court and affirmed by the Second Circuit to govern the initial Looted Assets Class cy pres distribution.^{3/}

In August, 2003, the Court once again requested the Special Master to consider whether excess funds exist that would permit a second supplemental distribution to class members, without unduly jeopardizing the rights of any person under the Distribution Plan. Based upon examination of the most recent distribution statistics and projections, as well as investment data concerning the Settlement Fund, it appears that a second supplemental distribution of excess funds now can be made.^{4/} At this time, the Special Master estimates that \$60 million is available for immediate distribution for the benefit of needy victims or targets of Nazi persecution without impairing the rights of potential members of the five plaintiff classes. As with the “excess funds” distribution of September, 2002, the immediate disbursement of this additional amount will not diminish

^{3/} As more fully discussed below, in its decision accepting the Special Master’s proposed plan of allocation and distribution, the Court recognized that it was necessary to administer the Looted Assets Class under cy pres principles because the massive size of the class, together with the extremely difficult issues of proof that would be posed in determining which Holocaust-era property looted by the Nazis was transacted through Switzerland or a Swiss entity, made it impracticable to administer the class on an individualized basis. The Court determined that the most appropriate cy pres use of settlement assets allocated to the Looted Assets Class is the provision of food, medicine, shelter and other necessities of life to the most needy Nazi victims wherever they may reside. In allocating the excess funds to the Looted Assets Class for the benefit of needy Nazi victims, the Special Master and the Court are guided by what they deem to be the best available evidence concerning the geographical dispersal and economic status of Nazi victims. As this Interim Report makes clear, the Special Master and the Court welcome additional information concerning the whereabouts and economic status of needy victims of Nazi persecution.

^{4/} The excess funds are attributable to interest income accruing on the Settlement Fund “as well as the defendant banks’ transfer to the fund of approximately \$5.2 million, pursuant to Judge Block’s determination on April 11, 2003 that the banks owed compound interest on the original Escrow Fund.” See September 11, 2003 Letter of Judah Gribetz to Hon. Edward R. Korman. See also In re Holocaust Victim Assets Litig., 256 F. Supp. 2d 150 (E.D.N.Y. 2003). Counsel for the defendant banks advised the Court that the actual transfer had been made on August 11, 2003. See August 13, 2003 Letter of Christopher P. Simkins to Hon. Frederic Block.

the sums that prudence requires be reserved for future distributions to class members in accordance with the Distribution Plan.

Unlike the first distribution of excess funds in 2002, however, the Special Master recommends that the current excess distribution of \$60 million should be allocated wholly to the Looted Assets Class. The distribution should be made in accordance with the cy pres principles that have successfully governed the administration of the initial \$100 million allocation and distribution to the Looted Assets Class in 2001, and the first supplemental allocation and distribution of \$45 million in 2002.^{5/} Thus, the \$60 million in excess funds should immediately be allocated proportionately among the same “Victim or Target” groups and the same geographic regions enunciated in the Distribution Plan, and administered on the Court’s behalf by the same three agencies: the American Jewish Joint Distribution Committee (“JDC”); the Conference on Jewish Material Claims Against Germany (“Claims Conference”); and the International Organization for Migration (“IOM”). As with the prior allocations, funds received on behalf of the Looted Assets Class should be used only to augment, and not replace, existing funds the organizations

^{5/} The cy pres funds are to be committed but not necessarily distributed in a single year. Rather, the funds have been and continue to be disbursed under a multi-year plan to provide sustainable levels of targeted essential social services. Given that the Looted Assets Class distributions commenced on July 1, 2001 for a 10-year period, it is recommended that this additional funding be made available for the remaining period of 7½ years, commencing January 1, 2004.

already receive from other sources.^{6/} Allocation of this amount and in this manner is a matter within the discretion of the District Court after the plan of allocation has been approved. In re “Agent Orange” Product Liability Litig., 818 F.2d 179, 184 (2d Cir. 1987). These distribution principles and administrative agencies are, of course, described at length in the Distribution Plan and have been approved by the District Court and the Second Circuit.

In addition to seeking the Special Master’s views on allocation of excess funds, in August, 2003, the Court also requested the Special Master to consider whether residual funds from those amounts initially allocated to members of the five plaintiff classes might remain unclaimed at the close of the administration period. If so, the Court asked for recommendations concerning the ultimate distribution of such residual funds.

At the current time, the Special Master is unable to estimate with confidence whether residual unclaimed funds will in fact exist at the close of the claims process. As the Court is aware, any such residual unclaimed funds would be derived primarily from the up to \$800 million allocated to the Deposited Assets Class. As described below, a variety of information technology improvements in Zurich and New York are under way, most importantly improved computer software for use by the Claims Resolution Tribunal

^{6/} See Distribution Plan, Vol. I, at 136-37 (in connection with each program funding proposal to be submitted by the JDC and/or the Claims Conference, “[t]he Court will consider whether the proposed funding is intended to augment the program by expanding the services provided or by lengthening the period for which services are provided, rather than substituting for existing program funding”). See also *id.*, at 26 (under the Distribution Plan, the funds allocated for needy Jewish Nazi victims “should be designated for the augmentation” of JDC and Claims Conference humanitarian assistance programs); *id.*, at 141 (“In particular, the Court should consider whether the programs recommended for funding by the IOM ... are to be augmented by expansion of services, or by lengthening the period for which services are provided, rather than substituting for existing funding”).

“CRT”), which processes Deposited Assets Class claims on behalf of the Court under the supervision of Special Masters Paul A. Volcker and Michael Bradfield. Further, an experimental program is under negotiation with the defendant banks which would match certain bank account claims against the Total Accounts Database that includes all 4.1 million accounts open during the relevant period for which records survive^{7/} – not merely the 36,000 accounts listed on the database made available to the CRT.^{8/} These processes are expected to yield reliable final estimates on the Deposited Assets Class distribution process within the foreseeable future.

It is impossible at this time to predict with certainty whether the availability of improved information resources will result in a significant increase in the ability of the CRT to identify Holocaust-era bank accounts for return to their owners, or even whether current efforts to supplement the information available to CRT officials will succeed. It

^{7/} No records exist for the approximately 2.8 million of the approximately 6.9 million accounts open in Swiss banks during the relevant period (1933-1945). It is therefore impossible to determine how many of the missing accounts belonged to Holocaust victims. See In re Holocaust Victim Assets Litig., 105 F. Supp. 2d at 155 (the missing records and accounts are “an unfillable gap ... that can now never be known or analyzed for their relationship to victims or Nazi persecution”), quoting Independent Committee of Eminent Persons (ICEP) Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (Berne: Stämpfli Publishers Ltd. 1999) (also known as the “Volcker Report”), Annex 4 ¶ 5.

^{8/} As more fully discussed below, contrary to the recommendation of the Volcker Committee, Swiss banking authorities did not authorize creation of a central archive for the Total Accounts Database (“TAD”), which contains information on the still-existing records for 4.1 million accounts open during the relevant period. Instead, under amendments to the Settlement Agreement, the CRT’s potential access to TAD accounts is to be determined on a case-by-case basis. For purposes of the claims process, claims officials to date have had access only to the much smaller Accounts History Database (“AHD”) containing information on 36,000 accounts deemed by the Volcker Committee to have the highest likelihood of Holocaust victim ownership. The AHD, however, is believed to contain only a portion of the Holocaust victim accounts for which Swiss bank records still exist. In addition, the utility of the AHD is further limited by the fact that only 21,000 of the 36,000 accounts were permitted to be published by Swiss banking officials. See In re Holocaust Victim Assets Litig., 105 F. Supp. 2d at 155-56.

appears prudent, then, to recognize that despite the best efforts of the Volcker Committee (which investigated Holocaust-era Swiss bank accounts) and the CRT (which administers the claims process), many Holocaust-era bank accounts will remain unclaimed, thereby establishing a pool of residual unclaimed funds. Given this likely possibility, it seems appropriate to begin the process of developing guidelines governing the ultimate distribution of any such funds even if the amounts are not yet known.

The Special Master recommends that as with the excess funds, residual unclaimed funds, if any, should likewise be re-allocated to the Looted Assets Class for distribution to needy Nazi victims in accordance with the cy pres principles governing the administration of that class. However, since such a distribution would involve residual unclaimed funds, the disposition of which has not yet been the subject of discussion by class members, the Special Master recommends that the Court solicit proposals from a broad array of interested persons and organizations as to how best to identify and to benefit the neediest survivors. Once an adequate opportunity has been provided for the submission of proposals, the proposals should be the subject of public discussion and, at the Court's discretion, public hearing.

By the end of the proposed filing and comment period in connection with such proposals, the Special Master believes that a reasonably firm Deposited Assets Class distribution assessment should be available, rendering it possible to estimate the amount, if any, of unclaimed residual funds for cy pres distribution. At that point, at the Court's request, the Special Master can make a final allocation recommendation after considering the information and suggestions submitted by the interested members of the community.

The final determination as to the distribution of any residual unclaimed funds, as always, will be made by the Court.

B. Special Master's Procedural Obligations: (1) Assuring That Survivors Are Heard; (2) Adhering to the Rule of Law

In offering a recommendation for the disbursement of any excess or residual unclaimed funds, the Special Master remains mindful of an ongoing responsibility to serve as a "neutral third party" and thereby "obviate[] the concern that hypothetical conflicts among class members relating to allocation and distribution would require separate representation, and thus call into question the adequacy of representation." In re Holocaust Victim Assets Litig., 105 F. Supp. 2d at 149-50. The Special Master has continued to be available to meet informally with interested persons. Moreover, in performing his functions, the Special Master continues to be assisted by Court-appointed Lead Settlement Counsel who is pledged to aid all class members in placing their concerns before the Special Master and the Court.

Another of the Special Master's core obligations has been to ensure that the distribution of the Settlement Fund among the five classes comports with the rule of law. As Lead Settlement Counsel Burt Neuborne observed at the November 20, 2000 hearing on the Distribution Plan:

None of us, not the Judge, not the [S]pecial [M]aster, not the lawyers, not the victims are free to do with this money exactly what we wish. This is not a humanitarian fund, the \$1.25 billion, that we can allocate any way we want. It isn't a charity that could be allocated in accordance with the principles of abstract justice. It's the settlement of a lawsuit.

And therefore, in order to allocate the proceeds of the settlement of the lawsuit, the [S]pecial [M]aster was obliged to consider one very, very important criteria and it's a criteria that doesn't necessarily correspond to abstract justice or to morality. The [S]pecial [M]aster was obliged to consider the relative legal strength of the claims of the five plaintiff

classes, the relative strength of [the] deposited assets class, the relative strength of the slave labor one class and the slave labor two class, the relative strength of the looted assets class, and the relative strength of the refugee class.

The allocation that he suggests is not intended as a reflection of the relative suffering of those classes. It is not intended as a reflection of ... even the relative losses of those classes. What it is intended to do is to reflect the relative strength of the legal and factual [underpinnings] of each of those classes so that the allocation that we will make of those funds will be consistent with law. Because after all, this is the final step in a lawsuit, not a process of abstract justice.^{9/}

C. *Legal Priority to Deposited Assets Claims*

In accordance with the Special Master's responsibilities, the Distribution Plan and the claims process, like the Settlement Agreement itself, have placed "priority upon returning to their rightful owners 'the sums that Swiss banks have been holding for them for more than half a century,'" a priority this Court determined to be "appropriate" in its November 22, 2000 decision adopting the Distribution Plan in its entirety.^{10/} The United States Court of Appeals for the Second Circuit similarly recognized the preeminence of the Deposited Assets claims in its July 26, 2001 decision upholding the November 22,

^{9/} Transcript of Hearing on Special Master's Proposed Plan of Allocation and Distribution of Settlement Proceeds, Eastern District of New York, November 20, 2000, at 8-9.

^{10/} In re Holocaust Victim Assets Litig., 2000 WL 33241660, at * 3. See also Distribution Plan, Vol. I, at 10-12 ("The allocation and distribution of the Settlement Fund must reflect the unique historical background against which this lawsuit arose and upon which it was settled: the allegation that Swiss banks failed to return thousands of bank accounts that had been opened primarily by Jewish victims of the Nazis who attempted to shield some of their financial assets from the Third Reich....The parties to the Settlement Agreement ... accorded the 'Deposited Assets Class' priority among the five settlement classes. Under the terms of the Settlement Agreement, repayments to bank depositors are to be deducted first from the Settlement Fund. The remainder of the Settlement Fund is to be distributed among the other four settlement classes"), citing, e.g., Settlement Agreement, Sections 5.2, 5.3; Amendment No. 2 to the Settlement Agreement, August 9, 2000, pp. 3-7; Memorandum to the File, August 9, 2000, ¶ D.

2000 order, confirming that the allocation to that class of up to \$800 million was proper because the

existence and estimated value of the claimed deposit accounts was established by extensive forensic accounting [T]hese claims are based on well-established legal principles, have the ability of being proved with concrete documentation, and are readily valuated in terms of time and inflation [B]y contrast, the claims of the other four classes are based on novel and untested legal theories of liability, would have been very difficult to prove at trial, and will be very difficult to accurately valuate. Any allocation of a settlement of this magnitude and comprising such different types of claims must be based, at least in part, on the comparative strengths and weaknesses of the asserted legal claims.^{11/}

More recently, in its November 4, 2002 decision on certain plaintiffs' attorneys' fees, this Court explicitly stated that the Deposited Assets Class claims were and remain the core of this lawsuit:

The heart of this case and the only cause of action capable of surviving a motion to dismiss turned on the failure of Swiss banks to honor their contractual and fiduciary duties to their depositors. In re Holocaust Victim Assets Litigation, 14 Fed. Appx. 132, 135 (2d Cir. July 26, 2001). The other claims against the Swiss banks, while not without a moral basis, were not sustainable, id.^{12/}

The Court of Appeals, as well as this Court, has made it abundantly clear, then, that however morally compelling the looted assets, slave labor and refugee claims may be, they are significantly weaker legally than the bank account claims at the "heart of this case," id.

^{11/} In re Holocaust Victim Assets Litig., 14 Fed.Appx. at 135.

^{12/} In re Holocaust Victim Assets Litig., Case No. CV 96-4849 (ERK) (MDG) 2002 WL 31526754 (E.D.N.Y. Nov. 4, 2002), at * 7.

D. Possible Residual Funds: Request for Proposals

As of the date of this interim report, approximately \$485 million has been distributed or allocated to class members, as described in greater detail below. Almost \$203.5 million has been distributed to members of the two slave labor classes; approximately \$131.5 million has been returned to members of the deposited assets class; nearly \$4.6 million has been distributed to members of the refugee class; and \$145 million has been distributed or committed for the relief of needy Nazi victims under the cy pres principles governing administration of the looted assets class.

While each of the five classes has been allocated and has in fact received substantial funds from the \$1.25 billion settlement, neither the slave labor, refugee nor looted assets classes has a powerful claim to any excess or residual unclaimed funds from this legal proceeding because, unlike the deposited assets class, their *legal* claims to the settlement funds are tenuous. It is equally true that the losses sustained by each of the five plaintiff classes are incalculable. The entire \$1.25 billion Settlement Fund – much less the far smaller excess or potential residual unclaimed funds – was never “sufficient to satisfy the claimed losses of every class member,” see In re “Agent Orange” Product Liability Litig., 818 F.2d at 158.

Under these circumstances, where available funds are limited and the legal merits of the underlying claims uncertain, it is “equitable to limit payment to those with the most severe injuries” and to “give as much help as possible to individuals who, in general, are most in need of assistance.” Agent Orange, 818 F.2d at 158. Accordingly, as previously stated, the Special Master recommends that the \$60 million in excess funds currently available for immediate distribution, as well as any residual unclaimed funds, should be

distributed to those Jewish, Roma, Jehovah's Witness, homosexual and disabled Nazi victims who are "most in need of assistance," *id.* The Special Master recommends that disbursement of such excess or residual unclaimed funds should be made through programs dedicated to the provision of food, shelter, medicine and comparable services to needy elderly Nazi victims throughout the world in rough proportion to their need.

The organizations that have administered the cy pres multi-year programs now serving the Looted Assets Class – the JDC, Claims Conference and IOM – have performed with great efficiency and expertise. As noted above and more fully described at Section III(B)(5) below, under the Court's ongoing supervision and guidance, the three agencies already have reached approximately 100,000 individuals around the globe, in major cities and remote villages, providing these needy Nazi victims with a variety of critical services. Under the Distribution Plan, these programs are to continue for several more years.^{13/}

In addition to the agencies now serving the Court, there may be other worthy programs and providers capable of assisting large numbers of needy Nazi victims in an efficient and cost-effective manner. **Accordingly, it is recommended that by December 31, 2003, any person or organization, including those currently operating under the auspices of the Court, wishing to deliver services to needy Nazi victims utilizing residual unclaimed funds file with the Court a detailed plan describing the**

^{13/} As more fully described below, the Distribution Plan provided for a ten-year funding period for programs serving needy Jewish members of the Looted Assets Class; funding commenced in July 2001 following the resolution of appeals impacting the settlement. To enable the IOM to maintain maximum flexibility in establishing what has proven to be a new and novel service network, the Distribution Plan recommended multi-year funding for programs serving needy Roma, Jehovah's Witness, homosexual and disabled survivors.

nature of any proposed aid program, the size, location and nature of the benefited population, and a proposed budget describing administrative costs and the cost of service delivery. The funds for such programs would be derived primarily from any unclaimed amounts that might remain from the up to \$800 million allocated to the Deposited Assets Class, of which approximately \$668.5 million remains as of the date of this report. This amount could range from several million dollars, to several hundred million dollars.^{14/}

Each proposal should specify at least the following information:

- 1. Number and location of Nazi victims for the proposed “Victim or Target” group to be served (e.g., Jewish, Roma, Jehovah’s Witness, homosexual and/or disabled), including (a) estimates of victims in Israel, the Former Soviet Union, Europe (including nation-by-nation), the United States (including state-by-state); Australia; South America and elsewhere; and (b) source materials upon which the data is based, including any expert opinion(s) relied upon;**
- 2. Number and location of needy Nazi victims among the proposed “Victim or Target” group to be served, in accordance with the criteria set forth in item 3 below, including (a) estimates of victims in Israel, the Former Soviet Union, Europe**

^{14/} The Distribution Plan observed that in the event of an unclaimed residual fund following initial distributions, “a second round of payments can then be made. During such a ‘Stage 2’ of payments (if any) there can be additional distributions to surviving Nazi victims, and perhaps also to needy spouses and children of deceased Nazi victims. At that time, it also may be possible to allocate a portion of the remaining Settlement Fund to some of the proposed cultural, memorial or educational projects that have been submitted to the Special Master. To that end, the Special Master recommends that the Court review institutional proposals once an evaluation of the bank account claims, as well as the claims submitted by members of the other four classes, is completed.” *In re Holocaust Victim Assets Litig.*, 2000 WL 33241660, at *3-4, citing Distribution Plan, Vol. I, at 19-20. In accordance with these suggestions, and depending upon the amount of the residual, if any, the Court may wish to consider a modest distribution to communal, remembrance and/or educational programs. *See* Distribution Plan, Vol. I, Annex A (summarizing approximately 60 organizational proposals, posted at www.swissbankclaims.com). Any such funding recommendation, however, should be deferred until more information is available concerning the total amount of the possible unclaimed residual.

(including nation-by-nation), the United States (including state-by-state); Australia; South America and elsewhere; and (b) source materials upon which the data is based, including any expert opinion(s) relied upon;

- 3. Assessment of survivor needs, including (a) analysis of specific requirements (e.g., medication, food, nursing care), taking into account different social safety nets available by geographic location and availability of other sources of assistance; (b) survivor longevity estimates by geographic location; and (c) absolute and relative poverty levels by geographic location, specifying, among other data, national statistics, United Nations and comparable non-governmental organization information;**
- 4. Recommendation for distribution, specifying types of assistance, estimated number of recipients, length of program(s), and estimated costs (using percentages rather than specific dollar amounts where necessary);**
- 5. Recommended distribution agency or agencies, including (a) description of prior experience with humanitarian aid distribution in general and programs serving Nazi victims in particular; (b) estimated administrative expenses (using percentages where necessary); and (c) where available, attach latest financial and/or other programmatic reports for recommended agency; and**
- 6. Names, addresses and affiliations of all persons and organizations associated with or endorsing the proposal.**

It is suggested that all such proposals should be filed with the Court by *December 31, 2003*, and that the Court authorize the proposals to be posted on the Internet site for this litigation, www.swissbankclaims.com, and made available for public scrutiny and comment. All comments on the proposals should be filed with the Court by *February 15, 2004*, and likewise posted on the Internet. The Special Master will file a report on *March 15, 2004*, updating information concerning distributions and, if the Court so requests, assessing the filed proposals and offering final allocation recommendations. By that time, significant additional data should be available concerning the implementation

of the Deposited Assets Class claims process and the estimated total amount of the residual unclaimed funds that may be available for distribution.

Once a final recommendation has been made by the Special Master, the Court may wish to hold a public hearing on any issues raised by the proposals prior to reaching a final determination.

II. *Summary of Distribution Plan and Post-Plan Developments*

A. Overview of Distribution Plan

To place the recommendations described above into appropriate context, it is useful to summarize the Distribution Plan, and to highlight some of the developments that have followed its adoption.

The Special Master's Proposed Plan of Allocation and Distribution of Settlement Proceeds was filed on September 11, 2000 and, following a public hearing, was adopted by the Court in its entirety on November 22, 2000.^{15/} The approximately 900-page Distribution Plan sets forth the recommendations, and respective rationales, for allocation of the Settlement Fund among the five classes and five "Victim or Target" groups designated in the Settlement Agreement. To briefly recap the key elements of the Settlement Agreement and Distribution Plan:

- The Settlement Agreement designated five categories of "**Victims or Targets of Nazi Persecution**" eligible for compensation: Jewish, Roma, Jehovah's Witnesses, disabled and homosexual persons persecuted or targeted for

^{15/} In re Holocaust Victim Assets Litig., 2000 WL 33241660.

persecution by the Nazi regime. The definition of “Victim or Target of Nazi Persecution” includes “any individual, corporation, partnership, sole proprietorship, unincorporated association, community, congregation, group, organization, or other entity” persecuted or targeted by the Nazis. (Settlement Agreement, Section 1). The Settlement Agreement also created five classes of claimants eligible under the \$1.25 billion settlement: the Deposited Assets Class; the Refugee Class; Slave Labor Class I; Slave Labor Class II; and the Looted Assets Class.

- For the **Deposited Assets Class**, the Distribution Plan allocated up to \$800 million to repay the claims of those who owned bank accounts and other assets deposited in Swiss financial institutions. The allocation was based upon the priority accorded to these claims under the Settlement Agreement and general legal principles, as well as the results of the Volcker Committee’s three-year investigation of Holocaust-era Swiss bank accounts.^{16/} The Volcker Committee identified at least 36,000 accounts “probably” or “possibly” belonging to Nazi victims or their heirs. Calculating known and estimated account values, the 36,000 accounts – now compiled in an “Accounts History Database” (“AHD”) – were estimated to be worth a total of approximately \$800 million in then-current dollars.^{17/} The Distribution Plan provided for Deposited Assets claims to be administered on behalf of the Court by the CRT in Zurich, which already had been processing claims against Swiss bank accounts prior to the finalization of the settlement. Pursuant to the Court’s order of December 8, 2000, Paul A. Volcker and Michael Bradfield, who had served as counsel to the Volcker Committee, were appointed as Special Masters of the CRT. Under the Distribution Plan and subsequently-adopted Rules of the Claims Resolution Process, bank accounts were to be adjusted for interest and fees and repaid in full using the known value of the account, or, if actual value was unavailable, using the

^{16/} The Volcker Committee is also known as the Independent Committee of Eminent Persons (“ICEP”) and is named for its chairman, Paul A. Volcker.

^{17/} As more fully described below, the account data has been more recently examined and the latest estimates actually exceed the Volcker Committee’s original conclusions. In fact, the value of the 21,000 accounts (of the 36,000 in the AHD) “probably” belonging to Holocaust victims is estimated by the CRT to be approximately \$1,125,990,014 at the July, 2003 value (using the then-multiplier of 12 and exchange rate of 1.35 Swiss francs to the dollar; the multiplier since has been increased to 12.5 See Order dated August 25, 2003). The value of the 15,000 “possible” Holocaust victim accounts is estimated by the CRT to be approximately \$507,505,582. Accordingly, the value of all 36,000 “probable” and “possible” accounts in the “AHD” is approximately \$1,633,495,597. Therefore, if all 36,000 “probable” and “possible” victim accounts were awarded, the value of the Deposited Assets payments alone would be well over the \$1.25 billion Settlement Fund. It is impossible to estimate the total value of “TAD” accounts that may belong to Holocaust victims.

estimated value based upon the type of account (such as savings account, demand deposit and so forth).

- For **Slave Labor Class I**, applicable to those who may have performed slave labor for German and other companies which transacted their profits through Swiss entities, the Distribution Plan originally provided for payments of \$1,000 each (now \$1,450) to surviving slave laborers, or to their heirs if the former slave laborer died on or after February 16, 1999. The Plan determined that payment to all surviving slave laborers was warranted because historical research demonstrated that virtually all major slave labor-using entities had banking and other financial relationships with Switzerland.^{18/} In the interest of efficiency and minimization of survivor confusion, the Plan provided for the same administrative agencies and processing mechanisms as utilized by the German Foundation “Remembrance, Responsibility and the Future” (“German Foundation”), a \$5.2 billion foundation created on July 17, 2000, partly in response to class action litigation in the United States arising from the claims of uncompensated Jewish and non-Jewish victims who performed slave labor for German industrial and governmental enterprises during the Nazi era. Following the lead of the German Foundation, which already had designated the Claims Conference and the IOM to process the claims of, respectively, Jewish and non-Jewish former slave laborers, the Court adopted the Special Master’s recommendation and appointed the Claims Conference and IOM to perform the same functions on behalf of Slave Labor Class I.
- The **Refugee Class**, applicable to those denied entry into or expelled from Switzerland, or admitted into Switzerland but abused or mistreated, follows a similar distribution mechanism. The Claims Conference processes the claims of Jewish claimants and the IOM processes the claims of Roma, Jehovah’s Witness, homosexual and disabled claimants. Surviving refugees (or the heirs of refugees who died on or after February 16, 1999) originally were to receive \$2,500 if they were denied entry into or expelled from Switzerland, while those admitted but mistreated were to receive \$500. Those payments have been increased, respectively, to \$3,625 and \$725.
- Under the Settlement Agreement, **Slave Labor Class II**, applicable to those who performed slave labor for Swiss entities, is the one class that is not limited to the five “Victim or Target” groups but rather is open to all Nazi victims. The Distribution Plan provided for payments of \$1,000 to former slave laborers or the heirs of those who died on or after February 16, 1999. All claims are processed by the IOM. Until recently, litigation continued over

^{18/} Distribution Plan, Vol. I, pp. 142-159; Vol. II, Annex H (“Slave Labor Class I”). As noted in the Distribution Plan, the Swiss financial institution may not necessarily have been aware that its banking client made use of slave labor. Id.

whether slave labor-using entities acquired by Swiss companies subsequent to World War II qualify for releases as Swiss entities.^{19/}

- For the **Looted Assets Class**, applicable to those whose assets were looted by the Nazis and disposed of or transacted through Switzerland or Swiss entities, the Distribution Plan provides that the neediest class members (all of whom are presumed to have been victims of Nazi looting, the proceeds of which may have been transacted through Switzerland)^{20/} are to benefit from humanitarian aid programs providing food, medicine, shelter and similar assistance. As noted above, the Court adopted the Special Master's recommendation that the size of the Looted Assets Class, coupled with the impossibility of determining whether specific property was transacted through a Swiss entity, rendered individualized administration of the class impracticable. The Plan initially allocated \$100 million (now \$145 million) over a ten-year period to augment – not replace – already-existing assistance programs implemented, managed and/or monitored by the JDC and Claims Conference, as well as to fund programs to be implemented and monitored by the IOM.
- On behalf of all class members, the Distribution Plan provided for the creation of a \$10 million **Victim List Foundation** to memorialize all Victims or Targets of Nazi Persecution, those who survived and those who perished.
- In a separate negotiation, and distinct from the Distribution Plan, plaintiffs and defendants established a modest claims resolution process for certain Holocaust-era **Insurance Claims** involving two named Swiss insurers, to be administered by the CRT. The payment of the insurance claims process is partially funded from the Settlement Fund, and partially funded by the participating insurance companies.

B. Post-Approval Procedural Developments

As noted above, the Court adopted the Distribution Plan in its entirety on November 22, 2000, and immediately undertook steps to begin implementation of the Plan's recommendations, although with the exception of the Deposited Assets Class, no

^{19/} Because of the litigation concerning Slave Labor Class II and uncertainty as to the ultimate size of the class, payments have remained at \$1,000 as established under the Distribution Plan. See infra.

^{20/} See Distribution Plan, Vol. I, at 21-27, 110-117; Vol. II, Annex G ("The Looted Assets Class").

funds could be distributed until the appeals from the Court's order adopting the plan – as well as one appeal from the Court's order approving the Settlement Agreement itself – had been resolved.^{21/} As of the date the proposed plan was filed, approximately 564,000 individuals from around the world had expressed interest in participating in the Settlement by filing "Initial Questionnaires."^{22/} After the Court adopted the Special Master's recommendations, a total of six appeals were filed from the Court's order approving the Distribution Plan (in addition to the one appeal against the approval of the Settlement Agreement). All but two of the appeals were withdrawn, and only one of the two remaining appellants, for whom counsel was appointed by the Second Circuit, filed briefs on the merits and argued his appeal before the Second Circuit on July 19, 2001. The appeal challenged the appointment of the Claims Conference to assist with administration of the distribution process, questioned the allocation of approximately two-thirds of the settlement fund to the Deposited Assets Class, and challenged the decision to utilize *cy pres* principles to administer the Looted Assets Class.

On or about May 30, 2001, the Settlement Agreement became final upon the withdrawal of the single appeal challenging its fairness. On July 26, 2001, the Second Circuit upheld the Distribution Plan. In addition to acknowledging the unique nature of

^{21/} On September 7, 2000, an appeal was filed from the Court's Final Order and Judgment approving the Settlement Agreement (as amended by the August 9, 2000 "Amendment No. 2 to the Settlement Agreement"). Under the Settlement Agreement and Amendment No. 2, with the exception of the Deposited Assets Class, distributions from the Settlement Fund were not permitted until the "Settlement Date" had been reached; i.e., until all appeals from the Final Order and Judgment had been determined. The additional appeals filed against the Distribution Plan also militated against commencing payments until all legal questions potentially impacting the Settlement Fund and its distribution were resolved.

^{22/} See Distribution Plan, Vol. I, Exhibit 3 ("Geographic Distribution of Initial Questionnaires by Claimant Country"). To date, approximately 600,000 Initial Questionnaires have been filed.

the Deposited Assets claims and the propriety of reserving up to \$800 million for that class, the Court of Appeals also recognized that the “Claims Conference was chosen because of its lengthy experience with similar programs and because it had already been chosen to process” German Foundation claims, and the “efficacy of having one organization process the claims of individuals entitled to recover from both programs cannot be gainsaid.”^{23/}

To implement the Distribution Plan, the Court, among other things, issued orders that appointed Special Masters Volcker and Bradfield to supervise the Deposited Assets Class distribution process and the CRT; extended the appointment of Special Master Gribetz to assist with the Deposited Assets Class process and oversee distributions to the two Slave Labor, Refugee and Looted Assets Classes, and also appointed Shari Reig as Deputy Special Master; authorized hearings on and approved the proposed CRT rules, and supervised the February 5, 2001 publication of a list of 21,000 Swiss bank accounts determined by the Volcker Committee “probably” to belong to Holocaust victims; announced the commencement, and oversaw the implementation, of the claims processes for the respective classes; extended the claims filing deadlines partly to conform to those of the German Foundation; adjusted the payment mechanisms following assessment of preliminary claims data to provide for one-time payments in full to Deposited Assets recipients as well as to former slave laborers and refugees, rather than the originally anticipated two installment payments; authorized payments to class members on a “rolling” basis in a series of implementation orders beginning in July, 2001 and

^{23/} In re Holocaust Victim Assets Litig., 14 Fed. Appx. at 135.

continuing to date^{24/}; authorized distributions from the Settlement Fund to certain of the class representatives “whose efforts materially aided the plaintiff class”^{25/}; and approved appellate processes for the Deposited Assets, Slave Labor I, and Refugee Classes.

Significantly, as previously described, the Court also increased allocations to many class members. By Order dated September 25, 2002, the Court increased by 45% the payments under Slave Labor Class I, the Refugee Class and the Looted Assets Class, and also authorized an acceleration in the amounts paid to members of the Deposited Assets Class.^{26/}

In another important development, the Swiss Fund for Needy Victims of the Holocaust/Shoa (also known as the “Swiss Humanitarian Fund”), a separate Swiss program unconnected with this case and created in early 1997 to make payments to Nazi victims, announced in 2002 that it had completed its distributions. The Swiss Humanitarian Fund was established by a February 26, 1997 Executive Ordinance of the Swiss Federal Council “in connection with the public debate on the role of Switzerland in the Second World War.”^{27/} The “financial endowment consisted of a total 273 million Swiss francs donation [approximately \$176 million] on the part of the three major Swiss banks at the time (today the Credit Suisse and the UBS), the Swiss National Bank, and

^{24/} Sample recent payment recommendations and approval orders are annexed hereto as Exhibit 1.

^{25/} See Order dated December 4, 2002; see also n. 32 *infra*.

^{26/} As has been noted, the Court’s September 25, 2002 order also increased the amount of the first of two installment payments to Deposited Assets Class members, and provided for payments in full to those aged 75 and over. Subsequently, by order dated February 28, 2003, the Court required all Deposited Assets payments to be made in full.

the private industrial sector.”^{28/} The Fund stressed that it intended to provide “humanitarian” assistance rather than “compensation” to survivors.^{29/} It identified several victim groups as beneficiaries, among them Jewish, Roma, Jehovah’s Witness, homosexual and disabled Nazi victims, as well as other groups such as “political victims” and the “Righteous among the Nations” (Christian rescuers) living in Eastern Europe. (In the latter case, applications were put forward by the World Jewish Restitution Organization, charged with overseeing distributions to Jewish survivors.) 88% of the fund was allocated to Jewish victims and 12% to all other victim groups.^{30/}

In its 2002 Final Report, the fund announced that “[f]ive years after its creation, the Swiss Fund has distributed the entirety of its endowment – a total of 295 million Swiss francs including interest – to roughly 312,000 needy Holocaust survivors worldwide.”^{31/} The Special Master has been assisted by the experience of the Swiss Humanitarian Fund in formulating the Distribution Plan and assisting the Court in its implementation.

^{27/} See Final Report, Swiss Fund for Needy Victims of the Holocaust/Shoa (Berne 2002) (“Swiss Humanitarian Fund Final Report”), at 18.

^{28/} Id.

^{29/} Id., at 30.

^{30/} Id., at 47-48, 34.

^{31/} Id., at 12.

III. *Status of Distributions*

A. *Total Distributions to Date*

The following payments have been made under the Distribution Plan thus far:

- **Deposited Assets Class: \$131,456,066** returned to bank account owners or their heirs in connection with **1,751 accounts** found by the CRT to belong to victims of the Holocaust;^{32/}
- **Slave Labor Class I: \$203,487,200** paid to **140,336** surviving slave laborers;
- **Slave Labor Class II: \$15,000** paid to **15** surviving slave laborers;
- **Refugee Class: \$4,579,825** paid to **1,930** surviving refugees; and
- **Looted Assets Class: \$145 million** distributed to or reserved for future disbursement by multi-year programs serving needy Nazi victims, all of whom are presumed to have been looted by the Nazis.^{33/}

Thus, in the little more than two years since judicial approval of the settlement and plan of allocation and distribution became final on July 26, 2001, when the Court of Appeals upheld the Distribution Plan, **\$485,113,091 has been awarded through direct payments or humanitarian assistance to nearly a quarter of a million class members, the vast majority of whom are surviving victims of Nazi persecution; the**

^{32/} See September 30, 2003 Letter of Michael Bradfield to Hon. Edward R. Korman (submitting for the Court's approval the "thirty-sixth set of Certified Awards of the Claims Resolution Tribunal") ("September 30, 2003 Letter on CRT Awards"), at 1. The Court also exercised its discretion to award payments to seven class members "whose efforts materially aided the plaintiff-class." See Order dated December 4, 2002. These individuals "suffered Holocaust-related losses" and it was their "courage in serving as ... named plaintiffs that made possible the class's recovery by calling attention to the issues herein," and the "destruction of [their] bank records rendered it impossible for [them] to participate in the ordinary deposited assets recovery process." See Order dated March 4, 2003. A total of **\$575,000** in payments were authorized to the seven class members. See Orders dated September 18, 2002, December 4, 2002 and March 4, 2003. All but one of the payments were funded by certain counsel who decided to allocate portions of their fees to certain class members whose personal efforts were particularly noteworthy in achieving the settlement.

^{33/} See n. 20 *supra*.

other recipients are the heirs of owners of Swiss bank accounts. Specific distribution information concerning each of the five classes is more fully described below.

B. Distributions to Specific Classes

1. Deposited Assets Class

It bears repeating here that in its November 4, 2002 opinion relating to certain plaintiffs' attorney's fees, the Court took the opportunity to reflect and comment upon the merits of the legal claims at issue in the litigation:

The heart of this case and the only cause of action capable of surviving a motion to dismiss turned on the failure of Swiss banks to honor their contractual and fiduciary duties to their depositors. In re Holocaust Victim Assets Litigation, 14 Fed. Appx. 132, 135 (2d Cir. July 26, 2001). The other claims against the Swiss banks, while not without a moral basis, were not sustainable, id.^{34/}

The administration of the Deposited Assets Class has been both rewarding and frustrating because of the singularly unique nature of the bank account claims. The historical significance of the bank accounts, their centrality to the lawsuit, and the priority placed upon these claims under the Settlement Agreement, mandates, as Professor Neuborne has stated, that the "principal obligation with respect to the deposited assets class is to do everything we can to see that every person who put money in Swiss bank[s] gets their money back and gets back 100 cents on the dollar, and we will do all we can to

^{34/}

In re Holocaust Victim Assets Litig., 2002 WL 31526754, at * 7.

see that that happens.”^{35/} Unfortunately, the effort to return these assets to their rightful owners has been impacted by the passage of so many decades and the inevitable death or dispersal of family members who could claim Holocaust victim accounts; the absence of data after more than sixty years; the complexity of the existing documents; and ongoing restrictions limiting access to many of the bank documents that still exist.

a. Deposited Assets Distribution Overview

As of September 30, 2003, almost \$131.5 million in connection with 1,751 Holocaust-era Swiss bank accounts had been distributed to the Deposited Assets Class.^{36/} Under “CRT-II,” which administers the Deposited Assets Class claims process on behalf of the Court, 1,544 accounts totaling close to \$119.8 million has been returned thus far to Nazi victims or their heirs. A total of 977 “CRT-II” awards have been made to date, and the average value of each award has been approximately \$122,600.^{37/} Another \$11.7 million in connection with 207 other accounts was distributed by “CRT-I,” the predecessor to the current organization, in connection with Swiss bank accounts that were

^{35/} Statement of Lead Settlement Counsel Professor Burt Neuborne, Transcript of Hearing on Distribution Plan, November 20, 2000, at 12.

^{36/} See September 30, 2003 Letter on CRT Awards, at 1.

^{37/} Id.

published by the Swiss Bankers Association (the “SBA”) prior to the completion of the Volcker investigation.^{38/}

In his June 30, 2003 Report on the Claims Resolution Process, Special Master Bradfield analyzed the fate of the 1,097 individuals who owned the 1,383 accounts that had been awarded as of June 30, 2003 (some owning more than one account).^{39/} As Special Master Bradfield’s June 30, 2003 Report on the CRT concludes, “more Account Owners died in concentration camps, ghettos or slave labor camps than those who had any other fate.”^{40/}

• Died in concentration camp, ghetto or slave labor camp:	318
• Fled country of residence:	309
• Died of natural causes before end of War:	90
• Fate unknown:	84
• Survived concentration camp, ghetto or slave labor camp:	79
• Otherwise survived Holocaust:	77
• Otherwise killed by Nazis:	49
• Hid from Nazi authorities during the War:	35

^{38/} Id. The Claims Resolution Tribunal was established in 1997, when the ICEP (Volcker Committee) investigation was under way, “to arbitrate claims arising from the 1997 publication of 5,570 foreign accounts in Swiss banks.” Volcker Report, ¶ 77. Under the Settlement Agreement, amounts paid to claimants “as a result of determinations made by the ICEP or the Claims Resolution Tribunal shall reduce the Settlement Amount” or are to be refunded to the banks from the Settlement Fund. See Settlement Agreement, ¶ 5.2.

^{39/} Special Master Michael Bradfield, Report on the Claims Resolution Process as of June 30, 2003 (“June 30, 2003 Report on CRT”) (annexed hereto as Exhibit 2).

^{40/} June 30, 2003 Report on CRT, at 6.

- Imprisoned in concentration camp, ghetto or slave labor camp, then fled: 28
- Committed suicide in anticipation of incarceration by Nazi authorities: 19
- Imprisoned in concentration camp, ghetto or slave labor camp, then hid: 4
- Died in combat: 4
- Other (owner was Jewish organization): 1

Total: 1097

As of June 30, 2003, Special Master Bradfield reported that a total of 999 claimants had received CRT awards, and that “27 are themselves the Account Owner and 579 are direct descendants of the Account Owner. The 579 direct descendants include 354 children, 204 grandchildren and 21 great-grandchildren.”^{41/} Over one-third of these individuals reside in the United States (399). Another 146 claimants reside in Israel. Other countries of residence include France (82 claimants); the United Kingdom (52); Canada (47); Australia (41); Germany (35); Switzerland (29); Hungary (25); Austria (20); the Czech Republic (17); the Netherlands (14); Argentina (13); Belgium, Italy and Romania (9 each); Brazil and Uruguay (6 each); Chile and Mexico (5 each); Bulgaria and Croatia (4 each); Russia (3); Slovakia, Slovenia, Spain and Sweden (2 each); and Andorra, Bosnia and Herzogina, Greece, Ireland, Jamaica, Luxembourg, Norway, Peru, Poland, Portugal and Yugoslavia (1 each).

In many ways, therefore, given the odds against the success of the enterprise, the results of the bank account distribution process have been impressive. The CRT has been

^{41/} Id., at 8.

able to identify owners of unpaid Holocaust-era accounts, and to return nearly \$131.5 million thus far to the accounts' owners or their heirs, notwithstanding the unprecedented complexity of the Deposited Assets claims process as demonstrated by just the following facts:

- nearly 33,000 individuals filed timely claims to over 36,000 accounts, including the 21,000 that were published;
- claims were filed in five languages from individuals residing in more than 40 countries; and
- multiple claimants from different nations often seek recovery for the same account – some claims were filed by more than one relative, others were filed by claimants for unrelated bank account owners who happened to share the same name – requiring assessment of often complex family relationships and heirship issues dating back decades.

b. Impact of Lack of Data Upon CRT-II Distribution Process

More than sixty years after the fact, then, many thousands of often elderly and sometimes still-traumatized claimants from around the world have chosen to participate in a claims program that thus far has been able to return to them nearly \$131.5 million in property. Nevertheless, the claims process has progressed more slowly than any of the parties concerned – the Court, the Special Masters, the claims processing officials, and certainly the claimants – would have preferred.

One inevitable difficulty arises simply from the timing of this settlement, so many decades after the Holocaust. Account owners or their heirs understandably may not have sufficient information to claim an account at all, or to provide data confirming their ownership.

Another significant complication is that the claims process must weigh countervailing evidentiary concerns: on the one hand, extensive bank documentation still

continues to exist; on the other hand, one-third of all Holocaust-era Swiss accounts no longer have corresponding records, and access restrictions still are in place even for those accounts for which bank records do remain. As one historian observed at a recent United States Holocaust Memorial Museum symposium on Holocaust-era asset confiscation, it is difficult enough to effectuate restitution when newly emerging research and newly accessible archives continue to reveal “the myriad and complex processes by which Jews were deprived of their assets.”^{42/} It is that much more difficult when the data is unavailable or access to it is restricted, as often has been the case here.

In its opinion approving the settlement, the Court anticipated these difficulties. Thus, the Court recognized that the destruction of approximately one-third of all Swiss Holocaust-era bank documentation would leave an indelible mark on the claims process:

There were approximately 6,858,116 accounts that were opened in Swiss banks between 1933-45. Of these, no records existed for approximately 2,757,950 accounts, “an unfillable gap ... that can now never be known or analyzed for their relationship to victims of Nazi persecution.”^{43/}

^{42/} See Gerald D. Feldman, “Confiscation of Jewish Assets, and the Holocaust,” Confiscation of Jewish Property in Europe, 1933-1945: New Sources and Perspectives, Symposium Proceedings, Center for Advanced Holocaust Studies, United States Holocaust Memorial Museum (2003) (“USHMM Symposium Proceedings”), at 2-4 (“The papers at this conference ... show that it is now possible to investigate questions that previously were impossible to research or analyze” because of the unavailability, until recently, of archival resources in many parts of the world. In addition, “[o]ne of the most interesting aspects of this conference is the exploitation of materials that have long been available but that have not been used until now ... [The studies] show the myriad and complex processes by which Jews were deprived of their assets. This complexity helps to explain why *Wiedergutmachung*, the untranslatable term for reparation, restitution, and atonement, has proven so difficult”). See also Peter Hayes, “Summary and Conclusions,” USHMM Symposium Proceedings, at 146 (“Ten years ago almost no one talked about the material aspects of the Holocaust; now few accounts fail to refer to greed”).

^{43/} In re Holocaust Victim Assets Litig., 105 F. Supp. 2d at 155, quoting Volcker Report, Annex 4, ¶ 5.

As to those bank records that continue to exist, the Court described the conditions that had been placed by Swiss banking authorities upon the data, and the impact these restrictions would have upon the claims process:

On March 30, 2000, after an inordinately long and unexplained delay of four months following the publication of the Volcker Report, the Swiss Federal Banking Commission (“SFBC”) authorized publication of relevant information relating to approximately 26,000 accounts [subsequently adjusted to 21,000] referred to in the Volcker Report that were identified as having a “probable” link to Holocaust victims (citation omitted). No authorization was given by the SFBC for the publication of information relating to the approximately 28,000 [now 15,000] accounts identified in the Volcker Report as “possibly” related to Holocaust victims. Moreover, unlike earlier SFBC rulings concerning publication of information relevant to Holocaust-related accounts, the SFBC merely “authorized” publication of much of the relevant information, but did not mandate complete publication. Perhaps even more disturbing was the failure of the SFBC to mandate the creation of a central database of 4.1 million accounts that were [open or] opened in Switzerland between 1933-45. In sum, the SFBC, by its action, has made it much more difficult to carry out the mandate of the Volcker Committee that “victims who have been long denied justice by circumstances beyond their control – often poor and now aged – deserve every reasonable assistance in establishing a claim.”^{44/}

Thus, as the Court predicted, one significant factor interfering with the expeditious resolution of Deposited Assets Class claims is that contrary to the recommendation of the Volcker Committee, claims officials have not yet been provided

^{44/} In re Holocaust Victim Assets Litig., 105 F. Supp. 2d at 155-56, quoting Volcker Report, ¶ 70. By contrast, in December 1996, a few months after the Volcker Committee investigation first began and well before the results were made public, the Chairman of the SBA, Dr. Georg Krayner, testified before a United States Congressional committee that Swiss banking authorities would cooperate fully with the Volcker investigation and would “abide by its results.” Dr. Krayner testified that “the SBA, its members and the Swiss bank supervisors are committed to providing their full support and cooperation to the [Volcker] audit and abiding by its results”; that “the auditors will have full access to all relevant information”; and that “because of this access, the audit findings will represent the best attainable results and therefore must be accepted as conclusive by all responsible parties.” The Disposition of Assets Deposited in Swiss Banks by Missing Nazi Victims: Hearing Before the House Committee on Banking and Financial Services, 104th Cong., 2d Sess. (December 11, 1996), at 69, cited in Distribution Plan, Vol. I, at 53.

with access to the Total Accounts Database (“TAD”) which contains information on 4.1 million accounts open during the Holocaust era.

As the Court noted, two months after completing his investigation, in February, 2000, Paul Volcker recommended to Congress that the “SFBC should promptly authorize consolidation of the existing but scattered auditor workpapers and databases (established during the ICEP investigation) relating to 4.1 million accounts open in the 1933-1945 period, and assembly of them into a central archive that can be used in a claims resolution process.”^{45/} Notwithstanding this recommendation, no central archive was created for the Total Accounts Database. Instead, under the Settlement Agreement and its amendments, claims officials to date have been provided access only to the much smaller Accounts History Database (“AHD”) containing information on 36,000 accounts determined by the Volcker Committee to have the highest likelihood of Holocaust-victim ownership.

Unfortunately, these 36,000 accounts do not contain any of the 2 million accounts with Swiss addresses, or that were open in cantonal or other bank savings accounts during the relevant period. It is believed that many victims of Nazi oppression opened bank accounts in Switzerland during the Holocaust-era using Swiss addresses in an effort to avoid detection by Nazi authorities.^{46/} Accordingly, under the provisions of the Settlement Agreement and the CRT Rules permitting the CRT to request access to the TAD if there is a “reasoned and satisfactory basis” to believe that the account owner used

^{45/} Restitution of Holocaust Assets: Hearing Before the House Comm. on Banking and Fin. Servs., 106th Cong (Feb. 9, 2000) (prepared statement of Paul A. Volcker); see also Distribution Plan, Vol. I, at 58-59.

^{46/} See September 23, 2003 Letter of Burt Neuborne to defendant banks’ counsel Roger Witten (filed with the Court).

a Swiss address, CRT Special Master Bradfield, with the assistance of Lead Settlement Counsel, has been seeking the cooperation of the two defendant banks in enabling the CRT to research claims against the TAD on a case-by-case basis.^{47/} Under the amended Settlement Agreement and the CRT Rules, the CRT has been notifying and will continue to notify the defendant banks of the claims for which it believes a “reasoned and satisfactory basis” exists for accessing and studying accounts in the “TAD”; in the event of disagreement, the defendant banks may challenge the CRT’s determination before the Court.^{48/} While it is premature to determine the results of this process, the negotiated

^{47/} The Court took note of the defendant banks’ agreement to cooperate – as well as the lack of cooperation evidenced by the SFBC and the private and cantonal Swiss banks – in considering whether to approve the amended Settlement Agreement as fair:

“The defendant banks’ cooperation ... will be geared towards assisting in the matching of claims to accounts that claims personnel have a reasoned and satisfactory basis for concluding may be listed under a Swiss address (including accounts opened in the names of intermediaries) against existing bank databases containing 2.1 million accounts opened during the relevant period” [i.e., that portion of the TAD attributable to the two defendant banks as opposed to the cantonal and private Swiss banks]. In re Holocaust Victim Assets Litig., 105 F. Supp. 2d at 156. “In addition, the defendant banks have represented that ‘they will consider in a spirit of cooperation requests for further assistance in any particular cases where there is a reasonably strong likelihood that further assistance would provide probative information and where the costs of such further assistance do not outweigh the potential benefits.’ Memorandum to File of Burt Neuborne, Esq. and Roger Witten, Esq. (undated) ¶ B(3). Nevertheless, the failure of the SFBC to mandate compliance with the recommendations of the Volcker Committee, coupled with the unwillingness of the private or cantonal banks to voluntarily cooperate in permitting publication of information relating to some or all of their accounts that may be included within the [36,000] accounts referred to in the Volcker Report, have created substantial impediments to administration Nor will the private and cantonal banks permit voluntary access to their records to match possible Swiss address accounts The unwillingness of the SFBC to mandate compliance with the recommendations of the Volcker Committee is inexplicable, and the failure of the private and cantonal banks to voluntarily comply is inconsistent with the spirit of the Settlement Agreement, which recites that ‘Settling Plaintiffs and Settling Defendants commit to support and urge the conclusion of the mandates of the Volcker Committee.’ It also amounts to nothing less than a replay of the conduct that created the problems addressed in this case.” 105 F. Supp. 2d, at 156-7.

^{48/} See Memorandum to the File, August 9, 2000, ¶ B(3).

amendments to the Settlement Agreement concerning access to “TAD” have resulted in a claims resolution mechanism that is at best complex and time-consuming.

Another difficulty is that notwithstanding the lack of full access to the 4.1 million “TAD” accounts, even for the 36,000 accounts in the “AHD” that have been made available for the claims process, bank records sometimes are incomplete and at times illegible. The “AHD” accounts also are subject to certain access and review restrictions negotiated in an effort to reconcile still-existing Swiss concerns about bank secrecy with the fact that many of the relevant documents now are more than half a century old and do not appear appropriately subject to privacy considerations.^{49/}

^{49/} The CRT’s access to Swiss bank account records even in the AHD is subject to the “Data Librarian Rules.” The Rules are derived in part from Section 3.3 of Amendment No. 2 to the Settlement Agreement, which mandates that the “centralized database [of bank and auditor records] shall be used, *subject to the directives of the Swiss Federal Banking Commission*, for the matching and research of claims....” (emphasis added). The “Data Librarian” is an individual who “shall be selected from independent accounting firms resident in Switzerland. This firm shall be independent but shall be retained and mandated by the Special Masters, and shall report to them and to the SFBC.” CRT Rules, App. A (annexed hereto, with other excerpts from the CRT Rules, as Exhibit 3).

As set forth in the CRT Rules, the “Data Librarian” is “responsible for a Data Library consisting of the Account History Database, the Account Dossiers, and the Total Accounts Database,” and “would make this information available to the CRT for the purpose of (a) resolving admissible claims in an effective and efficient manner that is consistent with the requirements of due process and (b) assuring compliance with Swiss laws on data privacy and confidentiality, *and the rules on data confidentiality established by the SFBC in its decisions of March 30, 2000 and, for this purpose, the SFBC will serve in a supervisory role with respect to the arrangements in this Appendix A*” (emphasis added). When the CRT analyzes accounts and “admissible” claims and determines that there may be matches between names listed in the claim form and one or more names contained in the Swiss bank and ICEP auditor documents that comprise the AHD, then, among other things, “a list of Accounts deemed relevant by the CRT [is to be] sent by the computer programs to both the Data Librarian and to the CRT.” Additionally, “the Data Librarian, after redacting any information in the Account Dossier concerning persons unrelated to the Account, [is to] make a copy of the Account or Accounts Dossiers for each Account in the list and give the copies to the CRT.”

Thus, Swiss banking authorities continue to be involved in the claims resolution process.

Finally, as the Court discussed in assessing whether to approve the Settlement Agreement as fair, a further difficulty is that Swiss banking officials have failed to publish the names of 15,000 accounts identified by the Volcker investigation as possibly belonging to Holocaust victims. Thus, not all potential claimants have been able to come forward, and not all accounts in the 36,000 “AHD” have been claimed.

Full access to the available data is of crucial importance to resolving the very substantial sums that remain at stake for class members. Well before the start of the claims process, the Court observed that according to the Volcker Report, “the value of deposited assets held by the Swiss banks could exceed the \$1.25 billion settlement amount.”^{50/} In fact, the nearly \$131.5 million returned to depositors so far, while a significant amount, still represents only a fraction of the total value of the 36,000 “probable” and “possible” victim accounts in the AHD alone.^{51/} The CRT has determined that in current values, using the July, 2003 multiplier of 12 and exchange rate of 1.35 Swiss Francs to the dollar, the 21,000 accounts that were published on February 5, 2001 – the accounts determined “probably” to have belonged to Holocaust victims – are worth approximately \$1.126 billion. The “possible” (and unpublished) victim

^{50/} 105 F. Supp. 2d at 153. The Court explained that “[t]his portion of the Volcker Report estimated the present value of certain categories of accounts, in Swiss francs, which it derived from mean and median values of known accounts. In concluding that the total value of accounts appears to exceed \$1.25 billion, I have converted the Volcker Committee’s figures (derived from the mean value of known accounts) to U.S. dollars using the currency exchange rate in effect at the close of trading last week. While the total estimated value of accounts derived from the median value of known accounts, as opposed to the mean value, is less than \$1.25 billion, both the mean and median figures may significantly understate the account values for reasons that need not be detailed here.” *Id.*, at 153, n.2, citing Volcker Report, Annex 4 ¶¶ 41-42 and n. 23.

^{51/} Other accounts belonging to Nazi victims remain in the still-inaccessible “TAD”; the total value of these victim accounts is unknown.

accounts are valued at approximately \$507.5 million. **The value of all 36,000 “probable” and “possible” Holocaust victim accounts therefore is approximately \$1.634 billion, or over \$400 million more than the \$1.25 billion Settlement Fund.**^{52/}

If any element of the distribution process has been troubling – a concern no doubt shared by the class members, the Court, the CRT Special Masters and Lead Settlement Counsel – it is that accounts currently worth over \$1.6 billion have been located in Swiss banks that have been determined probably or possibly to belong to Nazi victims or their heirs, yet a significant portion of these accounts either have not been claimed, or the CRT has been unable to determine their ownership due to the unavailability of information. Because of the \$800 million “cap” on the Deposited Assets Class, if all owners and heirs actually came forward, there would be insufficient funds to repay all of the bank claims, let alone the claims filed by members of the other four classes.

⁵² The total adjusted values were determined by using either known account values where the data still exists, or average values for similar accounts based upon the type of account for accounts with unknown values or values less than the average value (e.g., demand deposit, custody, safe deposit and so forth). See CRT Rules, Article 29 – “Value Presumptions for Accounts with Unknown or Low Values” (where value of account is unavailable from bank records or is lower than presumptive value, the presumptive value of the account shall be determined as follows: Custody Account, SFr. 13,000; Demand Deposit Account, SFr. 2,140; Savings/Passbook Account, SFr. 830; Safe Deposit Box, SFr. 1,240; Other Types of Accounts, SFr. 2,200; Unknown Account Type, SFr. 3,950). The Volcker Report defines a custody account as an “account held by a custodian for an institution or an individual. The bank holds the customer’s property in safekeeping, as provided by a written agreement, and collects dividends”; the definition “excludes safe deposit boxes.” Volcker Report, App. V (Glossary). The Volcker Report defines a demand deposit account, also known as a “current account,” as an “account providing instant access to funds” and often “a checking account with a fluctuating balance for liquidity, not investment, and typically providing minimal or no interest on balances held.” *Id.* A passbook is defined as a “book issued by a bank in the name of the saver or depositor or issued as a bearer passbook in which the bank enters customer deposits and withdrawals.” *Id.* Savings accounts are defined as “accounts that were labeled as ‘savings accounts’ in the Relevant Period as well as passbook accounts (including those passbooks deposited at a bank) provided such accounts contain no other assets.” *Id.*, App. Q (Guidelines for the ICEP Audit Firms for Completion of the Forensic Accounting Investigation), ¶ 43.

c. *Final Report of the “Bergier Commission”; Adoption of Bergier Conclusions to Expedite Deposited Assets Claims Process*

Although the lack of full access to existing documentation and the unavailability of other data has interfered with the claims process, the CRT has been able to expedite other elements of claims review by incorporating presumptions drawn from the conclusions of Switzerland’s commission of experts – the “Bergier Commission” (“ICE”) – authorized to conduct a “historical and legal investigation into the fate of assets which reached Switzerland as a result of the National-Socialist Regime.”^{53/} On the date of the release of the Final Bergier Report,^{54/} the Swiss Federal Council issued a “declaration” that acknowledged, among other things, that “together with other studies, those of the ICE establish clear cases of negligence after the war with regard to the restitution of property. The Federal Council expresses its sincere regrets to all those people who

^{53/} As more fully described in the Distribution Plan, the Bergier Commission (also known as the “ICE”) was created pursuant to Swiss Federal Council Decree of December 13, 1996. The “general objective” of the investigation was to “obtain the historical truth” and to examine and report on “the role of Switzerland, particularly that of the Swiss financial center, as well as on the manner in which Switzerland dealt with this period of its history.” The Commission was obligated, “[a]fter a period of five years at the latest,” to “summarize the results in a final report to the attention of the Federal Council.” See Swiss Federal Council Decree, 19 December 1996, “Historical and Legal Investigation into the Fate of Assets which Reached Switzerland as a Result of the National-Socialist Regime: Appointment of the Independent Commission of Experts,” available at www.uek.ch.

^{54/} “Independent Commission of Experts Switzerland - Second World War” (Zurich: Pendo Verlag GmbH 2002); hereinafter, the “Final Bergier Report.”

suffered the consequences of this. It hopes the measures which have been taken in the last few years will contribute to rectify these errors and cases of negligence.”^{55/}

The Commission, which studied a variety of topics that are the subject of this lawsuit, announced its final conclusions on March 22, 2002, well after the parties had entered into the Settlement Agreement, the Court had issued its final approval of the settlement, the Court of Appeals had upheld the approval, and the claims processes were substantially under way.

With respect to Swiss banking practices in particular, Final Bergier Report made a number of highly significant determinations, many of which were incorporated into the Deposited Assets claims process by way of the Court-approved CRT Rules. The Final Bergier Report determined, among other things, that

- Swiss banks did not attempt to interfere with transfers that account owners were forced to make under duress. Rather, according to the Final Bergier Report:

“The Swiss banks complied with the instructions of their German customers signed at times under duress, and transferred securities to the German banks indicated. Between 1933 and 1939 Credit Suisse, for

^{55/} “Declaration of the Federal Council on the Occasion of the Publication of the Final Report of the Independent Commission of Experts: ‘Switzerland – Second World War’”, March 22, 2002, available at www.uek.ch. The Declaration also observed: “The Commission reminds us that Switzerland, in particular its political leaders, did not always respond to the humanitarian needs of the time. This is principally true of Swiss policy with regard to refugees. The fact that Switzerland offered shelter to more persecuted people than it turned away does not mitigate its responsibility towards those who were discriminated against as a result of the ‘J’ stamp, nor towards those whom it turned away and abandoned to unspeakable suffering, deportation and death.” *Id.* See also “Refugee Class” summary, Section III(B)(3) *infra*; Elizabeth Olson, “Commission Concludes that Swiss Policies Aided the Nazis,” *The New York Times*, March 23, 2002, at A4 (“An independent historians’ commission, wrapping up five years of research into Switzerland’s wartime past, concluded today that the country’s neutrality was twisted to justify policies that helped the Nazis, including turning away Jews fleeing the Holocaust The historians also criticized the banks’ failure to return Jewish assets after 1945, but said it resulted from poor judgment and a desire to safeguard Swiss banking secrecy rather than pure profiteering”).

example, transferred securities valued at around 8 million francs to Deutsche bank, while the Zurich office of the Swiss Bank Corporation transferred securities totaling over 6 million in francs in value in accordance with the 1936 Law on Compulsory Deposits (*Depotzwangsgesetz*). Furthermore, the Swiss Bank Corporation sold shares quoted in Switzerland for a total market value of 8 million francs on behalf of German customers who probably had to transfer these proceeds too to banks designated by the Reichsbank. A considerable number of such transfers took place in 1936, but transactions of this sort also continued during the war.^{56/}

^{56/} Final Bergier Report, at 275. The Final Bergier Report discussed a specific example arising from the Nazi conquest of Poland, concluding that the bank's cooperation with Nazi authorities was "typical":

"As early as 20 November 1939, the Polish bank Lodzer Industrieller GmbH asked Credit Suisse to transfer assets deposited with it to an account at the German Reichsbank in Berlin. The bank saw a fundamental problem in this procedure and asked its legal affairs department to examine the matter. The latter recommended not complying with the request since the customer's signature had most likely been obtained under duress by the occupying authorities. A further reason for refusing the request was that it had come from Berlin and contained incorrect information about the amount deposited with Credit Suisse. The legal affairs department also pointed out that for Poland, German foreign exchange regulations represented a war measure taken by an occupying force and that Switzerland had not yet recognised the new political situation. Managing Director Peter Vieli subsequently discussed the issue with Rudolf Speich, his counterpart at the Swiss Bank Corporation. The latter contacted the Reichsbank, which agreed that in view of the unclear constitutional situation in Poland, Swiss banks were not obliged to comply with requests from German administrators (*Reichskommissare*). Nevertheless, according to a file note 'the directors of the Reichsbank and Dr. Speich were of the opinion that duly signed requests from customers for their assets held in Switzerland to be transferred to an account with the Reichsbank must be executed since absolutely no justification could be found for not doing so.' Although there were legal and moral objections to transferring the funds, the consideration that they 'still had important interests in Germany, and should avoid friction and unpleasantness whenever possible' prevailed at CS [Credit Suisse]. They complied with the request and opted for the principle of carrying out legally signed orders even when they were not received directly from customers, but via the Reichsbank in Berlin. Their comportment in Poland was in this respect typical of how the banks dealt with the assets of Nazi victims: as a rule, they complied with transfer orders from foreign customers without properly checking whether the signatures they bore had been obtained under duress by the Nazi authorities and whether the orders were in fact in the customer's interest. On the other hand, the Swiss banks also took measures which were sometimes to the advantage of those subject to persecution. For instance, they instituted special security measures for assets that were not declared to the German foreign exchange authority, accepted deposits with special powers of attorney in case German troops invaded Switzerland, and sponsored applications to the Swiss authorities for residence permits lodged by those being persecuted by the Nazi regime."

Id., at 276-277.

- The Final Bergier Report criticized the banks' post-War approach to the issue of dormant accounts and unclaimed assets:

“The banks were able to use the amounts remaining in the [dormant] accounts and to earn income from them. They showed little interest in actively seeking accounts of Nazi victims, justifying their inaction with the confidentiality desired by their customers. What the victims of National Socialism and their heirs thought to be the advantages of the Swiss banking system turned out to be disadvantageous for them. During the Third Reich, the principle of discretion – which characterized the Swiss banking system and which, together with the tradition of stability and security, had been exploited as a competitive advantage over foreign competitors – had made Switzerland particularly attractive as a financial centre for those persecuted by the Nazi regime. Later, the question of the whereabouts of assets of Nazi victims became a highly topical issue, but the banks – invoking this tradition – did little to resolve the problem. The unwillingness of the Swiss financial institutions in the immediate post-war period to find the legal owners of unclaimed assets or to support rightful claimants in their search, constitutes the main point of criticism of the banks' behaviour, behaviour already tainted by certain dubious decisions and questionable attitudes in the period between January 1933 and May 1945.”^{57/}

- The Final Bergier Report concluded that sporadic efforts were made throughout the post-War period to survey dormant accounts. Although account holders or their heirs attempted to contact the banks for data, they were provided incomplete or “misleading” answers:

“Some banks gave a factually correct but misleading answer, namely that there was no longer any contact between the bank and the person in question. Others in addition referred to the statutory duty to keep files for ten years and stated that they were unable to provide information on the assets being sought – although relevant documents are still available in the archives today. Although in some cases the banks did inform claimants that the assets had been paid out, they neglected to provide key details, i.e., who gave the instruction and who received the payment.”^{58/}

- The Final Bergier Report observed that in response to the Swiss government's 1947 decree requiring reporting of unclaimed assets, rather than locate

^{57/} Id., at 277.

^{58/} Id., at 443.

victims' accounts, "it was the aim of many banks to find as few unclaimed assets as possible":

"Basically, ... it was the aim of many banks to find as few unclaimed assets as possible. Some banks found it quite in order to give false information. [UBS], for example, reported that it had found no assets at all belonging to victims of mass extermination. However, it can be proved even now that in the course of freezing and reporting German assets in Switzerland in 1945, it had come across customers whom it knew to have been deported by the Nazis and who would therefore also have fallen into the category of assets sought in 1947."^{59/}

- The Final Bergier Report discussed how the banks' reluctance to locate heirless assets continued into the 1950s, when the "big banks co-ordinated their response to heirs":

"In May 1954, the legal representatives of the big banks co-ordinated their response to heirs so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry. They agreed not to provide further information on transactions dating back more than ten years under any circumstances, and to refer to the statutory obligation to keep files for only ten years, even if their records would have allowed them to provide the information."^{60/}

- The Final Bergier Report noted that the banks relied upon search fees and the reduction of account balances to deflect claimant inquiries:

"Throughout the post-war period the banks relied on a combination of discreetly playing down the problem and erecting barriers to investigation: time and again they would bring banking secrecy into play in order to legitimise their reluctance to provide information while at the same time charging high search fees for conducting investigations. Examples show that claimants had to pay 25 francs in the 1950s and as much as 250 francs in the 1960s. Twenty years later a search could cost as much as 750 francs. Because dormant accounts often contained small amounts, these fees frequently exceeded the value of the assets being sought and, together with the routinely charged administrative or other costs, reduced them substantially so that 50% of balances outstanding up to 1999 amounted to less than 100 francs, and as many as 70% of the accounts contained less than 1,000 francs. Due to the deduction of such fees, unclaimed accounts,

^{59/} Id., at 445.

^{60/} Id., at 446.

deposits and safe-deposit boxes could also disappear in the space of a few decades. The assets found by the ICEP [Volcker Committee] in 1999, whose owners had not come forward by the time the ICE [Bergier Commission] and the ICEP began their investigations, therefore constitutes only part of the total. When presenting its findings, the ICEP stated that no information was available on 2,758,000 of the total of 6,858,100 holdings (usually bank accounts) that existed between 1933 and 1945. This means that no assets were listed for more than ten years, either because the balances had been paid out (on the instructions of the customers) or because they had been cancelled by the bank without any instructions from the customer as a result of the erosion of their value. It was the small unclaimed balances that most often disappeared. This usually happened because of a combination of non-payment of interest and the accumulation of bank charges over a prolonged period. If the account had shrunk to a minimal amount, it was cashed in. After ten years the records could also be destroyed. At the Zurich Cantonal Bank (*Zürcher Kantonalbank*), documents show how, before and during the war, accounts on which no information had been received from customers for a decade were cancelled and cashed in to pay bank charges....”

* * * *

“As recently as the 1980s, [UBS] issued the following instructions on closing accounts (which subsequently, however, were not carried out): ‘The closure is to be effected by charging as many fees, expenses, etc. for different services to the accounts as to wipe out any balances they contain. The fees and expenses to be charged are to be credited to the internal account ‘SV inheritances’.”^{61/}

- The Final Bergier Report concluded that in contrast to the banks’ response to Holocaust victim inquiries, the banks reacted quite differently in connection with Cold War-era compensation agreements Switzerland entered into with Poland and Hungary:

“With the start of the Cold War and the sealing of the borders between the power blocs, the last recorded home address of many presumed Holocaust victims now lay behind the so-called Iron Curtain [I]n the case of

^{61/} *Id.*, at 446-47. The Volcker Committee analyzed whether Swiss law on the treatment of dormant accounts varied from the laws of other nations. See Volcker Report, Annex 9 (“Swiss Law on the Treatment of Dormant Accounts: A Comparison to European and U.S. Law”). The Volcker Committee concluded that “Switzerland, unlike other countries such as France and the United States, does not have [an escheat] statute that requires the handing over of dormant accounts to the State.” *Id.* at ¶ 63.

banks with a large clientele in Eastern European countries, unwillingness and inability now entered into a perfect symbiosis An international agreement required the banks to proceed to expropriation, which created a prerequisite for transferring assets whose owners no longer had any contact with the bank to the political authorities in their former country of residence. Surprisingly, it was now apparently possible to conduct an internal investigation so that a list of dormant accounts relating to these countries could be drawn up. Subsequently, a political deal was concluded, the primary aim of which was to favour Swiss interests in the wake of nationalisation of assets in Poland and Hungary. The agreement with Poland was concluded in 1949 and came into force in 17 May 1950. It dealt with assets 'of Polish nationals who had been domiciled in Poland on 1 September 1939, had given no signs of life since 9 May 1945 and concerning whom the bank had no evidence to suppose that they had survived the war or, if not, had left heirs.' In 1950, the Swiss Bankers Association discovered dormant Polish accounts worth 598,000 francs in Switzerland. In the 1960s, however, the banks and insurance companies transferred only the small sum of 15,498 francs (of which only 849 francs came from the insurance companies). In 1975, the somewhat more substantial sum of 463,955 francs was paid as a result of the Registration Decree, which had prompted the Polish government to file more wide-ranging claims. A similar agreement was concluded with Hungary in 1950. Of the total amount of 460,500 francs estimated in 1965 to be held in dormant accounts belonging to persons resident in Hungary, the sum of 325,000 francs was finally transferred to the Hungarian government in 1976. The agreement got no or only very little publicity. It was therefore virtually impossible even for heirs living abroad to assert their claims. Neither private property rights nor banking secrecy had been a barrier to the release of these assets.^{62/}

As noted above, several of the Bergier Commission's final determinations – the conclusions of neutral experts appointed by the Swiss government – have been incorporated into the Court-approved CRT Rules to help expedite claims processing by establishing presumptions in favor of claimants in the absence of bank documentation. These presumptions are warranted both by the historical facts as well as United States

^{62/} Final Bergier Report, at 450-51.

law, which provides for an “adverse inference” against a party who fails to provide documentation expected to be in that party’s possession.⁶³

Thus, in one of the most significant Rules, the CRT, “[i]n the absence of evidence to the contrary, presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account” where the Volcker investigation determined that the account was “closed unknown by whom” and where “there is no indication in the bank records” that the rightful owners received the proceeds of the account.⁶⁴ As set forth in the Court-approved CRT Rules, the rationale for this presumption is as follows:

As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating “[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]”). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, *see Albers v. Credit Suisse*, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, *see Bergier Final Report* at 450-51, and possibly Romania as well, *see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries* (1997), and (iii) that were retained by Swiss Banks for their own use and profit. *See Bergier Final Report* at 446-49.

^{63/} The “adverse inference” incorporated into the CRT’s rules does not affect the defendant banks’ liability, which is fixed by the Settlement Agreement at \$1.25 billion. It operates to assist claims officials in determining ownership to particular accounts.

^{64/} *See* CRT Rules, Article 28 - “Presumptions Relating to Claims to Certain Closed Accounts,” Section “j” (annexed hereto as part of Exhibit 3).

“The discussion on ‘unclaimed cash’ persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf.” *Id.* at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; *In re Holocaust Victim Asset Litig.*, 105 F. Supp. 2d 139, 155-56 (E.D.N.Y. 2000). Indeed, “[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry.” Bergier Final Report at 446. Similarly, “the banks and their Association lobbied against legislation that would have required publication of the names of so called ‘heirless assets accounts,’ legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years.” ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. “‘A meager result from the survey,’” it said, “‘will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor.’” ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). “To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy ...”, Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See *In re Holocaust Victim Asset Litig.*, 105 F. Supp. 2d 139, 152 (E.D.N.Y. 2000); *Reilly v. Natwest Markets Group, Inc.*, 181 F.3d 253, 266-68 (2d Cir. 1999); *Kronisch v. United States*, 150 F.3d 112, 126-28 (2d Cir. 1998).^{65/}

Additionally, in light of the claims and statistics analyzed thus far by the CRT, and the determination in the Final Bergier Report that German foreign exchange controls began as early as 1931, with registration measures in place as early as June, 1933 and

^{65/} CRT Rules, Article 28(j), n. 5.

explicit confiscation provisions enacted by November, 1936, the CRT also has adopted the following presumption:

[W]here accounts of German owners were closed on or after January 30, 1933, the date of Hitler's accession as Chancellor, absent evidence to the contrary such as bank records, the CRT will presume that the account owners and their heirs did not receive the benefit of their assets.^{66/}

Many claimants have benefited from these presumptions, which enable the CRT to determine that a claim is plausible even in the absence of a fully documented banking and historical record for the particular account owner. In accordance with the "adverse inference" presumption under United States law, the burden of proof in effect shifts from the claimant, who should not be held responsible for the absence of bank documents, to the bank.^{67/}

d. Sample CRT-II Awards

It is particularly frustrating to contemplate the possibility that not all victim bank records and other documents are available, and not all victim accounts will be returned to their owners, when the stories that have been revealed in connection with the accounts already repaid are so compelling. The cases – all of which are publicly available on the CRT's website, www.crt-ii.org, and several of which were highlighted in a November 13, 2002 New York Times article^{68/} as well as in Special Master Bradfield's periodic reports

^{66/} CRT Rules, Appendix C, approved by order dated April 25, 2003, annexed hereto as part of Exhibit 3.

^{67/} See, e.g., In re Holocaust Victim Asset Litig., 105 F. Supp. 2d at 152; Reilly, 181 F.3d at 266-68; Kronisch, 150 F.3d at 126-28.

^{68/} See William Glaberson, "Settling Accounts, But Not Minds: Holocaust Survivors Relive Past in Case Against Swiss Banks," The New York Times, November 13, 2002, page B1 (hereinafter, "Glaberson"). A copy of this article is annexed hereto as Exhibit 4.

on the CRT – speak volumes about the fundamental merits of the Deposited Assets claims.

Expanding upon the conclusions of the Final Bergier Report, the awards confirm that Swiss bank account owners and their heirs were unable to retrieve their assets after World War II. The awards, which rely heavily upon the still-existing account records located and studied by the Volcker Committee investigators, demonstrate that accounts were turned over to the Nazis (and the responsible Swiss bank in at least one instance deducted a fee for completing the transfer); accounts were closed “unknown to whom” following the owner’s incarceration in a concentration camp, with the proceeds apparently transferred by Swiss banks to the Nazis; accounts were closed out and taken into bank profits; and other accounts remain open and dormant even today. In some instances, as the Final Bergier Report concluded, heirs of the account owners were misinformed about their relatives’ bank records.^{69/}

Special Master Bradfield’s June 30, 2003 Report on the CRT analyzed the disposition of the 1,383 accounts that had been awarded to that date.^{70/} The analysis evidences many of the circumstances described above and in the Final Bergier Report:

^{69/} Final Bergier Report, at 443.

^{70/} The report assesses CRT statistics as of June 30, 2003, and provides a comprehensive analysis of the 1,383 accounts awarded by “CRT-II” as of that date (as distinguished from the 207 accounts awarded by “CRT-I,” which operated under rules pre-dating the Settlement Agreement, as noted above). As described previously, as of September 30, 2003, a total of 1,751 accounts, including 1,544 awarded by CRT-II, had been returned to the owners or heirs. See September 30, 2003 Letter on CRT Awards, at 1.

• Accounts presumed closed:	518
• Closed unknown to whom during the period 1937-1945:	327
• Accounts still open and dormant:	125
• Closed unknown to whom after 1945:	93
• Closed unknown when:	73
• Accounts transferred to a Nazi controlled bank:	71
• German accounts closed unknown to whom before 1937:	57
• Accounts paid to Bank as fees or profit:	57
• Accounts suspended/collectivized and later closed:	41
• Unknown disposition (including accounts identified in Austrian State Archives census forms):	11
• Other (including account transferred to a Swiss Government fund pursuant to the 1962 Federal Decree concerning Holocaust-era accounts; account transferred to Swiss Federal Accounting Department on July 24, 1973; and transfer of account on March 3, 1994 into a collective account containing assets of customers presumably deceased):	5
• Paid to Hungarian Government:	2
• Paid to Polish Government:	2
• Paid to Unclaimed Assets Fund:	1
Total:	1383

The actual CRT awards best place these statistics into broader context, demonstrating the impact of Nazi policies on the Swiss bank account owners and their heirs. Some examples of these awards are as follows:

Accounts Closed Unknown by Whom

- In re Accounts of Otto and Maria Fuchs

Account Owner Otto Fuchs, the Claimant's father, was a Jewish patent attorney. Maria Fuchs, his sister and the Claimant's aunt, was a concert singer. Otto Fuchs, who had lived at 4 Cernovicka Street in Brunn-Komarov, Czechoslovakia, was arrested by the Nazis and deported to a concentration camp. Mr. Fuchs survived the War and died in Brunn in 1957. Claimant's aunt, Maria Fuchs, was unmarried and had no children. Maria Fuchs fled from Berlin to Brunn, where she was

captured by the Nazis, deported to a concentration camp in Poland, and perished in 1942, according to Swiss bank records (see below).

The bank records show that Otto Fuchs held an account at a Swiss bank ("Bank I") that was closed, unknown to whom, in 1941. Maria Fuchs held seven accounts at a second Swiss bank ("Bank II"); the accounts were held at several different branches of the bank including the Zurich, Basel and Lausanne branches. According to bank documents located by the Volcker investigators, all seven of the accounts were frozen under the 1945 Swiss Freeze of German assets, several years after owner Maria Fuchs had been deported to Poland and killed in a concentration camp. The documents located for the first of the seven Swiss accounts owned by Maria Fuchs show that the account was a safe that was "forced open on 21 March 1946, and was found to contain 1,000.00 Swiss Francs in an envelope marked 'for Dr. Ing. Otto Fuchs, Brunn 17, Cernowitzerstr. 4,' as well as two separate sealed bags containing gold coins valued at 20,000 Swiss Francs and 5,000.00 Swiss Francs."^{71/} The last known date of existence of the account is October 18, 1952; the Volcker auditors presumed the account was closed. The documents located for another of the seven accounts owned by Maria Fuchs indicate that the account was a custody account which, as of June 20, 1946, had a balance of 39,125 Swiss Francs. A bank document shows that on May 13, 1946, the account was frozen under the 1945 Swiss Freeze of German assets. The account was released from the freeze on January 12, 1951. "The account was reported by the Zurich branch ..., and on 13 January 1951, the Bank inserted a comment on the record stating that the Account Owner died in 1942 and that either the Bank could not locate the Account Owner's heirs or that the Bank was restricted from contacting the Account Owner's heirs. It is not clear whether the account was closed by the Bank at some stage or remained open and dormant."^{72/} The other five Swiss bank accounts owned by Maria Fuchs likewise were frozen on various dates in 1945 and 1946; as of February 16, 1945, four of these accounts had balances of, respectively, 486,941 Swiss Francs, 15,973 Swiss Francs, 11,281 Swiss Francs, and 10,193 Swiss Francs. The value of the other account was unknown. The total amount awarded for all eight accounts (including the Otto Fuchs account), adjusted for interest and fees, was \$4,808,943.24.^{73/}

^{71/} See Fuchs award, at www.crt-ii.org (posting all CRT awards).

^{72/} Id.

^{73/} See id.; see also Special Master Bradfield's Second Periodic Report on the CRT-II Process, January 2003 ("Second CRT-II Report"), at 5; Glaberson, at B8 (discussing Fuchs case).

- In re Account of Edith Oppenheim

Account Owner Edith Oppenheim, claimant's grandmother, was born on March 5, 1894 in Hohensalza (Inowroclaw), Poland, was Jewish, married and had two children. Mrs. Oppenheim came from a family of successful bankers and was herself a financial advisor and stockbroker for the bank Brüder Ginsberg in Berlin. Her husband, who also came from a successful banking family, died in Berlin in 1928. From 1930 until approximately 1942, Mrs. Oppenheim lived in Berlin. She went into hiding for some time, but was captured by the Nazis on August 25, 1943. On July 12, 1944, she was deported to Auschwitz, where she perished. Among the documents Mrs. Oppenheim's granddaughter provided to the CRT was a copy of a transport list showing her grandmother's deportation.

The Swiss bank's records indicate that Mrs. Oppenheim owned two custody accounts. The Bank records do not indicate when the accounts were closed, to whom they were paid, or the value of the accounts. Given that Mrs. Oppenheim died in Auschwitz in 1944 and the absence of Bank records indicating the disposition of the closed accounts, the CRT concluded, based upon the presumptions set forth in the CRT Rules, that the account proceeds were not paid to Mrs. Oppenheim or to her heirs. Since the actual account values are unknown, the CRT calculated the award amount using the average value of SFr. 13,000 for a custody account. The amount of the award was \$238,167.94.^{74f}

- In re Accounts of Bertha Kaufmann, Hedwig Landesmann, and Hermine Hirsch

The Claimant is the Account Owners' son, nephew and grandson, respectively. Bertha Kaufmann and Hedwig Landesmann were sisters and the daughters of Hermine Hirsch. All three Account Owners were Jewish and lived in Vienna. Claimant's parents sent him from Vienna to England on a *Kindertransport* in December 1938; his sister followed in January 1939. The Claimant's father was imprisoned in Dachau and fled to England in May 1939. The Claimant's mother, aunt and uncle, and grandmother fled to Cambridge, England on approximately August 15, 1939. In 1940, the Claimant's mother and her immediate family immigrated to the United States, leaving her sister and mother in Cambridge, England. Claimant's aunt died in England in 1945.

The bank records show that the Account Owners held four accounts at the Swiss bank in question. Among these records is a "list of custody accounts of clients [of the bank] domiciled in Austria that were closed in 1938, and a publication

^{74f} June 30, 2003 CRT Report, at 13-14.

regarding Austrian laws that restricted foreign currency transactions.”^{75/} An account opening card for one account contains a notation that the account was closed on August 22, 1938, and the list of custody accounts closed in 1938 “indicates that the assets totaling 4,500.00 Swiss Francs in that account were transferred ... to an undisclosed bank ... pursuant to the Austrian legislation restricting foreign currency transactions.”^{76/} Another account contains similar bank records. In addition to the bank records located during the Volcker investigation, the Austrian State Archives contain census forms describing the assets of the three Account Owners, including statements showing that two of the three women had assets held at the Swiss bank. Three of the accounts were closed on August 22, 1938 (the same date shown in the bank records), January 21, 1939, and November 23, 1939, respectively. The fourth account was closed on November 23, 1939. There was no evidence in the bank records that any of the Account Owners received the proceeds from their bank accounts. Two of the accounts had known balances; the other two had unknown balances and thus were calculated using average values. The amount of the award was approximately \$206,709.73.^{77/}

- In re Account of David Israel Frischer

The Claimant is the Account Owner’s only daughter. The Account Owner and his wife, Therese Frischer, who were both Jewish, lived in Vienna where he owned a company called *David Frischer Papiergrosshandlung*. According to the claimant, her father went to Zurich in 1936 to deposit assets in a Swiss Bank. Mr. Frischer died in January 1940. Claimant’s mother was deported to Theresienstadt and later to Auschwitz, where she perished in April 1945.

Prior to filing with the CRT, claimant sought the assistance of the New York State Banking Department’s Holocaust Claims Processing Office (“HCPO”).^{78/} After

^{75/} See www.crt-ii.org (Kaufmann case).

^{76/} Id.

^{77/} Id. The Kaufmann case also is discussed in the Glaberson article at B1.

^{78/} See www.claims.state.ny.us/hist.htm (“To provide institutional assistance to individuals seeking to recover Holocaust-looted assets, Governor Pataki created the Holocaust Claims Processing Office of the New York State Banking Department on June 25, 1997. The mission of the Office is threefold: 1. Recover assets deposited in European banks. 2. Recover monies never paid in connection with insurance policies issued by European insurers. 3. Recover lost or looted art.”). The HCPO, under the leadership of its director, Catherine Lillie, has been assisting Holocaust victims and their heirs from all over the country for the last several years and has provided its expertise to the Court, the Special Masters and the CRT.

the CRT-II claims process was established, the HCPO referred the claim to the CRT and continued to work with the CRT as well as the claimant in connection with this and other claims. There were no bank records for Mr. Frischer's account(s) located during the Volcker investigation. However, his census records were located in the Austrian State Archives. The census file included a letter from Mr. Frischer dated July 18, 1938 supplementing the original census filing. The letter (which was summarized but not quoted in the CRT award) stated as follows:

Furthermore, I supplement Point IVE my declaration by the listing of my deposit at the [Swiss Bank] in the amount of Sfr. 2,945.50 at the exchange rate of RM 1,682.75 and request to excuse the oversight due to my being an old and forgetful man who did not have any intention to withhold this asset, which is already evident from the fact that I timely registered this deposit with the main office of the [German] Reichsbank and offered it for purchase.

The total amount awarded was approximately \$23,564.00.^{79/}

Accounts Currently Open and Dormant

- In re Account of Leo Davidsohn

The Account Owner, who was Jewish and a widower, lived in Berlin and had no children of his own. The Claimant, Leo Davidsohn's grand-nephew, stated in his claim form that his mother had had a close relationship with the Account Owner, who generously supported the Claimant's family in the 1930s. Leo Davidsohn was deported from Berlin to Theresienstadt on July 14, 1942 and was murdered there on August 12, 1942.

The records located during the Volcker investigation show that Mr. Davidsohn owned an account of unknown type at a Swiss bank, which was still open as of January 31, 1946, more than three years after the owner's death in Auschwitz. As of that date, the account had a balance of 20,000 Swiss Francs. The Claimant received assistance from a Claims Resolution Tribunal staff attorney in identifying the correct address of his great uncle's residence. The Claimant had identified Leo Davidsohn's address as Kurfürstendamm 185, Berlin, Germany whereas the bank record indicated that the Account Owner lived at Wielandstrasse 23 in Berlin. The CRT staff attorney conducted research and discovered that Kurfürstendamm intersects Wielandstrasse at Wielandstrasse 23

^{79/}

See www.crt-ii.org; see also Glaberson, at B8.

and Kurfürstendamm 185, thus proving that the Claimant had in fact provided the correct address for his great-uncle. The total amount awarded was approximately \$160,240.00.^{80/}

- In re Account of Leon Kroll

The Account Owner, Leon Kroll, was Jewish, married, and had one daughter. The family lived in Lodz, Poland, where Mr. Kroll worked in the family textile business. In the early 1940s, Mr. Kroll, with his wife and daughter, were deported to a German concentration camp. Later, Mr. Kroll was sent back to the Lodz ghetto, and on an unknown date, he was deported from the ghetto and did not return. The only survivors of Mr. Kroll's family were his two brothers – the claimants to the account – and two other siblings who died of natural causes. The claimants themselves had been deported to several different ghettos and concentration camps, including the Lodz ghetto, Auschwitz, Buchenwald and Dachau.

The Swiss bank's records indicate that Mr. Kroll held an account of unknown type. As of June 30, 1937, the balance of the account was SFr. 179.00. The Bank's records indicate that the account was transferred to a suspense account^{81/} and still remains open and dormant. Because the amount in the account was less than SFr. 3,950.00, the average value of an account of "unknown type" as determined under the CRT Rules, the award was calculated using the SFr. 3,950.00 average value, and then (as with all awards) adjusted for interest and fees in accordance with the CRT Rules. Thus, the amount awarded was \$36,183.21.^{82/}

^{80/} Id.

^{81/} See Volcker Report, App. V (Glossary), defining "suspense account" as an "omnibus account into which individual accounts are placed for collective management, usually for the purpose of reducing administrative costs. In Swiss banks in the Relevant Period [January 1, 1933 to December 31, 1945] and after, suspense accounts were generally not assessed fees or other charges but did not earn interest."

^{82/} June 30, 2003 CRT Report, at 11.

Failure to Provide Heirs with Information

- In re Account of Lina Froehlich

Claimant identified the Account Owner as his paternal grandmother, and stated that his grandparents lived in Mainz, Germany, where his grandfather worked as a merchant and owned a store. His grandfather was persecuted once the Nazis came to power and died in 1942. His grandmother, Lina Froehlich, was deported in 1942 to a concentration camp near Lublin, where she perished.

The Swiss bank records located during the Volcker investigation in connection with this account include a May 14, 1948 letter to the Bank from the Account Owner's son (Claimant's father), Hermann Froehlich, requesting information about accounts in the names of his mother, father and sister. Hermann Froehlich's letter explained that his mother had been deported to a concentration camp, where she had disappeared and presumably had been killed. Mr. Froehlich enclosed a copy of his father's death certificate and stated that he was about to obtain an official copy of his mother's death certificate. The Bank responded that it only provided information to heirs after they had officially proven themselves to be the account owner's legitimate heir. Furthermore, the CRT determined that the Bank misinformed Mr. Froehlich, advising him that the persons he had named in his letter had no connection to the Bank and possessed no assets at the Bank. The bank records indicate, however, that Lina Froehlich had had an account of unknown type that was closed on December 31, 1933, and the ICEP auditors concluded that the account had been paid to Nazi authorities. The amount of the award was \$31,812.09.^{83/}

- In re Account of Adolf Dénes and Elisabeth Dénes-Deutsch

The Account Owners lived in Oradea, Romania, where Adolf Dénes was a banker and manager of the English-Hungarian Bank. In June 1944, Adolf Dénes, his wife Elisabeth, and their daughter Eva were deported to Auschwitz and killed. Claimant's late husband Josef Deutsch, brother of Elisabeth Dénes, sought recovery of the account after the Holocaust and, according to the claimant, provided evidence to Swiss banks concerning the owners' assets. Claimant informed the CRT that the Swiss banks denied her husband access to the account(s).

Records of the Dénes account were located during the Volcker investigation and include printouts from the Bank's database, account cards, a registration form

^{83/}

Second CRT-II Report, at 6.

listing dormant accounts, extracts from a suspense account ledger and documentation “prepared in connection with the Swiss Federal Decree of 1962 concerning assets of missing foreigners or stateless persons persecuted on the basis of race, religion or politics.”^{84/} The bank records show that the Account Owners were Adolf and Elisabeth Dénes of Oradea, Romania, who used the fictive name “W. Aden” and the password “Silos.” The account was transferred to a suspense account in 1965 and was closed to fees in 1966; according to the bank records, the last contact with the owners was before the end of World War II. The bank records also contain further information regarding Josef Deutsch’s attempt to retrieve his relatives’ assets, and indicate that Mr. Deutsch had submitted a claim to the assets but that the Swiss Justice Department had instructed him to withhold any evidence or documentation of the accounts until he was expressly asked to hand in any such paperwork. The bank records indicate that Mr. Deutsch never was instructed to hand in his documentation, and that the account instead was closed to bank fees. The amount of the award was \$17,589.04.^{85/}

- In re Account of Dr. Julius Homburger

The Claimant, who initially filed her claim with the HCPO, is the daughter of Account Owner Dr. Julius Homburger. Dr. Homburger was born in Karlsruhe, Germany on October 26, 1894, and was married in Leipzig, Germany on June 22, 1926. Dr. Homburger, who was Jewish, was a physician in Frankfurt, and his wife was a nurse. The family fled Germany through Switzerland in 1935 and immigrated to Palestine, where Dr. Homburger died in Haifa on June 28, 1950.

According to the Claimant, after World War II, she attempted to locate accounts belonging to her parents, but was unable to find such accounts. She contacted the Swiss Bankers Association about the accounts in 1989 and again in 1996, and also inquired with the Swiss Consulate in Montreal in 1989. In addition, in 1987, Claimant’s mother tried to contact the Swiss bank at which records ultimately were located several years later during the Volcker investigation. However, in 1987, the Bank responded that records were kept for only ten years and then shredded, and that an investigation therefore would be fruitless. The Bank further explained that in order to search all of its branches, it required death certificates, letters testamentary or letters of administration, and a check for 2,000.00 Swiss Francs. The Claimant advised the HCPO and the CRT that she had provided the Bank with a notarized power of attorney from her mother, as well as evidence that

^{84/} See www.crt-ii.org (Dénes case).

^{85/} Second CRT-II Report, at 6.

her father had died some 40 years previously, but the Bank had responded with letters restating its ten-year document retention policy and emphasizing that the Claimant had not proven her right to inquire about her parents' accounts.

Records located during the Volcker investigation indicate that Dr. Homburger had in fact owned an account at the Bank of unknown type, and that the account had been opened on September 19, 1935 and closed on March 19, 1936, after the family already had fled Germany through Switzerland and to Palestine. The CRT concluded that the account proceeds had not been paid to Dr. Homburger or his heirs given that the Bank had withheld information about the Account Owner in response to his wife's inquiries, and given the absence of evidence in the bank records that the Account Owner or his heirs closed the account and received the proceeds. The amount of the award was \$34,347.83.^{86/}

Accounts Transferred to Nazi Bank:

- In re Account of Richard Emrich

The Claimant is the Account Owner's granddaughter. The Account Owner was Jewish and was born and lived in Pforzheim, Germany in 1878. He owned a jewelry manufacturing company. The Claimant stated that the Account Owner left Germany to start a branch of the business in the United Kingdom. By 1939, the Nazis had seized the Account Owner's company and most of the family had fled Germany. The Account Owner's brother and his family were killed in Auschwitz. The Account Owner remained in the United Kingdom until his death in 1947. The Claimant stated that her grandfather had had an account at a Swiss bank and that her mother had contacted the bank several times, but was unsuccessful in gaining any information.

The bank records located during the Volcker investigation reveal that Mr. Emrich had held an account of an unknown type with a balance of 208.50 Swiss Francs on December 2, 1942. The bank records also contain excerpts of a transcript that reveal that Richard Emrich's account was one of the accounts reported to the Nazi

^{86/} June 30, 2003 CRT Report, at 14-15.

government by August Dörflinger, an employee of a Swiss bank.^{87/} The CRT concluded that the bank records indicated that the account was paid to the Nazis. Thus, using the average value for an account of an unknown type, 3,950.00 Swiss Francs, the amount of the award was \$36,183.21.^{88/}

- In re Accounts of Paul Kolisch, Estella Kolisch, and Gertrude Eveline Shapiro

The claimant is the husband of one Account Owner and the son-in-law of the other two Owners. Account Owner Paul Kolisch, who was Jewish, lived in Vienna where he published several newspapers, including *Der Montag mit dem Sport-Montag* and *Der Illustrierte Wochenpost*. After his newspaper publishing business was Aryanized and his home confiscated, Mr. Kolisch was sent to Dachau, where he was tortured, and then to Buchenwald, where he was killed in December 1939.

The bank records located during the Volcker investigation indicate that Mr. Kolisch had owned accounts at at least two Swiss banks. The records for Bank I include a customer card and an internal memo dated December 13, 1949 indicating that the account owner, Mr. Kolish, had used an address in Arosa, Switzerland. The bank memo also states that the Account Owner had died in Buchenwald. According to the bank records, Mr. Kolisch had opened a demand deposit account on January 31, 1939, and, on April 14, 1939, had opened a safe deposit box at the bank's branch in Arosa. The accounts were closed on May 6, 1939. The amount in the accounts on the date of their closure is unknown. As to Bank II, the bank records include an account opening card as well as a letter from the bank dated March 17, 1938, "describing how it would soon complete a list of over 1000 custody accounts belonging to Austrian citizens, pursuant to the Foreign Assets Law for Austria as of 23 March 1938."^{89/} In addition, the claimant provided the CRT with May 1938 correspondence between Stella Kolisch and Bank II regarding transfer of accounts from the bank to the *Mercurbank* in Vienna for the use of the newspaper publishing company's provisional administrators.

^{87/} August Dörflinger disclosed information to the Nazis regarding Swiss accounts held by German account owners. With the help of bank authorities, he was arrested. At the time of his arrest, funds from twenty of the seventy-four accounts he reported had been transferred to Germany. In September 1943, a Swiss military court sentenced Dörflinger to life imprisonment for economic and military espionage activities, including for disclosing details of the seventy-four bank accounts and passing on military secrets. See Final Bergier Report, at 261, 278; Volcker Report, at 86.

^{88/} See www.crt-ii.org (Emrich case).

^{89/} See *id.*

The accounts were in fact paid to the Nazis; they were transferred to the *Mercurbank* on June 16, 1938. The amount in the custody account on the date of transfer was 56,200 Swiss Francs, while the demand deposit account held 1,798 Swiss Francs. The total amount of the award, using actual values for the two accounts at Bank II and presumptive values for the two accounts at Bank I, was \$497,659.46.^{90/}

- In re Accounts of Dr. Robert Blum

The Claimant is the grandchild of the Account Owner. The Account Owner, Dr. Blum, who was a Jewish attorney in Germany, was forced to shut down his law practice in Frankenthal and was interned in Dachau several times, the last time for three weeks in November 1938. In 1939, the Account Owner fled Germany to Sao Paolo, Brazil, where he died in 1941.

Swiss bank records located during the Volcker investigation include a power of attorney form, which Robert Blum signed while he was interned in Dachau, which gave Dr. Blum's wife the power to make bank declarations and dispose of their assets. ICEP investigators determined that Dr. Blum owned two bank accounts, each of which was paid to the Nazis. Using presumptive values, the total amount awarded was \$122,756.76.^{91/}

- In re Account of Walter Herzog

Account Owner Walter Herzog, the Claimant's father-in-law, was a German Jew who owned a silk tie company in Krefeld, *Wilms & Herzog*. Mr. Herzog was deported to the Riga ghetto in Latvia on December 10, 1941 and was held there until 1943. He was then deported to Buchenwald, where he perished in 1945. After the War, Mr. Herzog's family members inquired after his Swiss bank accounts, and were informed in a March 25, 1997 letter from the Swiss Banking Ombudsman that the inquiry "was passed to every bank in Switzerland' but that no dormant accounts were found."^{92/}

Records were located during the Volcker investigation showing that Mr. Herzog had owned a custody account at a Swiss bank. The bank records refer explicitly

^{90/} Second CRT-II Report, at 3-4.

^{91/} Second CRT-II Report, at 4.

^{92/} See www.crt-ii.org (Herzog case).

to a Nazi confiscation provision, the November 19, 1936 Seventh Ordinance Regarding Implementation of the Foreign Exchange Control Law. The records also contain a letter dated November 25, 1936 from *Deutsche Bank & Disconto-Gesellschaft* in Konstanz informing the Swiss bank that all custody accounts containing foreign securities noted on the German Stock Exchange must be transferred to a Devisenbank in Germany. Deutsche Bank offered its services in this regard. In addition, correspondence between the Swiss bank's primary branch and its Zurich branch describes the preparation of lists of account owners subject to the new law. In one letter, the Bank's general director agreed to suggestions proposed by the Zurich branch to charge a transfer fee, in addition to a customary surcharge of .5% to 1% of the total value of the securities transferred to the German Devisenbank. The bank records indicate that Mr. Herzog's account, then valued at 20,000 Swiss Francs, was paid by the Swiss bank to the Nazi-controlled Deutsche Bank in Berlin on January 28, 1937. The amount of the award was \$162,162.16.^{93/}

- In re Accounts of Dr. Heinrich Fink

Dr. Heinrich Fink, uncle of the Claimant, was born in approximately 1914 in Upper Silesia, Germany. Dr. Fink's family lived in Breslau, Germany, before World War II. Dr. Fink was murdered in Auschwitz. The claimant originally sought the assistance of the HCPO, and the claim subsequently was transferred to the CRT.

The Swiss bank records located during the Volcker investigation refer explicitly to the November 19, 1936 Seventh Ordinance Regarding Implementation of the Foreign Exchange Control Law and indicate that Dr. Fink's account was one of 291 customer custody accounts, together totaling 6,266,760 Swiss Francs, transferred by Swiss banks to various banks throughout Germany during the period November, 1936 through January, 1937. The records further indicate that on December 14, 1936, in accordance with the Nazi legislation, the Swiss bank holding Dr. Fink's account transferred securities in the amount of 5,000 Swiss Francs from the Fink account to the Dresdner Bank in Berlin, and the account was then closed. Dr. Fink also owned a second account of unknown type; this account was closed unknown to whom on December 10, 1936. The amount of the award was \$77,826.09.^{94/}

^{93/} The Herzog case is described in Appendix C of the CRT Rules (p. 9).

^{94/} The Fink case is described in Appendix C of the CRT Rules (p. 10).

e. *Continuing Efforts to Expedite Claims Processing and Access Bank Information*

Because the value of the accounts is so high and the claims are so central to the lawsuit and settlement, the CRT continues to seek to improve and expedite the Deposited Assets Class claims resolution process. In addition to adopting the historical and legal “presumptions” described above, the CRT has:

- undertaken a variety of modifications to its database and computer operations with the expectation that these revisions may help to locate additional “matches” between the 32,000 claims received and the 36,000 “probable” and “possible” accounts in the AHD;
- investigated archival records, especially those of the Austrian State Archives in connection with the April, 1938 “census” of Jewish assets ordered after the *Anschluss*, to assist claimants in establishing that their claims are plausible, particularly where bank records are unavailable or incomplete;
- analyzed portions of the approximately 600,000 Initial Questionnaires returned in this action to determine which, if any, may be reviewed by the CRT as Deposited Assets Class claim forms^{95/}; and
- instituted procedures, based upon the knowledge obtained to date from the claims process, for analyzing claim forms for which no bank data or other documentation has been made available but which nevertheless may present plausible claims. It is anticipated that the CRT shortly will begin to issue awards for such plausible but undocumented claims.

Furthermore, CRT Special Masters Volcker and Bradfield and Lead Settlement Counsel Neuborne continue to pursue access to the Total Accounts Database (“TAD”) – the 4.1 million Holocaust-era accounts located during the Volcker investigation but not yet made available to the CRT, as more fully described above. The CRT Special Masters and Lead Settlement Counsel are seeking the cooperation of the defendant banks in

^{95/} The Court, in an Order signed on July 30, 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims.

conducting an experimental analysis of the TAD to determine whether and to what extent the 32,000 claim forms may match to accounts other than to those in the “AHD” – the 36,000 deemed by the Volcker Committee as “probably” or “possibly” belonging to Holocaust victims.

Assuming the TAD test can be conducted, and following completion of the database transition, which is ongoing, it is expected that the CRT will have sufficient data concerning the likely claims remaining to be paid against the 36,000 “probable” and “possible” accounts, and the estimated number of claims that may be awarded from the TAD, to permit a reliable estimate of the total amount to be awarded from the \$800 million reserved for the Deposited Assets Class, of which \$668.5 million now remains. Because the “TAD test” depends upon the cooperation of the Swiss banks and banking authorities, and the database project also is still under way, it is difficult to predict when that estimate can be made. However, it is hoped that by March 15, 2004, the TAD test and database project will be substantially completed and that an accurate assessment can be made of the projected total amount of the residual unclaimed funds that may be available for distribution.

2. Slave Labor Class I

a. *Applications and Payments to Date*

The distribution process for Slave Labor Class I has been a great success. **In little more than two years, \$203,487,200 has been approved for distribution to 140,336 surviving slave laborers throughout the world.** In a remarkable achievement, \$201,660,200 has been processed through the Claims Conference on behalf of the Court

to 139,076 Jewish survivors. The remaining payments of \$1,827,000 have been made through the IOM to 1,260 non-Jewish class members, primarily to Roma survivors. Each claimant has received a payment of \$1,450 (increased from \$1,000 under the Court's September 25, 2002 order supplementing Slave Labor Class I payments by 45%).^{96/}

Approximately 270,000 applications were submitted to the Claims Conference by Jewish claimants. Most of these applications have been reviewed and the claimants have been or shortly will be notified of the final recommendation. As of September 25, 2003, approximately 26,000 applications remained pending for review (excluding duplicates).^{97/} Therefore, 90% of the claims submitted to the Claims Conference have been resolved, with 10% currently outstanding. The IOM also continues to make progress in analyzing the claims submitted by Roma, Jehovah's Witness, disabled and homosexual individuals. Both the Claims Conference and the IOM prioritized applications from survivors, and are now in the process of analyzing claims submitted by eligible heirs (i.e., relatives of slave laborers who died on or after February 16, 1999). In fact, more than half of the

^{96/} See Exhibit 5 hereto, consisting of charts showing the distribution of Slave Labor Class I recipients by country and, for the United States, by state and city, as of September 16, 2003 (Claims Conference) and September 25, 2003 (IOM). Another 2,368 claims have been approved for payment more recently. See "Report and Recommendations of the Conference on Jewish Material Claims Against Germany, Inc. for the Thirteenth Group of Slave Labor Class I Claims in In re Holocaust Victim Assets Litigation (Swiss Banks), September 23, 2003, approved by order dated September 23, 2003 (annexed hereto as part of Exhibit 1).

^{97/} See September 25, 2003 Letter of Greg Schneider, Claims Conference Chief Operating Officer, to Judah Gribetz and Shari Reig ("September 25, 2003 Claims Conference Letter"), annexed hereto as part of Exhibit 5.

remaining claims under review by the Claims Conference are those of heirs. Appellate processes also are now in place.^{98/}

As contemplated by the Distribution Plan, the claims process for Slave Labor Class I adheres closely to the procedures adopted by the German Foundation, maximizing administrative efficiencies and conserving Settlement Fund expenses. Under both the Swiss Banks Settlement and German Foundation programs, the application process was designed to rely heavily upon information concerning Holocaust survivors already available from prior restitution programs, such as the Article 2 Fund and Central and Eastern European Fund (“CEEF”) administered by the Claims Conference on behalf of the German government.^{99/} Thus, approximately 40,000 individuals receiving Article 2 and CEEF pensions from Germany essentially were “pre-approved” for payment under Slave Labor Class I: these survivors receive pensions from Germany because of their confinement to camps or ghettos and, under the rules of the German Foundation and Slave Labor Class I, are presumed to have performed slave labor.^{100/}

Other potential members of Slave Labor Class I were those who receive pensions directly from Germany via the BEG Holocaust compensation statute enacted in 1953, or indirectly via the Israeli Finance Ministry. These individuals presented a somewhat more complicated situation because their pensions are processed by Germany and Israel, not

^{98/} Documents and court orders relating to the appellate processes for Slave Labor Class I and the Refugee Class are annexed hereto as 8.

^{99/} See Distribution Plan, Annex E (“Holocaust Compensation”).

^{100/} As previously noted, the assumptions underlying this presumption are set forth in detail in the Distribution Plan. See Vol. I, pp. 142-159; Vol. II, Annex H (“Slave Labor Class I”).

the Claims Conference, and the relevant information therefore was not within the Claims Conference's computer database. Manual searches of archives were required to process the claim forms, especially in the scattered and decentralized "*laender*" (state) archives located throughout Germany.^{101/}

Additionally, thousands of other claimants were ineligible for, or had not previously applied for, other Holocaust-related compensation. Their claims have been the most difficult to process because the German Foundation requires documentary or other evidence, in effect mandating exhaustive archival research around the world. Nevertheless, despite these obstacles, tens of thousands of claims have been approved based upon documents discovered in archives. Currently, Claims Conference staff members are conducting research at Yad Vashem and the United States Holocaust Memorial Museum and are reviewing documentation from over sixty archives worldwide. As a result of this research alone, the Claims Conference has verified the claims of over 30,000 Holocaust survivors.^{102/}

The German Foundation's archival documentation requirement also has impacted the IOM's processing of claims under Slave Labor Class I, because the largely Roma applicants often have not been previously eligible for compensation, and Holocaust-era records (and even current data) may not be available for this scattered and still-persecuted community. Approximately 28,000 individuals have applied to the IOM for slave labor compensation under the Swiss Banks Settlement, and approximately 80% of these

^{101/} See also September 25, 2003 Claims Conference Letter.

^{102/} Id.

applications were submitted by Roma. The IOM has coordinated closely with the Special Master and the Court to devise alternate methods of proving that a claim is plausible other than by individualized documentary proof, such as through academic research (including consultation with experts at renowned institutions such as Yad Vashem and the United States Holocaust Memorial Museum), claimant and witness interviews and other measures.

For example, in collaboration with scholars from the United States Holocaust Memorial Museum, Charles University in Prague and elsewhere, the IOM identified and described the conditions of several little-known sites of Roma enslavement, such as the Lety u Pisku concentration camp in southern Bohemia, the Hodonin u Kunstatu concentration camp in Moravia, the Dubnica nad Vahom and Krupina camps in Slovakia, and the Plavec work camp in north-central Slovakia.^{103/} The IOM continues to work with

^{103/} See, e.g., IOM's "Group V – Slave Labour Class I: Background Historical Summary," filed with the Court June 6, 2003 (annexed hereto as part of Exhibit 6). The Court adopted the IOM's recommendations and authorized payment of, among others, several hundred surviving Roma slave laborers from the former Czech Republic and Slovakia. See Order dated May 27, 2003. See also Paul A. Shapiro, Director for Advanced Holocaust Studies, and Radu Ioanid, Director of Archival Programs, United States Holocaust Memorial Museum, "Statement on Roma Claims from Romania," August 11, 2003 ("USHMM Statement on Roma Claims") (annexed hereto as part of Exhibit 6) (upon analysis of claims submitted to the IOM from Roma living in Romania during the Holocaust era, and based upon historical information, the scholars conclude, among other things, that the IOM "claimant pool is reasonable and consistent with the historical record"; that "forced labor by Roma in Transnistria was the general rule and was systematically enforced"; and that "[w]hile the list of recognized camp locations in Transnistria that is being assembled by the German Foundation is accurate in the sense that the locations listed were camp and detention sites, the list is far from complete. As stated above, many Roma were moved (*repartizati*) for labor purposes to several locations. They may remember a district, town, locality, village, or simply a collective farm (often misspelled) name. The distinction among these, 'recognizing' some and 'not recognizing' others, would be erroneous, since the Roma deported to Transnistria were held at numerous sites throughout the entire area and moved from site to site and between specific locations as the perpetrators required. Recognition of all of the locations in the highly concentrated areas where the Roma were kept, exploited and killed will reflect the historical reality of this region during the war and will ensure that legitimate claims that may fail to mention a specific location on the current [Foundation] list are not excluded from the settlement").

the Court and the German Foundation to seek similar alternatives to individualized claimant documentation.^{104/}

In addition to administering the claims process for those individuals who, under the German Foundation rules, were required to apply directly to the Claims Conference or IOM, both organizations also process Slave Labor Class I claims for individuals who under German Foundation rules were obligated to file their applications with other administrative agencies. Specifically, former slave laborers living in Central and Eastern Europe were required to apply to the German Foundation for compensation through one of five “partner organizations” rather than the Claims Conference or IOM. Similarly, under the German Foundation legislation, the Austrian Reconciliation Foundation, not the German Foundation, is responsible for payment of certain slave labor claims depending upon the claimant’s place of incarceration. However, under the Distribution Plan, the Claims Conference and IOM are charged with processing all of these claims on the Court’s behalf.^{105/}

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^{104/} The Claims Conference and IOM also process claims for and distribute funds to those survivors who may be ineligible under the German Foundation criteria but nevertheless meet the definition of “slave laborer” under the Swiss Banks Settlement Agreement. Thus, for example, forced labor performed by a prisoner of war is not compensable under the Foundation legislation, but constitutes “slave labor” under the Settlement Agreement assuming that the claimant is or was believed to have been a “Victim or Target of Nazi Persecution.” Similarly, forced labor performed by certain battalions and in certain camps not yet recognized under the German Foundation rules is nevertheless compensable under the “Slave Labor Class I” definition and the Court’s more liberal eligibility criteria. See, e.g., USHMM Statement on Roma Claims; September 25, 2003 Claims Conference Letter.

^{105/} See Distribution Plan, Vol. I, at 155-56.

As would be expected from a program of this nature, each of the over 140,000 individuals compensated thus far has survived an unimaginable experience. Some examples are as follows:

- Claimant was born in the city of Lodz, Poland on November 26, 1927 to a Jewish Orthodox family. After September 1939 the 12-year-old was forcibly resettled in the city's slum area called Baluty (location of the Lodz Ghetto). Claimant worked in a metal factory and a nail factory, 12 to 14 hours a day, 7 days a week. When the Ghetto was liquidated, claimant was transported to Birkenau-Auschwitz with his mother and older brother. Selections separated them. In Auschwitz he was put to work laying bricks and in a cleaning detachment. At the evacuation of Auschwitz, claimant was transferred first to Sachsenhausen (Germany), then to the work camp of Lieberose, where he cleared woods and laid tracks for narrow-gage trains. Transported to Mauthausen (Austria) in January 1945, claimant survived the "White Night" during which inmates, drenched in freezing water, were made to march naked until they collapsed and died, because the Nazis had run out of space to house them. Claimant was liberated at Gunskirchen in May 1945. His archival records were found at the German Federal Indemnification (BEG) archives of the *Landesentschädigungsamt-Munchen*. (Claims Conf. No. 5-5201)
- Claimant was born in Adelain, Hungary on March 1, 1897. In April 1942, along with thousands of Jewish males old enough to be drafted into the army, claimant had to join a forced labor battalion. Claimant's unit served on the Eastern front and in Galicia (present day Ukraine). The claimant spent two and a half years building roads, clearing minefields and digging antitank ditches, until he escaped, went into hiding and was liberated in Hungary. Using information available in his Article 2 Fund compensation file, including caseworker interviews, the Claims Conference confirmed his eligibility for slave labor compensation. The claimant is 106 years old and lives with his wife, also a survivor (see below). (Claims Conf. No. 11-3724)
- Claimant was born in Satu Mare, (Transylvania, Romania) on March 20, 1918. In the spring of 1944, Satu Mare (by then a part of Hungary) was occupied by the Nazi forces and the claimant was interned in the city's ghetto. In May 1944, claimant was deported by cattle car to Auschwitz, and shortly afterwards to Neuengamme. The claimant was liberated in a sub-camp of the Neuengamme complex in May 1945. Her persecution history was verified by documents, originally from Yad Vashem, in her Article 2 Fund file. The Claimant lives with her 106 year-old husband, also a survivor (see above). (Claims Conf. No. 11-3725)
- Claimant was born in Budapest, Hungary on December 3, 1917. In 1942, the fascist government of Hungary drafted all Jewish males over the age of 18 into forced labor battalions. The claimant spent two years working in

Hungary in conditions resembling those of a concentration camp. He was released from forced military service in April 1944, only to be imprisoned in the Leva ghetto awaiting deportation. The claimant was sent to the copper mines in Bor, Yugoslavia, infamous among labor camps for embodying the Nazi policy of "extermination through labor," with conditions so brutal that the SS measured the useful lifespan of Bor laborers in weeks. The claimant was liberated in March 1945. The claimant's application to the Article 2 Fund contained a copy of his liberation certificate from Bor, which was used to validate his slave labor claim. (Claims Conf. No. 12-2962)

- Claimant was born in Vienna, Austria on October 4, 1926. Five days after his sixteenth birthday, he was arrested by the *Geheime Staatspolizei Wien* (Vienna Gestapo) and deported to the Ghetto at Theresienstadt, where he remained for two years. The Claims Conference located a photocopy of the original Gestapo files on transports from Vienna to the East, including Theresienstadt, and claimant's original Dachau entry register. According to the records of the International Tracing Service of the Red Cross, the Claimant was sent to Auschwitz on October 1, 1944 by the transport labeled "Em," identified as a "worker." Ten days later, claimant (Prisoner Number 115545) was transferred westward again, to Austrian territory and Dachau's sub-camp "Kaufering" (*Kommando Kaufering*). (Claims Conf. No. 8-262)
- Claimant was born in Koln, Germany, on April 8, 1928. In October 1940 he was deported to Camp Gurs in France, where he was forced to clean latrines, remove human excrement and assist in digging graves and in burying the dead. In April 1941, he was sent to the camp of Les Milles, where he remained for the next seven months. Although the claimant was ineligible to receive the Article 2 Fund pension under the current German government eligibility guidelines that require internment for a minimum of 18 months, the Claims Conference was able to use his Article 2 Fund file, supported by further BEG research, to substantiate his slave labor claim. Claimant died shortly afterwards. His widow wrote to the Claims Conference to say that her husband had died feeling vindicated at last, his suffering as a young man recognized and acknowledged. (Claims Conf. No. 8-7033)
- Claimant was born in Boryslaw, Poland (present-day Ukraine) on March 27, 1930. She was confined with her family to the Boryslaw Ghetto from June, 1941 until its liquidation. The young girl was interned in a forced labor camp (ZAL, *Zwangsarbeitslager*) near Boryslaw until January 1944, when she managed to escape, living first in hiding in the woods, then with a Christian family until August 1944. The archives at Yad Vashem and the German BEG files at the *Bezirksregierung Düsseldorf* contain data verifying her experiences. (Claims Conf. No. 7-11430)
- Claimant was born in Baia, Romania on January 1, 1918. The claimant could provide no information about her persecution in her application form, as she is completely incapacitated, unable to speak or to move as a result of a stroke.

Nevertheless, her German BEG records were located, substantiating that she performed slave labor in Mogilev (Belarus). (Claims Conf. No. 12-4712)

- Claimant was born in Amsterdam, Holland on May 24, 1929. In March 1943, claimant and her family were deported to Theresienstadt. The claimant was forced to clean latrines, maintain food kettles, and split mica. She was liberated in May 1945. The Claims Conference found confirmation of claimant's internment in Theresienstadt through its research effort matching survivors' names against ghetto and camp lists at the United States Holocaust Memorial Museum. (Claims Conf. No. 11-926)
- Claimant was born on July 16, 1929 in Beregszasz, Hungary (present day Ukraine). She remembers enduring the "selection" upon arrival in Auschwitz eight days before Shavuot in 1944. At the whim of Dr. Mengele, claimant's father was sent to the men's line; her mother and five siblings were sent directly to the gas chambers. The claimant was selected for a labor crew. The Claims Conference researchers at Yad Vashem located records confirming her internment in the Beregowo ghetto, Auschwitz, Ravensbruck and Malchow. (Claims Conf. No. 10-5266)
- Claimant was born in Dvinsk, Latvia on December 25, 1909. From September 1941 through May 1944, he was interned in the Vilna ghetto (Lithuania). Claimant was transferred to Kovno and later, with a small group of ghetto laborers who survived the liquidation of the ghetto, he was deported to Dachau, and finally was liberated in May 1945. Claims Conference researchers matched claimant's name to the list of Dachau prisoners currently in the collection of the United States Holocaust Memorial Museum. (Claims Conf. No. 10-5097)
- Claimant was born in Lodz, Poland on February 20, 1924. Interned in the Ghetto until 1943, he was deported to Buchenwald. Through the archives at Yad Vashem, the Claims Conference was able to verify claimant's persecution in the Lodz Ghetto. (Claims Conf. No. 11-3231)
- Claimant was born in Hungary on May 2, 1915. On December 23, 1944, claimant was deported to Ravensbruck KZ. One month later, on January 25, 1945, she was sent to Mausechwitz work camp, a sub-camp of Buchenwald, where she worked every night, from 6:00 p.m. to 6:00 a.m., in a factory that produced small and medium size ammunition. Allowed only a half-hour rest, claimant was beaten by an SS guard for putting her head down on a workbench in exhaustion. On April 18, 1945 as the American Army approached, the Germans evacuated the camp. The Claimant was able to escape, hiding in a nearby forest where she was found by a farmer and his family and driven by cart to Graslitz, already liberated. Claimant's application was approved based on information from her Article 2 Fund file. (Claims Conf. No. 1-2882)

- Claimant is a Romani who was born on June 16, 1923 and who currently lives in the Czech Republic. She performed slave labor at Lety u Pisku, Auschwitz, Ravensbruck, and Flossenburg. On August 12, 1942 she was captured and taken, pregnant, to Lety u Pisku. She escaped from Lety in December 1942 and gave birth to a daughter in Prostejov. In March, 1943, the Nazis recaptured her and sent her to Auschwitz. There, her baby was killed and she received typhus and other injections from Dr. Mengele. In addition, she worked at a Munich factory while at Flossenberg. The claimant was forced to go on a Death March, but escaped. After the War, she gave birth to a mentally handicapped child as a result of the experiments performed on her. (IOM No. 3102550)
- Claimant is a Romani who was born on March 12, 1931 and who currently lives in the Czech Republic. The claimant performed slave labor at Dubnica Nad Vahom from November 1944 through April 1945. The claimant wrote in her personal statement that the Germans came to her family's home at 6 A.M. and took the claimant and her entire family away in wagons to Humenne. There, they waited two days in a building for railcars to be made available. At night, the Germans took young women away for the evening. The Germans infected the claimant's sister-in-law with a sexual disease and then shot her at the camp. On the way to the camp, the Nazis stabbed one of the claimant's sisters with a bayonet. At the camp Dubnica Nad Vahom, her father and oldest brother were separated from the rest of the family. The claimant and some of her siblings dug pits and dug out and cleaned potatoes under the coercion of the Nazis. (IOM No. 3103127)
- Claimant is a Romani who was born on September 15, 1920 and who currently lives in the Czech Republic. The claimant performed slave labor at Pardubice and Terezin from December 1944 through May 1945. In July 1942, the claimant was sent to Schwainic to fix rail cars. However, he refused to work for the Germans and escaped after eight months. He stayed in hiding with friends until December 1943 when he was caught by the Czech police and taken to Hradec Kralove. From there he was transferred to Pardubice, where he remained until February 1944. The claimant was released and was supposed to return to work at Schwainic but again went into hiding. He was arrested again in December 1944, at which point he was taken by the Gestapo to Hradec Kralove, and from there to Terezin. After liberation, the claimant returned home where he did not regain his health until 1947. (IOM No. 3105893)

b. Slave Labor Class I Projections:

As noted previously, the Claims Conference is completing its analysis of the final 10% of the approximately 270,000 claims it has received, and is concluding its archival research. Those claimants for whom documentary evidence is unavailable, as required by the German Foundation, are being contacted and requested to provide supplemental information such as a narrative of their experiences. The IOM likewise continues to seek archival and historical materials to assist claimants for whom documentary evidence is not available. Claimants will be advised within the next several months of the final status of their applications.

Based upon its experience with prior compensation programs, the Claims Conference estimates that approximately 10% of claimants may appeal from denials of their claims. The IOM estimates that approximately 5% of its applicants will appeal from denials of their claims. As noted above, appellate panels are in place under both programs.

To date, eligible heirs (for slave laborers who died after February 15, 1999) have not received payments under Slave Labor Class I because a decision was made initially to devote all available resources to the applications of survivors. Payments to eligible heirs will adhere as closely as possible to the methods employed by the German Foundation, including the "chain of inheritance" designated under the Foundation legislation.

The Claims Conference estimates that approximately 30,000 additional claims may be compensable, including those payable to eligible heirs. The IOM estimates that another 12,500 claims may be compensable. Thus, approximately \$61.7 million in additional payments may be distributed on behalf of another 42,500 slave laborers under Slave Labor Class I, for a final estimated total of approximately \$265.2 million to

approximately 182,800 surviving slave laborers and the heirs of those who died after February 15, 1999.^{106/}

3. Refugee Class

a. Applications and Payments to Date

To date, the total of all payments to the Refugee Class is \$4,579,825, and 1,930 survivors have been compensated. Thus far, 1,865 Jewish survivors have received a total of \$4,349,275 in Refugee Class payments.^{107/} Of these, 931 were denied entry or expelled (each receiving \$3,625, increased from \$2,500 under the Court's September 25, 2002 Order supplementing payments by 45%); 842 were admitted but mistreated (each receiving \$725, increased from \$500); and 82 suffered both injuries (each receiving \$4,350, increased from \$3,000).^{108/} The IOM has recommended 65

^{106/} Based upon historical compensation data and an analysis of the Initial Questionnaires, the Distribution Plan estimated that "approximately 200,000 Jewish, Roma, Jehovah's Witness, disabled and homosexual former slave laborers" would be eligible for compensation under Slave Labor Class I. Distribution Plan, Vol. I, at 29-30, 149.

^{107/} See Exhibit 7 hereto, consisting of charts showing the distribution of Refugee Class recipients by country and, for the United States, by state and city, as of September 16, 2003 (Claims Conference) and September 25, 2003 (IOM). Another 120 claims have been approved for payment more recently. See "Report and Recommendations of the Conference on Jewish Material Claims Against Germany, Inc. for the Seventeenth Group of Refugee Class Claims in In re Holocaust Victim Assets Litigation (Swiss Banks), September 25, 2003, approved by order dated September 26, 2003 (annexed hereto as part of Exhibit 1).

^{108/} The Distribution Plan did not originally provide for payment for both injuries, nor did the application form. However, following consultations among the Special Master, the Claims Conference and IOM, and based upon the information provided by claimants in their applications, correspondence and follow-up telephone calls, the Court has approved Refugee Class payments for the separate injuries of expulsion and mistreatment where warranted by the facts regardless of the category under which the claimant originally applied.

applications for payment to date (62 for expulsion, two for admission and mistreatment, and one for both injuries), for a total of \$230,550.

The Refugee Class has benefited substantially from the data made available to the Court by the Swiss Federal Archives, which provided, among other materials, lists of several thousand individuals denied entry into or expelled from Switzerland, as well as a list of approximately 50,000 individuals admitted into the country as refugees. The lists have been of particular utility to the Claims Conference: to date, over one-half of the claimants recommended for payment appear on one (and in certain instances both) of the Swiss Federal Archives lists. The others have plausibly demonstrated that their experiences were comparable and that they meet the criteria for compensation.

Like the Deposited Assets Class, the Refugee Class claims process also has taken into account the conclusions of the Bergier Commission in its March, 2002 final report. In addition to reaffirming the conclusions earlier reached in its interim report on refugees,^{109/} the Final Bergier Report further observed that Swiss refugee policy was marred by a certain anti-Semitism that existed for many years prior to World War II:

“The aim to protect the country from ‘over-Jewification’ (*Verjudung*) had been growing in Switzerland since the First World War. This stance influenced naturalisation, which became increasingly restrictive. From 1916 onwards, files of candidates for naturalisation bore handwritten comments attesting the intention of making it difficult for Jews to gain Swiss citizenship. In 1919, the Federal Administration used a stamp in the form of the Star of David. Swiss civil servants used this system of stamping documents from 1936 onwards, and thus well before the

^{109/} See Distribution Plan, Vol. I, at 167-72; Vol. II, Annex J (“The Refugee Class”).

introduction of the notorious stigmatisation [the 'J'-stamp on German passports] in 1938."^{110/}

The Final Bergier Report also reaffirmed the earlier conclusions of the Interim Report on Refugees concerning Swiss policies toward Roma refugees:

"In practice, it was not only the various schemata that decided whether or not a particular refugee received asylum, but also social perceptions that overlaid the explicit regulations and were taken for granted to such an extent that they did not need to be expressed and are therefore rarely found in source materials. Nevertheless, they determined the practice of asylum policy as well as the fate of refugees. One such category was 'Gypsies.' A high-ranking customs official who remarked in 1936 that 'beggars, vagabonds, Gypsies, etc.' are 'to be expelled immediately at the border', only confirmed routine police practice. A year earlier, the Police for Foreigners had complained to consulates that provided Roma and Sinti with transit visas for Switzerland that 'the sight of the dirty passports and the photos of Gypsies pasted inside should' have been sufficient reason to deny permission to enter the country. One can conclude on the basis of such comments that 'Gypsies' were considered a category of refugees to be rejected, although no directive explicitly named them as such."^{111/}

This and other information from the Bergier Commission has assisted the Court's two administrative agencies in analyzing refugee claims, particularly for those individuals not appearing on archival lists.

Class members who indicated a possible refugee claim on their Initial Questionnaires were sent refugee program applications either by the Claims Conference or the IOM. As with the other classes, applications also were made available over the Internet and at Holocaust survivor help centers around the world. The Claims

^{110/} Final Bergier Report, at 71-72.

^{111/} See Independent Commission of Experts Switzerland – Second World War, Switzerland and Refugees in the Nazi Era (Bern: BBL/EDMZ 1999), at 132-133.

Conference received approximately 5,000 applications, while the IOM received approximately 730.

Every Refugee Class claim is analyzed individually by Claims Conference or IOM staff and submitted to the Special Master for consultation and review. Each claim recommended for approval is submitted to the Court with often extensive documentation and/or a detailed narrative, and each claim is summarized in a report filed with the Court and docketed for public review.^{112/}

As this is the first time Swiss refugees have been eligible for compensation, many claimants have taken this opportunity to record their experiences at length. They have provided copies of Swiss police files documenting their expulsions; they have given detailed accounts of their interrogations at the Swiss border; they have described the separation of family members from one another – some gaining admission, others not; they have described their expulsions from Switzerland while in the middle of their studies (including graduate programs in law and medicine); and they have recounted their confinement to Swiss work camps. Many have received compensation not only as refugees but also as slave laborers under the separate Slave Labor Class I and German Foundation programs, providing graphic evidence of the devastating impact of Swiss refugee policy upon those turned away from Switzerland and forced back into Nazi hands.

^{112/} Summaries of the Refugee Class awards approved to date (as processed by the Claims Conference) also are available at www.claimscon.org

Some examples of refugee claims compensated to date are as follows:

Denied entry into Switzerland

- The claimants, who are sisters, were born in Austria and attempted to enter Switzerland in July 1938. They were informed in July 1938 that they would be placed on a children's transport to St. Gallen, Switzerland. At the train station in Vienna, the older sister was turned away by Swiss officials who said that she was too old and would not be accepted into the country. It was six weeks past her tenth birthday. The claimant wrote in her personal statement: "I have never forgotten nor have I forgiven the Swiss for not permitting me to go with the transport and treating a 10-year-old child like an enemy of the state." The younger sister, aged 7, was allowed to board the transport and went to Switzerland, but was sent back to Austria three weeks later. The treatment she received at the children's home in Switzerland for the three weeks she was allowed to remain in the country was "coldhearted" and, for many years, she had "nightmares," according to her personal statement. The two sisters and their parents stayed in Vienna and were subsequently deported to the Riga ghetto. The claimants' father perished during the Holocaust. The older sister is now a professor at a New York City university and the author of several books on the Holocaust, including a 1995 work detailing her family's experiences, and describing her unsuccessful attempt to enter Switzerland as a refugee. (Claims Conference, Claim Nos. RC 9432 and RC 9639).^{113/}
- The claimant was born on April 18, 1922 in Hungary and was denied entry into Switzerland between June and September, 1942 at the French-Swiss border. The claimant resided in France in the early 1940s. The claimant attempted to enter Switzerland on three separate occasions. The claimant left from Besancon and was heading towards Neuchâtel but was intercepted by Swiss guards, who slapped him and threatened him until he returned to France. A few weeks later, he made a second attempt from Montpeliard to Porrentruy. His smuggler betrayed him and handed him over to Swiss authorities. He was held for three days in prison and then expelled back into France. On his third attempt, the claimant traveled from Montpeliard to Bienne. After arriving in Bienne, he was arrested and interrogated in a police office from where he was sent back to the French side of the border. The claimant traveled though occupied France with a false ID but was picked up in

^{113/} "RC" designates a "Refugee Claim" filed with and processed by the Claims Conference on behalf of the Court.

Paris in early 1943 and sent to work in the Adlerwerke arms factory in Berlin. He was subsequently detained in several locales until May 1945. (RC 9142)

- The claimant was born on September 8, 1923 in Germany and, with his parents, was twice denied entry into Switzerland in the spring of 1939. In 1938, the claimant and his family were forced to move to Nuremberg, Germany. The family intended to immigrate to the United States but was told that it could take years. The claimant's family then decided to flee to Switzerland. They had family with whom they stayed for a few days before they went by train to the Swiss border and continued by foot over the mountains. At the border, they were stopped by Swiss border guards and told to return to the place from which they came. Traveling by train, they returned to Munich and then Nuremberg. Several weeks later, they attempted entry again near Gailingen, Germany and were denied entry by Swiss guards once more. The claimant was subsequently detained in Riga and then Auschwitz, where he was forced to go on a death march. He was liberated on May 3, 1945. In addition to his Refugee Class payment, the claimant also received slave labor payments under Slave Labor Class I and from the German Foundation. (RC 9244)
- The claimant was born on September 16, 1925 in Austria and was denied entry into Switzerland in October 1943 at the Italian-Swiss border. The claimant fled Austria in July, 1939 to Italy, where he was interned from January 1941. In October 1943, the claimant escaped from prison and reached the Swiss border hiding on a truck with two non-Jewish prisoners. At the border, the claimant was detained and verbally assaulted by the Swiss authorities. The claimant was denied entry. He had a German passport stamped with a 'J.' The two people with him had German passports without a 'J' and were admitted into Switzerland. Claimant returned to Italy and fought with Italian partisans until 1945. In 1945, the claimant immigrated to Palestine where he served in the military and fought in the War of Independence. (RC 9342)
- The claimant was born on June 2, 1923 in Hungary and was denied entry into Switzerland in February 1945 at Basel. In March 1944, the claimant was forced into slave labor in Hungary and on December 6, 1944, was transported to Buchenwald. The claimant was later transferred to the Offenburg railway station, where he had to dig out time bombs, and then transferred to a work site approximately one mile from the Swiss border. On February 15, 1945, the claimant was able to escape after an air raid bombing with the help of an older German guard, and attempted to enter Switzerland at Basel. The German guard tried to convince the Swiss border guard to let the claimant enter Switzerland, but was told that Switzerland already had plenty of Jews. The claimant was denied entry. The German guard took the claimant back to the work site and the claimant was sent back to Offenburg. In March 1945, the claimant was taken on a death march to Dachau where he arrived on April

27, 1945. The claimant additionally received slave labor compensation. (RC 10960)

- The claimant was born on January 5, 1936 and was denied entry into Switzerland in November 1943 at the Italian-Swiss border. The claimant and his family traveled from Italy to the Swiss border with the help of smugglers. After crossing the border, they were stopped by the Swiss Police and held overnight. The next morning, the claimant and his family were deported back to Italy, despite their pleading that a friend from Lugano would take care of them. The Swiss Police refused, saying that the Jews were not being persecuted in Italy. The claimant and his family returned to Italy and stayed in hiding until the end of the war. (RC 1128)
- The claimant was born on August 23, 1936 in France and was denied entry into Switzerland at the French-Swiss border in the spring of 1944. The claimant and her family lived in hiding after the Germans invaded France, and moved to Southern France. The claimant hid on a farm in Dordogne, but was denounced. The claimant was then sent by the underground to Lyon to join a convoy of Jewish children being taken to Switzerland hidden in trucks. Upon reaching the border at Annemasse, the convoy was denied entry into Switzerland by Swiss authorities. After leaving the border, the claimant was arrested by the Gestapo and put in the Le Pax prison in Annemasse until the end of the war. (RC 10436)
- The claimant was born on January 3, 1934 in Germany and was denied permission to remain in Switzerland in 1939. The claimant and his family had entered Switzerland at the German-Swiss border near Basel. They tried to move to Zurich, where the claimant's mother had lived as a child. The family had to register in Zurich and was allowed only a two-week stay and was then forced to return to Germany. The family suffered from Nazi persecution after returning to Germany, losing the family business and property, and where claimant states he was hospitalized and subjected to medical experiments. In November 1939, the family was able to leave for the United States via Italy. (RC 11212)
- The claimant was born on September 15, 1921 in the Netherlands and was denied entry into Switzerland sometime between late February and early March 1943 at the French-Swiss border. The claimant fled the Netherlands with his wife and two friends with the help of a smuggler. The smuggler abandoned them along the way but they still managed to reach Le Locle, Switzerland. They were arrested soon after and taken to a local army office. The following day, they were driven across the French-Swiss border and deposited in the forests near a German border patrol. The group later attempted to cross into Spain, but was arrested. The claimant spent the war in various concentration camps, including Auschwitz. The claimant subsequently testified at Nuremberg in the slave labor trial against I.G. Farben (RC 10754)

- The claimant is a Romani and was born in Germany in 1926. He lived with his family in Herbolzheim, near the Swiss border. On several occasions, the entire family of 16 people tried to enter into Switzerland at Lörrach and Singen. The family was denied entry; they were told that they were a “tribe” and tribes were not allowed to enter Switzerland. The entire family was transported to Auschwitz where they had to perform such labour as digging graves and burying the dead, as well as construction work. The claimant was later transported to Buchenwald where he worked in a quarry until he was liberated. He and one brother were the only family members who survived. (IOM, Claim No. 3300048)

Expelled from Switzerland

- The claimants are seven siblings who all were expelled, with their parents, from Switzerland in August 1939. The claimants’ father was a rabbi in Berlin who was forced to go into hiding with his family after Kristallnacht. The family fled to Switzerland in January 1939. The claimants’ family had been active in the Jewish community in Basel, where the father had been born and raised, and where their grandfather had been a rabbi. Nevertheless, they were granted permission to stay in Switzerland for only a few months, and were forced to leave Switzerland in August 1939. The family succeeded in obtaining visas to England and traveled there through France. (RC 5824, RC 5880, RC 5878, RC 5870, RC 5652, RC 11079, and RC 5810)
- The claimant was born on September 20, 1915 in Poland and was expelled from Switzerland in March 1940. In 1935 or 1936, the claimant had moved to Zurich from Poland to study. After four years, the claimant graduated from his program and requested to remain in Switzerland to avoid persecution. In March 1940, the claimant was told by Swiss Police to leave Switzerland. The claimant traveled to Italy to join his father and from there continued to Palestine. (RC 1428)

Denied an entry visa by Swiss officials

- The claimant – now 91 years old, and a professor of medicine at a California university – was born on April 14, 1912 in Germany and was denied an entry permit into Switzerland in Berlin in 1938. In May 1938, the claimant enrolled at the University of Bern in Switzerland to complete her medical studies. After the first semester, the claimant received permission from the university for a brief trip to Berlin to visit her husband and child, with the understanding that she would return to continue work on her dissertation. The claimant applied for reentry and residence at the Swiss Embassy in Berlin in July 1938 and her application was denied on November 18, 1938, a few days after Kristallnacht. In April 1939, the claimant and her family left for Belgium and three months later went to England. In August 1941, they immigrated to the United States. (RC 9998)

- The claimant was born on January 17, 1921 in Germany and was denied entry into Switzerland in August 1939 at the German-Swiss border. Upon his release from Dachau, the claimant was under an ultimatum to leave Germany. The claimant went to the Swiss Consulate in Munich. He requested temporary asylum and a visa to enter Switzerland to travel to England. The claimant showed that he had financial and housing support from his aunts, long-time residents of Zurich. He was refused asylum and a visa to pass through Switzerland. Subsequently, the claimant boarded a train to Belgium and went to England, leaving for the United States in January 1940. (RC 10501)
- The claimant was born on March 6, 1918 in Germany and was denied a visa to Switzerland in Frankfurt, Germany in 1938. In fall 1938, the claimant was arrested by the Gestapo and was transferred to the Buchenwald concentration camp. To obtain his release from the concentration camp, the claimant's parents bought him a passage to Shanghai. The claimant was released with a four-week notice to leave Germany. To avoid going to Shanghai, the claimant went to the Swiss Consulate in Frankfurt and asked for a visa to Switzerland, but was refused. Subsequently, the claimant traveled to Genoa, Italy in December 1938 and from there continued to Shanghai. He later immigrated to England and, in 1940, joined the British Army. (RC 10058)

Detained or abused once admitted into Switzerland

- The claimant was born on August 7, 1933 in Belgium and entered Switzerland with her family in 1943. The claimant's family members were immediately separated. Her father was sent to a work camp, her mother and brother to Geneva, and the claimant was sent to Interlaken to live with a foster family. After several incidents of bedwetting, the claimant was sent to a home for disturbed and mentally retarded children, where she was denied liquids. There, she states, she was humiliated, isolated and threatened to be sent to an adult asylum. For six months, the claimant had no contact with her parents and did not know where they were. (RC 9417)
- The claimant was born on September 27, 1907 in Poland and entered Switzerland from France with her son. Upon arrival, she was placed in an internment camp where her movement was restricted. While in the camp, the claimant's son became ill, but nevertheless, she was not allowed to leave the camp to seek treatment for him. As a result, her son died. The claimant suffered a nervous breakdown and was hospitalized. (RC 11053)
- The claimant was born on September 11, 1911 in Czechoslovakia and was detained in Switzerland. Her money and belongings were confiscated upon admission, after which she was separated from her husband. The claimant was forced to have two abortions and was punished for meeting her husband

without permission. She was also obliged to perform heavy manual labor and suffered from the lack of nutrition. (RC 10757)

Denied entry or expelled, and also abused or detained in Switzerland

- The claimant was born on August 11, 1929 in Austria and, with her parents, was denied entry into Switzerland at the French-Swiss border in August 1942. The claimant's family left Austria for Belgium in 1939 and stayed there until May 1940. They then escaped to Lyon, France. The claimant and her family attempted to enter Switzerland from Annemasse with a group. At the border, they were caught by armed guards and told that they were not allowed to enter. The claimant recalls crying and shouting at the border, which drew the attention of the German border police. The claimant and her parents were arrested by the Germans and transported to Drancy, from which her parents were deported to Auschwitz. With the help of the O.S.E. (Oeuvre de Secours aux Enfants), the claimant escaped and went into hiding in Chambon sur Lignon, France. On December 22, 1944, the claimant was sent with a transport to Switzerland. She was successively transferred to the Henri Dunany Center and then to a children's home in Geneva, then to Tavannes and to Engelberg. The claimant states that, in Geneva, her hair was shaved and she suffered from brutal treatment. (RC 1469)

b. Refugee Class Projections

As with Slave Labor Class I, a decision was made initially to devote all available resources to the applications of surviving refugees. The Claims Conference and IOM both are completing their review of survivor claims and will shortly begin to issue recommendations for claims submitted by heirs of refugees who died on or after February 16, 1999. Both agencies anticipate substantially completing their Refugee Class

programs by the end of this year, at which point the Court may expect to receive a certain number of appeals.^{114/}

The Claims Conference estimates that approximately 1,150 additional refugee claims may be eligible for compensation. The majority of these refugees were expelled from Switzerland or denied entry. The IOM estimates that approximately 135 additional claims may be approved. Assuming that each of these 1,285 refugee claims receives the higher payment of \$3,625 for expulsion, then another approximately \$4.7 million may be awarded to the Refugee Class. Therefore, approximately 3,215 refugees (including the 1,930 already paid approximately \$4.6 million) may receive approximately \$9.3 million in total under the Refugee Class process.

4. Slave Labor Class II

Following the Court's approval of the Settlement Agreement and until very recently, there has been an ongoing dispute between the parties concerning the scope of the class and the extent of the releases, because the "membership of Slave Labor Class II, unlike the other classes, is not limited to victims of Nazi persecution who were Jewish, Romani, Jehovah's Witnesses, homosexual, or physically or mentally disabled." In re Holocaust Victim Assets Litig., 105 F. Supp. 2d at 162.

^{114/} The Claims Conference expects that distribution to eligible Holocaust survivors will be substantially completed by the end of 2003 and that the largely administrative process related to the distribution of funds to eligible heirs, as well as the processing of appeals, will be completed in early 2004. The Claims Conference estimates that approximately 10% of those not recommended for payment will appeal (approximately 225 claimants), while the IOM anticipates appeals from approximately 100 claimants. See also Refugee Appellate Process recommendation dated May 14, 2003, approved by Court Order dated May 15, 2003, annexed hereto as part of Exhibit 8.

As the Court observed in its July 26, 2000 opinion: “When this class was included in the Settlement Agreement, the defendant banks represented that Slave Labor Class II consists of an extremely small number of persons who may have performed slave labor directly for an extremely small number of Swiss companies during World War II. Since then, they have backed off of this representation.” *Id.* The resulting problem was that “the Slave Labor Class II releasees consist almost entirely of affiliates or subsidiaries of Swiss entities that were incorporated in Germany and elsewhere,” and class members – “those who were forced to perform slave labor for a Swiss company in Germany or elsewhere” – had “no reason to know at the time that the company was Swiss” and “may not be aware that they are in the class” even with notice of the settlement. The Court accordingly mandated that “those Swiss entities that seek releases from Slave Labor Class II are directed to identify themselves to the Special Master” and that the failure to “self-identify” would “result in the denial of a release,” *id.*, at 162.

The Court subsequently issued an order listing those companies that had self-identified, stating that “[c]laimants who file claims with the IOM and who plausibly demonstrate that they performed slave labor for one or more of the companies on the Slave Labor Class II List are eligible for compensation from the Settlement Fund.” *In re Holocaust Victim Assets Litig.*, Case No. CV 96-4849 (ERK) (MDG) 2001 WL 419967, (E.D.N.Y. April 4, 2001) at * 2. However, not all companies that self-identified were included on the List because, as the Court found, “the plain language [of the Settlement Agreement] excludes slave labor-using companies that were acquired by Swiss entities after the war, but which were owned or controlled by German or other non-Swiss entities.” *Id.*, at * 3.

On February 15, 2002, the Second Circuit Court of Appeals dismissed as untimely defendants' effort to challenge the "self-identification" requirement, but remanded to the District Court for further proceedings the issue of whether the releases applied to "after-acquired companies." In re Holocaust Victim Assets Litig., 282 F.3d 103 (2d Cir. 2002). Until very recently, the dispute was still pending and, as a result, has impacted the processing of Slave Labor Class II applications because the full extent of the Slave Labor Class II List and the pool of potentially eligible applicants were as yet unknown.^{115/}

The claims process nevertheless has commenced and has sought to take into account the conclusions of the Bergier Commission, which stated in its Final Report of March 22, 2002:

"It is impossible to say how many forced labourers and prisoners of war were employed in Swiss subsidiary companies. On the one hand, the number of subsidiaries based in Germany is not known, on the other, quantitative information is only useful in respect of certain cut-off dates, since the number of foreigners fluctuated widely in terms of time, business sector and area. As far as the Swiss subsidiaries are concerned, if we base our assumptions on the fact that in July 1944 the four largest companies in Baden (today Baden-Württemberg) alone – Aluminium-Walzwerke Singen, Aluminium GmbH in Rheinfelden, Georg Fisher in Singen, and BBC Mannheim – employed far in excess of 4,000 foreign workers, we can probably conclude with a clear conscience that the figure quoted in the media – a total of over 11,000 forced labourers and prisoners of war employed in Swiss subsidiary companies throughout the Reich – is likely to be on the low side."^{116/}

The IOM, solely responsible for processing Slave Labor Class II claims, has received approximately 12,625 applications. The vast majority (over 95%) did not name

^{115/} On September 29, 2003, the parties submitted for the Court's review and approval an executed "Stipulation and Order for Amendment of the Slave Labor Class II List of Releasees."

^{116/} Final Bergier Report, at 313.

a company on the Slave Labor II List, and many did not name any company at all, further impacting claims analysis. To date, 15 individuals have been recommended for Slave Labor II compensation, for a total of \$15,000^{117/}; other recommendations for payment are expected to be approved shortly.

As with those compensated under Slave Labor Class I, those who survived enslavement by companies owned or operated by, or affiliated with, Swiss entities, suffered immensely. Two such examples are as follows:

- The claimant was born on August 1, 1926 and lived in Mala Wolka, Poland. In the spring of 1944, he and his family were ordered by the Nazis at gunpoint to gather their possessions and join the forced march to Pinsk. From there, they traveled to Warsaw and on to Dachau. The claimant remained at Dachau for two days and was transferred to a work camp in Grenzach. There, the claimant was a forced laborer at the Hoffman La Roche pharmaceutical plant. Every day, he and other forced labourers were escorted from the work camp to the Hoffman La Roche plant. The claimant wrote in his personal statement that his duties included unloading coal from trains, stoking the boilers, cleaning, and digging trenches near the Rhine. While in the work camp, the claimant lived in a converted barn and received only bread and soup as nourishment. After Germany surrendered, one of the directors of Hoffman La Roche told the claimant and his family to seek refugee status in Switzerland. At the Swiss border, guards searched the claimant and took away the documentation showing that the claimant had worked as a forced laborer. The claimant remained in Switzerland to attend technical college and then emigrated to Australia. (IOM No. 3402142)
- The claimant was born on July 1, 1923 in Belarus. In July 1943, he was forcibly deported to Germany to perform forced labour. He was first taken to Wuppertal where he worked as a cleaner. Next, the claimant was sent to Köln to a forced labor camp and worked at a Kabelwerk industrial plant (“Rheinische Draht-und Kabelwerke GmbH”), a subsidiary of ABB. The claimant stated that he worked 16-18 hours a day loading the production output for shipment and did not receive much food. The claimant also stated

^{117/} See Chart, “Swiss Banks Settlement: Slave Labour Class II – Administered by the International Organization for Migration on Behalf of the United States District Court: Geographic Distribution of Approved Claimants by Country and Award (as of September 25, 2003),” annexed hereto as Exhibit 9.

that due to the long hours and the small food rations, his health suffered and he could not fulfill the work requirements of the camp. In September 1943, he was sent to a transit prison in Vupertal where he was badly beaten. After a month, he was transferred to Buchenwald and remained there until April 1945, at which point he escaped. (IOM No. 3205062)

The IOM estimates that approximately 200 additional individuals may be eligible for Slave Labor Class II payments under the current formulation of the class and claims process (i.e., assuming no changes are instituted as a result of the Slave Labor Class II litigation and its resolution). Individual payments thus far have remained at \$1,000 as adopted in the Distribution Plan because there has been insufficient data about the scope of the class to permit the recommendation of a 45% increase, as in the case of Slave Labor Class I, the Refugee Class and the Looted Assets Class. The payment amount may be revisited at a later date.

5. Looted Assets Class

a. *Overview of Looted Assets Class Cy Pres Remedy*

In devising a distribution mechanism for the Looted Assets Class, the Special Master was duty-bound to ensure that payments to class members would be meaningful, and that administrative expenses would not unduly consume the Settlement Fund. As the Distribution Plan observed, under the Settlement Fund's broad definition of the Looted Assets Class, virtually every individual who lived under or fled from Nazi occupation is a class member, since virtually every such person may be presumed to have been looted by

the Nazis.^{118/} As a result, the Special Master concluded that neither a case-by-case adjudication nor a pro rata distribution was acceptable:

It is neither justifiable nor appropriate to select which looting victims may be entitled to recompense from this \$1.25 billion Settlement Fund based entirely upon the happenstance of where the Nazi Regime chose to direct which loot, which records of the plunder happen to survive, and which items one may hazard a guess may have found their way to or through Switzerland. Every surviving "Victim or Target" was looted – many hundreds of thousands of people *excluding heirs*....

Were the Special Master to recommend that each claim be assessed individually..., the result would be an unwieldy and enormously expensive apparatus to adjudicate hundreds of thousands of claims, for losses which can barely be measured and hardly be documented, and whose connection to Switzerland, or a Swiss entity, if ever it existed, probably no longer can be proven. Further, the administrative expense of such a process would unjustifiably deplete the Settlement Fund. Conversely, were the Special Master to recommend a pro rata distribution, with each of the approximately 424,000 individuals who have indicated that they are Looted Assets Class claimants (to date) receiving an identical distribution on the presumption that their plundered assets are traceable to Switzerland, or Swiss entities, each "award" would total little more than a few dollars. This is obviously untenable.^{119/}

The Distribution Plan, relying upon Second Circuit precedent, observed that where, as here, a settlement fund cannot "satisfy the claimed losses of every class member," it is "equitable to limit payments to those with the most severe injuries" and to

^{118/} The Settlement Agreement defines "Looted Assets" as follows: "Assets actually or allegedly belonging in whole or in part to Victims or Targets of Nazi Persecution that were actually or allegedly stolen, expropriated, Aryanized, confiscated, or that were otherwise wrongfully taken by, at the request of, or under the auspices of, the Nazi Regime." The Settlement Agreement defines "Nazi Regime" as "the National Socialist government of Germany from 1933 through 1945 and its instrumentalities, agents, and allies (including, without limitation, all other Axis countries), all occupied countries, and all other individuals or entities in any way affiliated or associated with, or acting for or on behalf or under the control or influence of, the Nazi Regime, including, without limitation, the Accused Organizations and Individuals in the Nurnberg Trial, 6 F.R.D. 69 (1946)." Settlement Agreement, Section 1.

^{119/} Distribution Plan, Vol. I, at 114-115.

“give as much help as possible to individuals who, in general, are most in need of assistance.”^{120/} Accordingly, the Distribution Plan allocated \$100 million to a cy pres remedy for those “most in need of assistance,” id.: humanitarian aid programs serving the neediest Jewish, Roma, Jehovah’s Witness, homosexual and disabled survivors around the world.^{121/} Under the Court’s September 25, 2002 Order, that amount was increased by 45% and is now \$145 million. Initial distributions to members of the Looted Assets Class commenced promptly upon the withdrawal of the sole appeal against the Settlement Agreement and the resulting release of the Settlement Fund from escrow.

Unlike the other four classes, the Looted Assets Class distribution process does not require a class member to show that his or her claim is “plausible.” Rather, to participate in the programs, the class members – limited solely to surviving victims of Nazi persecution – must be in need. The assessment of “need” has been based upon analysis of demographic, mortality and social welfare data from a variety of sources ranging from academic experts to the Swiss Humanitarian Fund to the Settlement Agreement Notice Administrators.^{122/}

^{120/} In re “Agent Orange” Product Liability Litig., 818 F.2d at 158, cited in Distribution Plan, Vol. I, at 116; see also id., Annex B (“Legal Principles Governing Distribution of Class Action Settlements”).

^{121/} See also Statement of Lead Settlement Counsel Professor Burt Neuborne, Transcript of Hearing on Distribution Plan, November 20, 2000, at 10-11 (“[T]he [S]pecial [M]aster recommends, and I [heartily] concur, that the only fair way to administer the looted assets class is to do so in a cy pres [remedy]. It’s a mechanism of the law that says: If you can’t do the perfect job, which would be to give each person their money back, you do the next best thing. And so the next best thing, in the opinion of the [S]pecial [M]aster, is to try to identify those victims of looting who have suffered deeply, who have never been compensated, and who are currently in greatest need”).

^{122/} See Distribution Plan, Annex C (“Demographics of ‘Victim or Target’ Groups”); Annex F (“Social Safety Nets”); and Annex K (“Swiss Humanitarian Fund”).

All available data indicated then, and still demonstrates now, a striking conclusion: that of the various types of services required by “Victims or Targets of Nazi Persecution,” such as medical treatments, prescription drugs, home health care, transportation and the like, the most urgent requirement often is food.^{123/} The needs are particularly severe in Central and Eastern Europe and the former Soviet Union, where over 220,000 elderly and impoverished Jewish, Roma and Jehovah’s Witness Nazi victims recently have benefited from various humanitarian assistance programs.^{124/} For these Nazi victims, funds from the Swiss Banks Settlement for many people have meant the difference between subsistence and hunger. In other parts of the world, needy Nazi

^{123/} See, e.g., JDC “Report on the First Eighteen Months of Welfare Programs in the Former Soviet Union, June 28, 2001 – December 31, 2002,” July 31, 2003 (“July, 2003 JDC Report”), at 13 (“the relief of starvation and hunger is the core life sustaining program that Hased programs must provide and remains the service needed by the most Nazi victims in the FSU”). See also JDC “Request for Second Period Funding for Welfare Programs in the Former Soviet Union for January 1, 2003 to December 31, 2003,” September 18, 2003 (“JDC Second Period Funding Request”), approved and funded by Court order dated September 23, 2003. Excerpts from these documents are annexed hereto as part of Exhibit 10.

^{124/} Of the Jewish Nazi victims in the former Soviet Union, approximately 135,000 are being served by the JDC’s “Hased” program. See July, 2003 JDC Report, at 4. Of the Jewish Nazi victims living in other Central and Eastern European nations, approximately 34,770 received payments from the Swiss Fund for Needy Victims of the Holocaust/Shoa, which, as described earlier, was established in 1997 to provide humanitarian assistance to needy Nazi victims. See Swiss Humanitarian Fund Final Report, at 30, 88 (Chart: “Number of beneficiaries per region and category of victim” as of December 31, 2001). Approximately 49,000 Roma Nazi victims have been located throughout seventeen Central and Eastern European nations as a result of the notice and claims process procedures undertaken by the IOM in connection with implementing the Swiss Banks Settlement Distribution Plan and the German Foundation programs, and are being assisted by Court-funded humanitarian aid programs. See IOM “Supplemental Proposal in Furtherance of the [IOM’s] Pilot Project Proposal 31 August 2001 as Approved by the Court on 24 September 2001,” June 10, 2002 (“IOM Supplemental Proposal”), at 2 (approved by Court order dated June 24, 2002); September 12, 2003 Letter of Delbert Field of IOM to Judah Gribetz and Shari Reig, annexed hereto as part of Exhibit 12. In addition, the IOM, working with the Jehovah’s Witness Holocaust Era Survivors Fund (“JWHESF”), has located approximately 2,000 needy elderly Jehovah’s Witness Nazi victims living in Central and Eastern Europe; these victims also are being served by programs funded by the Court. See IOM “Request for Humanitarian Programme Funding for the Third Quarter of 2003,” July 20, 2003, program chart at 3.

victims receive other aid such as medical assistance and home care. The Distribution Plan provides for several years of humanitarian assistance so that the neediest Nazi victims around the world can live out what may be the remainder of their lives with some small measure of comfort that the programs upon which they have grown dependent will continue to sustain them as they age.

Based upon research as to potential service providers with sufficient expertise in distributing Holocaust and other compensation funds, the Distribution Plan appointed three experienced agencies to assist the Court and the Special Master in distributing and administering the \$145 million allocated to the Looted Assets Class: the JDC and Claims Conference for Jewish Nazi victims (together allocated \$130.5 million to augment existing programs over a ten-year period^{125/}; each with decades of experience in assisting needy Nazi victims), and the IOM for Roma, Jehovah's Witness, homosexual and

^{125/} See Distribution Plan, Vol. I, at 136-37 (in connection with each funding proposal to be submitted by the JDC and/or the Claims Conference, "[t]he Court will consider whether the proposed funding is intended to augment the program by expanding the services provided or by lengthening the period for which services are provided, rather than substituting for existing program funding"). See also *id.*, at 26 (under the Distribution Plan, the funds allocated for needy Jewish Nazi victims "should be designated for the augmentation" of JDC and Claims Conference humanitarian assistance programs serving these individuals); *id.*, at 141 ("In particular, the Court should consider whether the programs recommended for funding by the IOM ... are to be augmented by expansion of services, or by lengthening the period for which services are provided, rather than substituting for existing funding").

disabled Nazi victims (allocated \$14.5 million over a multi-year period).^{126/} In the two years since distributions began, approximately 100,000 needy Nazi victims have benefited from an array of services.^{127/}

b. Status of Distributions

1. American Jewish Joint Distribution Committee

The JDC administers the bulk of funds on behalf of the Looted Assets Class, as 75% of the allocation to Jewish Nazi victims was designated for programs serving the neediest of victims living in the former Soviet Union, a region in which the JDC has had vast experience. Through the extensive network of “Hesed” centers established by the JDC in 1992, impoverished elderly Nazi victims primarily receive food, consisting of a few food packages a year, a hot meal at a Hesed center, or a “meals-on-wheels” delivery.

^{126/} The “Looted Assets Class” funds for non-Jewish “Victims or Targets of Nazi Persecution” were intended to supplement the German Foundation allocation to humanitarian assistance programs serving needy Roma survivors and thereby provide the maximum benefit to the class members. The IOM continues to coordinate its humanitarian aid programs to satisfy the mandates under both the Swiss Banks Settlement Distribution Plan and the German Foundation. To enable the IOM to maintain flexibility in establishing what has proven to be a novel and far-reaching assistance program, the Distribution Plan did not impose a specific time frame but rather anticipated ongoing modification depending upon initial results. As more fully described below, the success of the IOM “Looted Assets Class” program to date suggests that it should be expanded to additional countries and over a more extended period of time. According to the IOM, the Foundation likewise recently has indicated an interest in extending its program through mid-2005. The specific parameters of the program will be established in continuing consultation with the Court and the German Foundation.

^{127/} As discussed below, the Looted Assets Class allocation to date has assisted approximately 40,000 Jewish Nazi victims in the former Soviet Union alone, and over 50,000 Roma and Jehovah’s Witness Nazi victims in Central and Eastern Europe. Thousands of other Jewish Nazi victims in Europe, the United States, Israel and other parts of the world also are being assisted by humanitarian programs funded by the Court.

Needy Nazi victims also have received medical assistance and winter relief as a result of the distributions from the Swiss Banks Settlement.

As summarized by the JDC in its July 31, 2003 report on the initial 18-month period of Looted Assets Class funding (July 1, 2001 through December 31, 2002),^{128/} the Court's distribution of \$10.875 million over the first eighteen months of the program – \$7.5 million as provided under the original Plan, as supplemented by the 45% increase (\$3.375 million) ordered in September, 2002 – has resulted in significant but nevertheless limited assistance to a small portion of the Nazi victims in the former Soviet Union (“FSU”)^{129/}:

- 40,352 Nazi victims have received food packages over the first 18 months of funding. While this number is not insubstantial, it represents only 30% of the 134,296 Nazi victims whom the Hesed program serves. Therefore, more than two-thirds of Nazi victims in the Hesed program are not receiving any benefit from the food programs funded through the Swiss Banks Settlement.^{130/}
- Since pensions in the former Soviet Union are so meager – ranging from \$60 per month in Russia, to a low of \$7 per month in Georgia – and two-thirds of pensions in Russia are spent on food, the food program has provided life-sustaining relief. The packages funded by the Swiss Banks Settlement “contain non-perishable basic staples, including flour, pasta, rice, other grains, beans, sugar, oil and a protein source such as canned fish. Food packages supplement the meager diets of the elderly Nazi victim population. When combined with other items that the elderly can obtain, they will stave off hunger and most effects of malnutrition.” The food packages “are provided

^{128/} Because of the termination of appellate proceedings, distributions were able to commence as of June 28, 2001, halfway through the JDC's regular annual program, which operates on the calendar year. As a result, the initial distribution period was extended over eighteen months to enable the JDC to commence all subsequent distributions in January of each year rather than July, to coincide with the organization's general operations.

^{129/} By order dated September 23, 2003, the Court transferred an additional \$16,312,500 for the funding of JDC programs serving Nazi victims in the former Soviet Union during the calendar year 2003, see n. 123 supra and Exhibit 10, for a total of \$27,187,500 distributed to date.

^{130/} See July, 2003 JDC Report, at 9 (Programmatic Statistical Chart).

an average of eight times a year. While some clients get monthly food packages, due to budgetary constraints, others receive them only quarterly and some clients get food packages only before Passover and Rosh Hashanah.”^{131/}

- 5,558 Nazi victims (4% of the total Nazi victims served by the Hesed program over the first 18 months of funding), received food from “meals-on-wheels” or took part in canteen meals at Hesed centers funded by the “Looted Assets Class” allocation. “Due to limited funding meals are provided only once a day, on average of four times per week, and most clients who receive a hot meal are ineligible to receive monthly food packages as well.”^{132/}
- 55% of all “Looted Assets Class” funds from the first allocation made via the JDC was spent on hunger relief programs. “This is a recognition that the relief of starvation and hunger is the core life sustaining program that Hesed programs must provide and remains the service needed by the most Nazi victims in the FSU.”^{133/}
- 4,258 Nazi victims (3.17% of the 134,296 Nazi victims served by the Hesed program for the first 18 months of funding), received home care assistance from the “Looted Assets Class” allocation. This aid ranges from assistance with personal care such as bathing, dressing, managing medications and meal preparation to pumping well water and chopping wood for heating and cooking.^{134/}
- 3,688 Nazi victims (2.75% of the total Nazi victims served by the Hesed program during the first 18 months of funding) received from Looted Assets Class funds one winter relief package per winter, consisting of items such as fuel, blankets, coats, sweaters and boots. “This is a service unique among the dozens of countries where JDC provides welfare services and shows the extreme conditions and needs in the FSU.”^{135/}
- 19,118 (14.24% of the 134,296 Nazi victims served during the first 18 months of funding) received medical services from the first allocation of “Looted

^{131/} Id., at 11, 14.

^{132/} Id., at 9, 15-16.

^{133/} Id., at 13.

^{134/} Id., at 9, 17-18.

^{135/} Id., at 9, 20.

Assets Class” funds. The assistance included medical consultations, prescription medicine, and subsidies.^{136/}

- 60,359 grants were made to members of the Looted Assets Class from the “SOS Special Needs and Emergency Cases Program,” worth approximately \$50 each, which funded a range of goods and services such as drugs, hearing aids and glasses, hospitalization costs, adult diapers, bedding, prostheses, emergency food supplies, extra winter relief, roof repairs, purchase of pots and pans, sinks, toilets, stoves and refrigerators, purchase of a milk cow for a client in a rural area, and rent payment to prevent eviction.^{137/}

2. Conference on Jewish Material Claims Against Germany

The Claims Conference has administered individual compensation and humanitarian assistance programs for Nazi victims around the world for more than half a century. No other organization has had greater experience with Nazi victims.^{138/} In recognition of the agency’s extensive knowledge of victim needs and its ability rapidly to distribute resources and monitor their use, the Court selected the Claims Conference to recommend and oversee service providers throughout the world in places other than the

^{136/} Id., at 9, 22.

^{137/} Id., at 9, 25-26.

^{138/} In addition to administering the programs, the Claims Conference is responsible for negotiating a great many of them, including ongoing pension payments that as of September, 2000, were benefiting over 170,000 Nazi victims. See Distribution Plan, Vol. II, Annex H (“Slave Labor Class”), at H 4-6; Annex E (“Holocaust Compensation”), describing, among other things, the various Holocaust compensation programs negotiated by the Claims Conference since its formation in 1951. See also Michael Z. Wise, “Diplomacy: Reparations,” The Atlantic Monthly (October 1993), at 32 (the Claims Conference “persists in seeking benefits for tens of thousands of survivors who have still not been indemnified, and at the same time monitors Germany’s compliance with existing compensation agreements. For the New York-based [Claims Conference], memory alone is insufficient. The conference has spent the past four decades quietly working behind closed doors, acting as the go-between for the victims of Nazi persecution and officials of the democratic state that rose from the ashes of the Third Reich”).

former Soviet Union, particularly in Israel, North America and Europe. Each distribution agency must be approved by the Court.

Since June 28, 2001, when the Court issued its first of three orders approving Claims Conference requests for funding, needy Nazi victims in 23 nations have benefited from \$9,014,210 in humanitarian aid. Under the Distribution Plan as supplemented by the Court's September 25, 2002 order, the total allocation to projects serving these and other non-FSU Jewish Nazi victims over the duration of the ten-year program will be \$32.6 million.

The Looted Assets Class allocation has reached these Nazi victims via the Claims Conference's "Emergency Assistance Program," which "is designed to help prevent or alleviate crises. Through the provision of short-term financial assistance, the program enables Nazi victims to obtain basic necessities and is designed to provide survivors with essential needs in order to continue to live at home with dignity. The program is implemented by central Jewish social service agencies in communities across the world. Thus, the program benefits Nazi victims not only by providing cash assistance to cope with emergency situations but also by assuring the involvement of social welfare professionals in their lives."^{139/}

^{139/} See "Third Claims Conference Looted Assets Class Proposal: Emergency Assistance Programs for Jewish Nazi Victims – Proposal for the Calendar Year 2003," April, 2003 ("2003 Claims Conference Proposal"), at 3, approved and funded by Court order dated April 22, 2003; excerpts are annexed hereto as part of Exhibit 11. See also Claims Conference, "Proposal for the First Six Months of Operations," February 27, 2001, approved by Court order dated April 13, 2001 and funded by Court order dated June 28, 2001 (following release of Settlement Fund from escrow due to withdrawal of appeal against approval of Settlement Agreement); "Second Claims Conference Looted Assets Class Proposal: Emergency Assistance Programs for Jewish Nazi Victims – Proposal for the Calendar Year 2002," submitted July 11, 2002 and approved and funded by Court order dated July 22, 2002.

In each country in which the program has operated, the Claims Conference recommends, for the Court's approval, a Jewish social service agency - often one which has received prior Claims Conference funding and which has "established credentials and reputation" and has been "working with Nazi victims for many years" - to administer the program on a day-to-day basis. The social welfare agency conducts outreach through newsletter advertisements, local media and survivor organizations, and assigns a social work professional to assess each request for assistance. "The assessment includes medical condition, housing situation, mental health status, financial status, current services being received, and availability of family support Wherever possible, the cash grants are paid directly to the vendor in order to assess the proper use of the funds and to maintain the involvement of the social work professional in dealing with the problem."^{140/}

The cash grants have been used to provide the following services:

- Home care
- Medical and dental care not funded by governmental programs
- Medical equipment including wheelchairs, beds and hearing aids
- Prescription medicines
- Winter relief
- Food assistance
- Emergency utility and rent payment
- Home equipment and repair

^{140/} 2003 Claims Conference Proposal, at 3-4.

Program eligibility varies in each country and depends upon several factors including the survivor's "economic situation, the availability of government funded benefits, and the specific needs of the community as identified by the advisory committees" of Nazi victims who participate in outreach and oversight in each of the 23 nations currently assisted by Looted Assets Class funds.^{141/}

To date, the following agencies, overseen by the Claims Conference, have administered the Emergency Assistance Program on the Court's behalf:^{142/}

- Argentina:
Delegacion de Asociaciones Israelitas Argentinas
- Australia:
Jewish Care (Victoria) Inc. (Melbourne); Jewish Care – New South Wales (Sydney)
- Austria:
ESRA
- Belgium:
Service Social Juif
- Bosnia:
La Benevolencija
- Bulgaria:
Organization of Jews in Bulgaria - Shalom

^{141/} Id.

^{142/} See Chart, "Swiss Banks Settlement: Looted Assets Class Emergency Assistance Program, Administered by the Conference on Jewish Material Claims Against Germany (Claims Conference) on behalf of the United States District Court, Allocations by Institutions and Amount (June 28, 2001 – December 31, 2003)," annexed hereto as part of Exhibit 11.

- Croatia:
Jewish Community Zagreb
- Czech Republic:
Terezin Initiative – International Terezin Association
- France:
Fonds Social Juif Unifié (FSJU) (Umbrella group for France)
- Germany:
Zentralwohlfahrtsstelle der Juden in Deutschland e.V.
- Greece:
Central Board of Jewish Communities in Greece
- Hungary:
Hungarian Jewish Social Support Foundation
- Israel:
Foundation for the Benefit of Holocaust Victims in Israel
- Italy:
Unione delle Comunità Ebraiche Italiane
- Netherlands:
Stichting Joods Maatschappelijk Werk
- Poland:
Central Jewish Welfare Commission
- Romania:
Federation of Jewish Communities of Romania
- Slovakia:
Central Union of Jewish Religious Communities in the Slovak Republic
- Sweden:

Jewish Community of Stockholm

- United Kingdom:

Association of Jewish Refugees in Great Britain (Umbrella group for the UK)

- United States and Canada: See below

- Yugoslavia:

Federation of Jewish Communities in Serbia Montenegro

In the United States and Canada, Looted Assets Class funds have been distributed

by the following organizations:

United States

- Arizona:

Jewish Family & Children's Service of Southern Arizona (Tucson)

- California:

Jewish Family and Children's Services of the East Bay (Berkeley); Jewish Family and Children's Service - Long Beach; Jewish Family Service - San Diego; Jewish Family Service of Los Angeles; Jewish Family Service of Silicon Valley (San Jose); Jewish Family and Children's Service - San Francisco; Jewish Family Service of Orange County (Costa Mesa); and Jewish Family Service of Palm Springs & Desert area (Palm Springs)

- Colorado:

Jewish Family Service of Colorado (Denver)

- Connecticut:

Jewish Family Services of Greater Hartford (Greater Hartford area – 4 agencies)

- Florida:

Gulf Coast Jewish Family Services (Clearwater); Ferd & Gladys Alpert Jewish Family and Children's Service (West Palm Beach); Jewish Community Services of South Florida (North Miami); Jewish Family Service of Broward County Inc. (Plantation); and the Ruth Rales Jewish Family Service of South Palm Beach County (Boca Raton)

- Georgia:
 - Jewish Family and Career Services (Atlanta)
- Illinois:
 - Jewish Federation of Metropolitan Chicago
- Massachusetts:
 - Jewish Family and Children's Service (Greater Boston area – 4 agencies)
- Maryland:
 - Jewish Federation of Howard County (Columbia); Jewish Family Services - Baltimore; Jewish Social Service Agency - Rockville
- Michigan:
 - Jewish Family Service for Southeast Michigan (Detroit)
- Minnesota:
 - Jewish Family and Children's Service – Minneapolis
- New Jersey:
 - Association of Jewish Family Service Agencies - Elizabeth
- New Mexico:
 - Jewish Family Services - Albuquerque
- Nevada:
 - Jewish Family Service Agency of Las Vegas
- New York:
 - Selfhelp Community Services (New York); Blue Card Inc. (New York)^{143/}; Metropolitan New York Coordinating Council on Jewish Poverty (New York); Guardians of the Sick Alliance (Brooklyn – 5 Bikur Cholim agencies); Pesach Tikva/Door of Hope (Brooklyn); Bikur Cholim

^{143/} Blue Card provides funding to small and rural communities nationwide.

of Rockland County (Monsey); Jewish Family Service of Rochester; and Jewish Family Service of Buffalo and Erie County

- Ohio:

Jewish Family Service Association of Cleveland; Jewish Family Service - Cincinnati; and Jewish Family Services - Columbus

- Oregon:

Jewish Family and Children's Service - Portland

- Pennsylvania:

Jewish Family Service of Philadelphia; Jewish Family Service of Lackawanna County (Scranton); Jewish Family Service of Pittsburgh; and Jewish Family Service of Greater Harrisburg

- Texas:

Jewish Family Service of Greater Dallas; Jewish Family Service of Houston; and Jewish Family and Children's Service Agency – El Paso

- Utah:

Jewish Family Services - Salt Lake City

- Virginia:

Jewish Family Service of Tidewater (Norfolk); Jewish Family Services – Richmond

- Washington:

Jewish Family Service - Seattle

- Wisconsin:

Jewish Family Service – Milwaukee

Canada:

- Toronto:

Jewish Family & Child Service; UIA Federations Canada^{144/}

- Montreal:
Cummings Jewish Centre for Seniors
- Vancouver:
Vancouver Holocaust Education Centre/Jewish Social Service Agency
- Calgary, Alberta:
Jewish Family Service Calgary
- Winnipeg:
Jewish Child and Family Service

3. International Organization for Migration

Since receiving its initial allocation of funds following resolution of appeals against the Settlement Agreement and Distribution Plan, the IOM has established an extensive “Humanitarian and Social Programmes” (“HSP”) network across Central and Eastern Europe. The HSP network maximizes benefits to needy non-Jewish Nazi members of the Looted Assets Class by combining resources both from the Swiss Banks Settlement and the German Foundation. Under the Distribution Plan, the IOM was charged with distributing over a multi-year period the sum of \$10 million through programs serving needy Roma, Jehovah’s Witness, homosexual and disabled Nazi victims. The German Foundation similarly allocated to the IOM DM 24 million (approximately \$12 million) for programs serving needy Roma Nazi victims. The

^{144/} UIA Federations Canada provides funding to small and rural communities nationwide.

Court's September 25, 2002 order supplementing certain payments by 45% has increased to \$14.5 million the total allocation to IOM-supervised programs, altering the original balance so that the Swiss Banks Settlement is now the majority donor as compared to the German Foundation.

Over the last two years, the IOM has worked closely with the Court and the Special Master, and with large and small organizations and survivor representatives, to create what has become a unique and significant humanitarian assistance program. It is no exaggeration to state that through much persistence, and in the face of considerable uncertainty on the part of many observers about whether the objectives of the Distribution Plan could be achieved or whether the potential recipients even could be located – scattered as they are throughout the most remote corners of Central and Eastern Europe – the Looted Assets Class program so far has reached more than 50,000 needy Nazi victims, especially Roma.

Most of these survivors never had previously received Holocaust-related compensation. These long-overlooked and needy Nazi victims thus far have benefited from nearly \$6 million in distributions to date, with a total of \$14.5 million allocated over several years. As stated by the IOM in its most recent quarterly funding proposal dated July 20, 2003: "At this time forty-one projects have commenced for Roma and Jehovah's Witness survivor groups with a further sixteen project proposals awaiting review for possible implementation. At this time 33 projects are currently in operation with nine having been completed. To date in excess of [49,000] elderly Roma and Jehovah's

Witness survivors have received, or are shortly to receive, humanitarian assistance via HSP projects.”^{145/} Among these projects are the following:

- Belarus:

Belarussian Gypsy Diaspora, providing food and hygienic packages to 1,450 Roma Nazi victims.

- Czech Republic:

Three programs serving 2,900 Roma Nazi victims: the League for Help to Roma Victims of War; DROM; and PINF (food, medical assistance, home care, clothing, winter relief, social, legal and financial support)

- Hungary:

Five different programs serving almost 16,000 Roma Nazi victims: Hungarian Baptist Aid (two programs); Mediator Foundation; Bagamer; and the Hungarian Sex Education Foundation (food, hygienic items, medical care, home care, winter relief and clothing).

- Poland:

Four programs serving over 1,000 Roma Nazi victims: Union of Polish Gypsies; Polish Red Cross; Roma Ethnic Minority “Solidarity”; and Polish Medical Mission (food, winter relief, hygienic items, medical care, dental care, financial and social support).

- Romania:

Two programs serving 7,400 Roma Nazi victims: the Romanian Orthodox Church; the Ramses Foundation (food, medical assistance, winter relief, clothing and other assistance).

- Russia:

^{145/} IOM Request for Humanitarian Programme Funding for the Third Quarter of 2003, July 20, 2003, approved and funded by Court order dated July 30, 2003; September 12, 2003 Letter of Delbert Field of IOM to Judah Gribetz and Shari Reig. See also Chart, “IOM Humanitarian and Social Programmes (HSP) – Cumulative Installments Paid to HSP Service Providers, March 2002 – June 2003”; “HSP Presentation at the 13th Meeting of the Kuratorium, Foundation ‘Remembrance, Responsibility and Future,’ Federal Ministry of Finance, Berlin, 24 September 2003” (directed toward German Foundation concerns but largely applicable to the Swiss Banks Settlement Looted Assets Class programs as well). These documents collectively are annexed hereto as Exhibit 12.

St. Petersburg Memorial, providing medical and legal assistance to 4,050 Roma Nazi victims.

- **Ukraine:**

Thirteen programs serving over 8,600 Roma Nazi victims: Romani Yag; Terna Chaya (two programs); Rom Som; Roma Transcarpathia (two programs); Ekgipe (two programs); Chiricli; Romano Drom; Kherson City Roma Society; Ternipe Lviv; and Chernigov Romano Drom (food packages, medical assistance, clothing, winter relief, legal assistance such as to avoid eviction, and home care).

- **Serbia & Montenegro:**

Four programs serving 2,500 Roma Nazi victims: Rrominterpress; the Italian Consortium of Solidarity; New Road; and Sait Balic (food, winter assistance, medical care, clothing, legal aid and other relief).

The German Foundation initially made the decision not to fund food packages, whereas the latter assistance always has been considered an important component of the relief provided on behalf of the Swiss Banks Settlement Looted Assets Class.

Accordingly, to date, all food packages to needy non-Jewish survivors have been funded solely by the Court. The IOM has advised that as of October 1, 2003, however, the German Foundation has agreed to apply limited Foundation funds to food package projects in areas of extreme need where no viable alternative means of assistance are available.

In addition, the IOM administers humanitarian assistance programs serving needy Jehovah's Witness survivors solely on behalf of the Swiss Banks Settlement; the German Foundation does not fund any portion of these programs. In cooperation with the Jehovah's Witness Holocaust Era Survivors' Fund ("JWHESF"), 2,000 needy Jehovah's Witness Nazi victims throughout Central and Eastern Europe have been provided with comprehensive assistance, including food packages, medical care, winter relief and home care.

A variety of other programs are under consideration for future allocation periods, including new programs as well as expansion of those already existing (the latter expected to reach another 10,000 beneficiaries). Given the unexpected success in locating so many surviving Roma Nazi victims, in the event that residual unclaimed funds remain from the Settlement Fund, it may be advisable to reevaluate the original allocation formula recommended under the Distribution Plan (reserving 10% of the Looted Assets Class allocation for non-Jewish victims).^{146/}

In addition, the IOM continues to consult with experts and non-governmental organizations as to how best to locate and serve needy disabled and homosexual Nazi victims.^{147/}

^{146/} The allocation percentages adopted under the Distribution Plan were based upon demographic data available as of September, 2000, as well as historical precedent including the 1997 Swiss Humanitarian Fund and the 1945 Five Power Agreement. See Distribution Plan, Vol. I, at 118-119; Vol. II, Annex C (“Demographics of ‘Victim or Target’ Groups”); Annex K (“Swiss Humanitarian Fund”).

^{147/} See “Humanitarian and Social Programmes (HSP) Quarterly Report for the Period July – September 2002,” October 11, 2002, at 12 (“IOM has been in contact with an interlocutor for homosexual survivors regarding a needs assessment for the provision of HSP [humanitarian] assistance. IOM still awaits a response from this interlocutor, which should include a list of potential beneficiaries, before making additional enquiries in this regard. Since submitting the Supplemental Proposal [of June 10, 2002; approved by Court order dated June 24, 2002], in an effort to reach survivors, IOM has also contacted a further fifty (50) homosexual NGOs, foundations and organizations which work in support of this community throughout Europe. To date the response has been extremely limited [I]n respect of disabled beneficiaries, IOM has contacted twenty three (23) disabled NGOs, foundations and organizations since the submission of the Supplemental Proposal that work in support of this community throughout Western and Eastern & Central Europe in an effort to reach survivors in these categories. The response to date has been equivalent to that in respect of the above outreach in respect of homosexual organizations”). See also “IOM Request for Humanitarian Programme Funding for the Second Quarter of 2003,” May 9, 2003, at 2 (“... IOM has continued to encounter limited success in respect of the identification of homosexual and disabled potential HSP beneficiaries. Further contact with an interlocutor for homosexual survivors is being pursued as well as enquiries in respect of disabled survivors residing in Austria”). The IOM recently has advised the Special Master that it is preparing Slave Labor Class I payment recommendations for approximately 45 disabled Nazi victims from Austria and elsewhere, and will analyze these survivors’ needs for possible Looted Assets Class humanitarian assistance.

* * *

Accordingly, approximately 100,000 needy Nazi victims around the world have benefited from the Court's allocation of Looted Assets Class funds to humanitarian aid programs. Many of these victims rely upon the Court's assistance for their most fundamental needs: food, shelter, and medicine.

6. Insurance

In a document dated June 26, 2001, the parties entered into an agreement to process insurance claims for policies issued by the Swiss insurers Swiss Re and Swiss Life.^{148/} No other Swiss insurers will receive releases in connection with this litigation. Thus, class counsel have determined that to the extent additional litigation may be required to provide relief against Swiss insurers, the settlement poses no obstacle to such litigation.

The Final Bergier Report, issued after the insurance settlement on March 22, 2002, analyzed Swiss practices concerning certain insurance policies.

The Bergier Commission questioned the behavior of Swiss insurers following the Kristallnacht rampages of November, 1938, concluding that the companies "helped to cover up events" and thereby assist in concealing Nazi activities:

"The pogroms of 8/9 November 1938 and the damage caused during the general unrest (quite apart from the 91 deaths) posed a significant insurance problem. Who should cover the losses? Most property

^{148/} The Court approved the "Claims Process Guidelines for Insurance Claims" by order dated June 28, 2001.

insurance policies contained exclusion clauses limiting the insurer's liability for damage caused by civil unrest – although it was doubtful whether state-sponsored violence could be classed as 'civil unrest.' [A November 12, 1938 ordinance issued by Hermann Goering] stated that the damage resulting from 'the people's indignation at Jewish international agitation' should be paid for by the Jews themselves, and that any payments made by the insurance companies in respect of the losses should go to the Nazi state, not to the Jews In general, the Swiss companies reacted with remarkable passivity to the Nazi's [sic] flouting of established legal tradition. Whereas a number of foreign companies (e.g., London Phoenix) challenged Goering's ordinances on the basis of the 'civil unrest' exclusion clause, no Swiss insurer deviated from the German companies' line. In one case, Helvetia Feuer – which had sold a number of special policies specifically providing for liability in the event of 'unrest' – denied that the pogroms constituted 'unrest.' In this way, the Swiss insurers helped to cover up events which would have cast the completely illegal and immoral methods of the German state and party organisation in November 1938 into sharp relief."^{149/}

The response to Nazi victims did not improve after the War. The Final Bergier Report describes a June, 1945 meeting among the major Swiss insurers to discuss how to avoid claims from Jewish policyholders seeking compensation on policies confiscated by the Nazis:

"Immediately after the war, on 27 June 1945, representatives of the four Swiss companies which had issued life insurance policies in the Reich discussed in Zurich how they might avoid claims from 'Jewish emigrants' for restitution of ... confiscated policies. A large part of the discussion was characterised by a decidedly aggressive tone. In a subsequent memorandum, one of the companies concerned, Basler Leben, stated: 'Jewish insurance holders aimed to compensate their despoliation by the Third Reich by despoliating Switzerland of its national wealth.'

The value of the insurance assets confiscated by the Nazi authorities and paid out to those authorities directly by Swiss insurance companies formed the theoretical ceiling for the claims for reparations in this area. As

^{149/} Final Bergier Report, at 288-289. See also id., at 459 (Although "insurance companies – Swiss included – had paid for losses by 'Aryan' and foreign policyholders" after Kristallnacht, "claims from Jewish policyholders were paid not to the policyholders themselves, but rather in the form of a lump sum to the Nazi fiscal authorities").

regards the extent of these assets, we have at our disposal an internal investigation carried out by the companies in November 1944: this revealed 846 policies, worth 4 million reichsmarks (6.8 million francs). The Basler Leben alone held a share of 744 policies with a total value of 3.7 million reichsmarks.”^{150/}

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Under the negotiated insurance agreement, the CRT, supervised by Special Masters Volcker and Bradfield, was authorized to process claims in accordance with the terms established between plaintiffs and defendants. The CRT has received a total of 1,526 timely claims to insurance policies. CRT Special Master Bradfield has advised in his June 30, 2003 Report that of these claims, 747 were filed directly by claimants and another 779 were filed via the International Commission on Holocaust Era Insurance Claims (“ICHEIC”), in accordance with the parties’ agreement.^{151/} An additional 809 claims were filed after the December 31, 2001 deadline but prior to December 31, 2002, and were determined by the Court to be eligible for processing.^{152/}

Of the 1,526 timely claims received by the CRT, as of the end of June, 2003, all had been through an initial screening review. Special Master Bradfield’s June 30, 2003 report advises that the “initial screening review set aside claims with respect to non-participating countries, non-participating companies, non-victim claims, non-insurance claims, and duplicate claims. Of the 1,526 claims reviewed, 288 were determined to be ineligible for further processing. (The 809 late claims are now going through initial

^{150/} Id., at 460.

^{151/} June 30, 2003 CRT Report, at 16.

^{152/} Id.

screening review.) Of the 1,238 claims eligible for processing, 1,179 claims have been sent to insurance companies for research and 59 claims remain to be sent to insurance companies.” A total of 644 claims were sent to Swiss Re, 245 claims were sent to Swiss Life, and 290 were sent to both insurance companies.

According to the “June 30, 2003 Report on the CRT” and additional information provided by Special Master Bradfield, the CRT has received few positive responses from the insurance companies. Swiss Life reported 9 matches to the CRT and recommended payment with respect to 1 of the matches. Swiss Re reported 28 matches to the CRT. Of these matches, one was recommended for payment, two were categorized by Swiss Re as “Provisional Recommendation for Payment,” and 25 were recommended for referral to the German Foundation Initiative. In addition, Swiss Re indicated that another 13 claims that generated no match should be categorized as “Provisional Recommendation for Payment” because the claimant submitted documentation presenting sufficient evidence to justify an award. The CRT is now preparing awards with respect to the four insurance claims recommended for payment from the Settlement Fund, and the German Foundation Initiative is being contacted with respect to the other matches. Additional awards with respect to certain plausible matches reported to the CRT by these Swiss insurance companies also are being prepared by the CRT.^{153/}

^{153/} Id., at 17.

7. Victim List Foundation

The Special Master has had continuing discussions with representatives of Yad Vashem, the United States Holocaust Memorial Museum, and other Holocaust scholars. These inquiries have focused upon establishing a foundation that will collect names of all "Victims or Targets," including survivors, whereas past efforts have focused primarily upon obtaining the names of those who were killed. A number of preliminary goals have been identified: (i) obtaining access to important archives; (ii) ensuring broad-based cooperation among the leading institutions; and (iii) overcoming European Union and national privacy laws.

Under the Distribution Plan, \$10 million has been allocated to the Victim List Foundation. No funds have been distributed to date, in accordance with the Court's determination that the first payments made from the Settlement Fund are to be made to individual Nazi victims or, in the case of bank account owners, their heirs. Depending upon the amount of the residual that may remain from the Deposited Assets Class, if any, the level of institutional cooperation, and the nature of the data, it may be appropriate to increase by a modest amount the allocation to the Victim List Foundation.

IV. Conclusion

This report is not intended to be exhaustive. A summary such as this cannot do justice to each former slave laborer, refugee or Swiss bank depositor. In particular, the Deposited Assets Class awards, all available on the Internet, tell more than the stories of the claimants; they also reveal much about the banking claims that gave rise to this lawsuit.^{154/}

This report is, however, intended to demonstrate that with the Court's unwavering commitment and continuing guidance, nearly half a billion dollars in compensation has been paid or allocated from the Settlement Fund thus far, and if the Court adopts the recommendations herein concerning allocation of \$60 million in excess funds, over half a billion dollars – more than \$545 million – will have been distributed or allocated in the little more than two years since the resolution of legal proceedings impacting the settlement. Over a quarter of a million individuals to date have received compensation from the Settlement Fund for their Swiss bank accounts, their slave labor or refugee experiences, or through Looted Assets Class programs providing food, shelter, medical

^{154/}

As noted previously, Refugee summaries also are available on the Internet at www.claimscon.org.

aid, home care and other humanitarian aid. Until every claim is determined, of course, the program cannot be considered a success, but great strides have been made.^{155/}

As noted earlier, it is the Deposited Assets Class claims that began the lawsuit, and effectively will end it. But because these claims are at the very heart of this proceeding, and because the claimants have, until recently, been stymied in their efforts to retrieve the property that is rightfully theirs, it is both legally and morally appropriate that the CRT claims process continue and that every effort be made to return these bank accounts to those who entrusted their property to Swiss financial institutions for safekeeping, or to their heirs.^{156/}

^{155/} These accomplishments could not have been achieved without the ongoing guidance and dedication of the Chief Judge, the Honorable Edward R. Korman. Many other individuals also have provided crucial support to the distribution process. In particular, the Special Master has been assisted immeasurably by Lead Settlement Counsel Burt Neuborne, CRT Special Master Michael Bradfield and his colleague Pamela Sak, Claims Conference Chief Operating Officer Greg Schneider, CRT Deputies Secretary General Mary Carter and Dov Rubinstein, and Bingham McCutchen paralegal Dina Kaufman.

^{156/} In connection with the relatively recent Holocaust compensation agreements that began with the Swiss Banks settlement and continue today, some commentators have expressed their concern that the lessons of the Holocaust "will be diminished and skewed by the efforts to put money over morality." Abraham H. Foxman, "The Dangers of Holocaust Restitution," The Wall Street Journal, December 4, 1998 at A18. Others have contended that the "Holocaust reparations campaign of the 1990s" foments anti-Semitism. Yossi Klein Halevi, "The Tragedy of the Jewish-European Rift," The Jerusalem Post (online edition), September 11, 2003, available at www.jpost.com (the "Holocaust reparations campaign of the 1990s ... sull[ied] the Holocaust by equating its memory with financial accounts" and also "enraged a new generation of Europeans, who felt they were being forced to pay for the sins of their parents"); Charles Krauthammer, "The Holocaust Scandal," The Washington Post, December 4, 1998, at A29 (Holocaust reparations movement risks "a revival of Shylockian stereotypes" and "dormant anti-Jewish feeling"; this is "unfortunate" because the stereotypes are false and "because this generation of Europeans has grown up more free of antisemitic poison than any in European history").

At the same time, it is also appropriate to consider the needs, if not the legal claims, of others who have an interest in this settlement. For all of the reasons described above, it is suggested that \$60 million in excess funds currently available, and any additional unclaimed residual funds from the up to \$800 million allocated to the Deposited Assets Class, of which approximately \$668.5 million now remains, be distributed to programs serving the neediest Nazi victims around the world. Accordingly, it is hereby recommended that the \$60 million in excess funds be disbursed in accordance with the Looted Assets Class cy pres mechanisms adopted under the Distribution Plan. It is further recommended, with respect to any residual unclaimed funds, that any

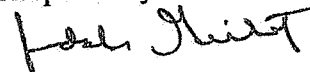
While there are many who would disagree with those commentators who have questioned the timing and propriety of the more recent Holocaust compensation “campaigns,” even critics of restitution are in fundamental agreement that the property claims that are at the heart of this lawsuit demand redress even today, decades after the Holocaust. Thus, while Charles Krauthammer shared Abraham Foxman’s reservation that “‘an industry [would] be made on the memory of victims’”, Krauthammer also cautioned: “Does that mean that nothing should be done? No. Individual victims who had their savings or property or art stolen should be allowed to seek restitution even at this late date.” Krauthammer, *id.*, at A29. Foxman likewise observed: “Certainly, individuals who had bank accounts, insurance policies or works of art that were stolen have a right to pursue their claims.” Foxman, *id.*, at A18.

It is also significant that the Holocaust reparation effort instituted in the 1990s has resulted in payments to hundreds of thousands of non-Jewish Nazi victims, many of whom never had previously received compensation. See Section III(B)(5) supra, describing Swiss Banks Settlement “Looted Assets Class” humanitarian programs that to date are assisting nearly 50,000 needy Roma Nazi victims. See also Michael J. Bazylar, Holocaust Justice: The Battle for Restitution in America’s Courts (New York and London: New York Univ. 2003), at 296-97 (“Unfortunately, overlooked and underplayed in this debate is the fact that Jews are not the only beneficiaries of the restitution movement. While the Holocaust restitution movement is viewed as a campaign ‘by Jews for Jews,’ the latter part of the formulation is simply inaccurate. Most of the beneficiaries of the restitution money are non-Jewish wartime survivors or their heirs. For example, 80 percent of the recipients of the DM 10 billion German slave labor settlement money are elderly Slavs from eastern Europe forced to work for Nazi Germany”). Bazylar has attributed the German slave labor settlement to the Swiss Banks case, which he has characterized as “the mother of all Holocaust restitution settlements.” *Id.*, at 51 (describing as “startling” the “ability of the Swiss campaign to set the stage for the settlement achieved with Germany and its industries, Austria and its industries, French banks, European insurance companies, and also American corporations for their reprehensible wartime activities.... The Swiss campaign – judging by how it is already being emulated by other movements seeking redress for historical wrongs – will serve as a model for a long time to come”).

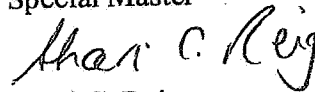
organization that seeks to offer a plan for providing assistance to needy Nazi victims file such proposal with the Court in the format specified at Section I herein. All such proposals should be filed by **December 31, 2003**, and posted on the Internet site for this lawsuit, www.swissbankclaims.com. All comments on such proposals should be filed with the Court by **February 15, 2004**. At the Court's request, the Special Master will file final recommendations for distribution of any residual funds by **March 15, 2004**.

Dated: New York, New York
October 2, 2003

Respectfully submitted,



Judah Gribetz
Special Master



Shari C. Reig
Deputy Special Master

Bingham McCutchen LLP
399 Park Avenue
New York, New York 10022
(212) 705-7000

Therefore, it is hereby

ORDERED that the attached 31 Awards are hereby approved for payment pursuant to Article 31(2) of the Rules; and

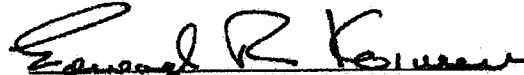
ORDERED that for the payment of these 31 Awards certified by the CRT and hereby approved by the Court, the Signatories of the Settlement Fund are hereby directed to immediately transfer \$2,718,970.21 from the Settlement Fund to the Awards Payment Account of Special Masters Volcker and Bradfield.

It is further ordered that the Special Masters shall provide the Court with the name and address of every class member receiving an Award, which information shall be filed with the Court under seal.

I will issue additional orders approving Awards certified by the CRT and transferring further sums from the Settlement Fund as the CRT certifies them to this Court.

Dated: Brooklyn, New York
September 30 2003

SO ORDERED:



Edward R. Korman
United States District Judge

XXXVI - Annex A

CLAIMS RESOLUTION TRIBUNAL

Pursuant to Article 21 of the Rules Governing the Claims Resolution Tribunal, as amended, (the "Rules"), the Claims Resolution Tribunal hereby certifies as of September 30, 2003 the following Awards for approval by the Court and payment by the Special Masters:

Account Owner Last Name and Claim Number	Award Amount (SFr.)
1. Baer--205189/EZ	162,500.00
2. Ballin--210494/AY	15,500.00
3. Bauchwitz--217627-MBC	26,750.00
4. Bloch, A.--219911/MBC	98,750.00
5. Bloch, R.--223156/AH	53,500.00
6. Brunner--211313/MBC	49,375.00
7. Goldmeier--215348/IG	189,250.00
8. Goldschmidt--205104/SJ	26,750.00
9. Grosz--500142/LK	315,500.00
10. Grtnbaum--212983/MBC	26,750.00
11. Grunebaum--220700/MBC	49,375.00
12. Heller--214794/MBC	49,375.00
13. Herz--601231/PY	189,250.00
14. Hirschfeld, Elisabeth--201078/MBC	53,500.00
15. Hirschfeld, Eva--216457/LK	26,750.00
16. Koth--202834/MBC	114,525.00
17. Last-Klarfeld--211968/MBC	214,199.38
18. Lissner--203612/MBC	162,500.00
19. Osiek--219174/MBC	49,375.00
20. Pohl--500074/MG	15,500.00
21. Pollack--004682/AH	292,006.00
22. Rothschild--209112/MBC	231,500.00
23. Schimek--213141/AA	162,500.00
24. Schlesinger--215331/MBC	49,375.00
25. Skrzypczynski--217587/MBC	98,750.00
26. Steiner--212840/MG	413,000.00
27. Strauss--211253/ZP	15,500.00
28. Tedeschi--222790/ZP	49,375.00
29. Uhlman--220886/MD	189,250.00
30. Weiss--222570/MG	26,750.00
31. Wolfson--200447/LK	189,250.00

XXXVI - Annex A

CLAIMS RESOLUTION TRIBUNAL

Total Award Amount in Swiss Francs:
Total Award Amount in U.S. Dollars:¹

3,616,230.38
2,718,970.21

¹ Exchange rate as of September 29, 2003 of 1.33 SFr. per U.S. Dollar.

Michael Bradfield
Special Master
Holocaust Victim Assets Litigation
Case No. CV 96-4849
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
Phone: (202) 879-4697
Fax: (202) 626-1731

September 30, 2003

The Honorable Edward R. Korman
United States District Judge
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Dear Judge Korman:

Please find attached a draft Order approving and ordering payment of the thirty-sixth set of Certified Awards of the Claims Resolution Tribunal. These 31 Awards are now ready for your review. Please note that these Awards have not been redacted to remove the names of Claimants who have requested confidentiality, and thus, they are not suitable for submission to the docket. I will forward redacted versions of the Awards for submission to the docket shortly.

Award Aggregates

The Awards in the thirty-sixth set total \$2,718,970.21. The largest Award, *In re Steiner* (Tab 26), which is summarized below, is \$310,526.32. The smallest Awards, *In re Ballin* (Tab 2), *In re Pohl* (Tab 20), and *In re Strauss* (Tab 27) are \$11,654.14. The average Award is \$87,708.72.

If the Court approves the thirty-sixth set, for both CRT I and CRT II, 1751 accounts will have been awarded thus far, with a current value of \$131,456,066.09. For CRT II alone, including the Awards submitted with this letter, a total of 977 Awards for 1544 accounts totaling \$119,756,066.09 will have been made to Victims or Targets of Nazi Persecution making up the Deposited Assets Class, with the average Award amounting to \$122,575.30. For CRT I, which took place from 1997 through 2000, 207 accounts, with a value of \$11.7 million were determined to be accounts of eligible claimants.

Outstanding Characteristics

The following paragraphs discuss some of the more notable characteristics of the Awards that make up the thirty-sixth set.

Identification of Account Owners

The identity match in 21 of the 31 Awards is strengthened by the fact that the Claimants were able to provide information that matched to both published and unpublished information contained in the bank records.

The identity matches in 10 of the Awards are supported by the Claimants' submission of documents such as birth or death certificates that contain information matching to the published information, the Claimant's filing of an Initial Questionnaire or an ATAG Ernst & Young claim form prior to the publication of the ICEP List, or the Claimants' providing information matching to information in the Austrian State Archives and the CRT's database of victims, which is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Closed Unknown Accounts

The 31 Awards in the thirty-sixth set address 50 accounts. The bank records indicate the disposition of 7 of these accounts. In these 7 cases, five accounts remained open and dormant, and two were closed to bank profits and loss. The bank records do not indicate to whom the proceeds of the remaining 43 accounts addressed in these Awards were paid. In these cases, the accounts were either closed unknown to whom or presumed closed by the auditors who carried out the investigation of the Swiss banks to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP") because they did not find these accounts in the banks' systems of open accounts. In addition, there is no evidence in the banks' records for these accounts that the Account Owners or their heirs closed the accounts and received the proceeds themselves. Because the Swiss banks were the parties who were in a position to retain the records that could prove proper account disposition, all of these awards rely, in part, on an adverse inference derived from their failure to do so.

Of the 43 accounts which were closed unknown to whom or presumed closed unknown to whom by the ICEP auditors, the awards also rely on the fact that the accounts were closed in circumstances indicating that the account owners were unlikely to have been able to receive the proceeds. In some cases the account owners were killed in the Holocaust, lived in Nazi controlled Germany or Austria when their accounts were closed, or were subject to probable forced confession of their Swiss accounts while in the custody of German authorities. For example, the Account Owners of 9 of the accounts were killed by the Nazis in the Holocaust either before or after their accounts were closed in circumstances in which they were unlikely to have had access to their accounts before their deaths at the hands of Nazi authorities. For the remaining 34 accounts of these 43 accounts, the Account Owners of 20 accounts fled from Nazi persecution to the United

Kingdom, Switzerland and the United States; the Account Owner of 2 accounts hid during the war; the Account Owner of 4 accounts died before the end of the war of natural causes; the fate of the Account Owner of one account is unknown; the Account Owner of one account otherwise survived the Holocaust; and the Account Owner of 6 accounts was interned, but survived. The banks' records of these accounts do not contain information on when or to whom the account was closed.

Fate of Account Owners

Of the 966 Account Owners whose accounts are addressed in awards sets one through thirty-six, there is evidence that 340 Account Owners were killed by Nazis, 81 died of natural or unknown causes before the end of World War II, 15 committed suicide when faced with Nazi persecution, and 3 were killed in combat. Of those who survived, 74 were interned in a camp, prison, or ghetto but survived; 311 survived by fleeing; 31 by hiding; and 64 otherwise survived the Holocaust. The fates of 47 Account Owners are unknown.

Application of Presumptions

Five of the Awards in the thirty-sixth set rely on Presumption (j), as provided in Article 28, which embodies the adverse inference referred to above. It provides that, in the absence of evidence to the contrary, the CRT will presume that neither the Account Owners nor their heirs received the proceeds of a claimed account in cases where there is no indication in the bank records that the Account Owners or their heirs received the proceeds of the account. All of the Awards that rely on the adverse inference of Presumption (j) also use Presumptions (h) and/or (i). Presumption (h) provides that, in the absence of evidence to the contrary, the CRT will presume that Account Owners and their heirs would not have been able to access accounts after the War because of the Swiss banks' practice of withholding or misstating account information in their responses to account inquiries by Account Owners or heirs. Presumption (i) provides that, in the absence of evidence to the contrary, the CRT will presume that Account Owners and heirs who resided in communist countries in Eastern Europe after the War did not receive the proceeds of their Swiss accounts. In addition, 16 of the Awards in the thirty-sixth set, rely in part on Appendix C. Appendix C provides that, in the absence of evidence to the contrary, the CRT will presume that German class member Account Owners and heirs did not receive the benefit of their accounts that were closed between 1933 and 1936.

Largest Award Summary:

Prof. Dr. Paul Steiner and Dr. Charlotte Steiner-Springer \$310,526.32

Prof. Dr. Paul Steiner and Dr. Charlotte Sarolta Steiner, née Springer, were born on 5 February 1879 in Papa, Hungary, and on 12 October 1887 in Alba-Julia, Hungary, respectively. On 15 October 1912, the two were married in Budapest, Hungary, and they later had two children, Lorant (the Claimant) and his sister, Judith, who was born on 30 April 1918 in Kolozsvár, Hungary, and died on 10 December 1998, in Budapest. Judith was married to Dr. István Láng, and had two children, Dr. Pálné Koltai and Dr. István Láng.

Prof. Dr. Paul Steiner, who was a university professor, Dr. Charlotte Sarolta Steiner and their family resided in Romania, where they suffered due to discriminatory Nazi legislation, and when the Nazis entered the city of Cluj on 31 March 1944, the family was among the first to be arrested by the *Gestapo*. The couple were able to survive the Second World War, and they later died on 12 September 1959, and on 14 February 1974, respectively, both in Cluj.

In this case, the Account Owners held two accounts of unknown type, one custody account and one demand deposit account at Bank I, and two accounts of unknown type at Bank II. With respect to two accounts of unknown type, numbered 66384 and 66327, at Bank I, a letter from UBS to the Claimant, on 26 February 2001, indicates that the accounts were opened in 1938 with initial deposits of 5,000.00 Swiss Francs in each. The CRT determined that given the time lapse between 1938, the date of the recorded value of these two accounts, and the time when the accounts were closed in 1976, there is no basis to determine the actual value of the account and therefore the presumed value of these two accounts have been applied for the total award amount. Consequently, the award amount for these two accounts at Bank I is 98,750.00 Swiss Francs.

With respect to the one custody account and one demand deposit account, both numbered 61786, at Bank I, pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded to produce an award amount of 189,250.00 Swiss Francs for these two accounts.

With respect to the two accounts of unknown type at Bank II, the CRT notes that the information provided to the Claimant by UBS on 26 February 2001 indicates that on 23 May 1958 the accounts held by Account Owner Steiner and Account Owner Steiner-Springer contained 4,760.00 Swiss Francs and 4,750.00 Swiss Francs, respectively. The Bank's records of Bank II show that the value of Account Owner Steiner's account on 4 March 1953 was 4,858.50 Swiss Francs, and this value corresponds to the value in 1958 before fees were deducted. Because these values correspond to the notation in the Claimant's father's notebook that the deposit in Bank II was 10,000.00 Swiss Francs, and because the information in the notebook regarding the deposits in Bank I corresponded to the information about those deposits provided by UBS, the CRT adopts the figure of 10,000.00 Swiss Francs as the historic cumulative value of these two accounts. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. The amount for these two accounts at Bank II is therefore 125,000.00 Swiss Francs. Consequently, the total Award amount is \$310,526.32.

Total Payment

The total amount to be paid to claimants is \$2,718,970.21. and the transfer of this amount to the Special Masters Awards Payment Account is provided for in the enclosed draft Order.

I am available to receive any comments or answer any questions.

Sincerely,

A handwritten signature in black ink that reads "Michael Bradford". The signature is written in a cursive, slightly slanted style.

Michael Bradford

Attachments

cc: Paul Volcker
Judah Grubetz

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
IN RE: :
HOLOCAUST VICTIM ASSETS :
LITIGATION :
----- :

Case No. CV 96-4849 (ERK)(MDG)
(Consolidated with CV 96-5161
and CV 97-461)

MEMORANDUM & ORDER

This Document Relates to: All Cases
----- X

KORMAN, Chief Judge:

I am in receipt of the September 23, 2003 Report and Recommendations of the Conference on Jewish Material Claims Against Germany, Inc. for the Thirteenth Group of Slave Labor Class I Claims in In re Holocaust Victim Assets Litigation (Swiss Banks) ("Thirteenth Claims Conference Report"). The Thirteenth Claims Conference Report advises that in accordance with the Plan of Allocation and Distribution of Settlement Proceeds ("Distribution Plan"), my Memorandum & Order dated June 28, 2001, and my Memorandum & Order dated September 25, 2002, the Claims Conference will be prepared on or about October 7, 2003 to begin to transfer payments to an additional 2,368 members of Slave Labor Class I.

I am advised that of the 2,368 Holocaust survivors described in the Thirteenth Claims Conference Report, 2,347 were approved for payment for forced or slave labor under the German Foundation "Remembrance, Responsibility and the Future" ("German Foundation"). Of these 2,347 survivors, 2,346 were paid via the Claims Conference and the remaining one (1) was paid via one of the other partner organizations of the German Foundation. In addition, 21 were approved under the Austrian Reconciliation Fund, the companion Foundation to the German

Foundation responsible for processing claims from survivors who were persecuted in certain places under Austrian control at the time of persecution.

I am further advised that all of the 2,368 Holocaust survivors described in the Thirteenth Claims Conference Report have established that they are Jewish, and/or were, or were believed to have been, Jewish at the time of persecution, thereby meeting the definition of being victims or targets of Nazi persecution, and satisfying the eligibility requirement for compensation under Slave Labor Class I. I am pleased to note that to date, 139,076 Jewish members of Slave Labor Class I have been awarded a total of \$201,660,200.

Accordingly, in anticipation of the forthcoming distribution of \$1,450 to each of the 2,368 individuals who comprise this thirteenth group of recipients under Slave Labor Class I, it is hereby

ORDERED that the signatories to the Settlement Fund are hereby directed to transfer \$3,433,600 from the Settlement Fund to the Claims Conference escrow account to meet the projected distribution as described in the Thirteenth Claims Conference Report.

I will issue additional orders transferring further sums from the Settlement Fund as applications from other class members are approved.

Brooklyn, New York
September 23, 2003

SO ORDERED:



Edward R. Korman
United States District Judge



CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, INC. ועידת התביעות
15 East 26th Street - Room 906 - New York, NY 10010 • Tel: (212) 696-4944 • Fax (212) 679-2126 • Email: info@claimscon.org

**Report and Recommendations of the
Conference on Jewish Material Claims Against Germany, Inc.
for the Thirteenth Group of Slave Labor Class I Claims in
In re Holocaust Victim Assets Litigation (Swiss Banks)**

September 23, 2003

1. This report contains the request for payment of the Thirteenth Group of claims that are being processed by the Conference on Jewish Material Claims Against Germany ("Claims Conference") under Slave Labor Class I of the Swiss Banks Settlement. The Thirteenth Group consists of 2,368 Slave Labor Class I claimants, whose names are herein submitted under seal to the Court by the Claims Conference (see accompanying "Thirteenth Report Appendix"—Appendix A—dated September 17, 2003). 2,347 of these 2,368 Holocaust survivors were approved for payment for forced or slave labor under the German Foundation "Remembrance, Responsibility and the Future" ("German Foundation"). Of the 2,347, a total of 2,346 were paid via the Claims Conference and the remaining one (1) was paid via one of the other partner organizations of the German Foundation. In addition, 21 were approved under the Austrian Reconciliation Fund, the companion Foundation to the German Foundation responsible for processing claims from survivors who were persecuted in certain places under Austrian control at the time of persecution.¹
2. As the Court is aware, on August 12, 2000, the German Foundation Act came into full force and effect and designated seven partner organizations, including the Claims Conference, to determine claims and make payments to former slave and forced laborers and certain other victims of National Socialist injustice. The German Foundation Act determines which organization should process which labor claims based principally upon where the claimant lives and whether the claimant is Jewish.
3. In accordance with the Special Master's Proposed Plan of Allocation and Distribution of Settlement Proceeds ("Distribution Plan") approved by the Court on November 22, 2000, the Claims Conference is charged with making distributions to Jewish members of Slave Labor Class I under the Swiss Banks Settlement. It was determined that the designation of the Claims Conference, which is one of the organizations responsible for processing claims and making payments under the German Foundation, as one of the implementing organizations of the Swiss Banks Settlement was the most efficient way to process Slave Labor Class I claims submitted by Jewish Holocaust survivors. It was further determined that applications submitted by the Claims Conference to the German Foundation for payment under the German Foundation's Program for Former Slave and Forced Laborers would qualify for a payment under Slave Labor Class I of the Swiss Banks Settlement.²
4. Having been reviewed either by (a) the Claims Conference, (b) one of the other six partner organizations of the German Foundation, or (c) the Austrian Reconciliation Foundation, each of the herein listed survivors (see accompanying "Thirteenth Report Appendix"—Appendix A—dated September 17, 2003) has been approved for payment by either the German Foundation or the Austrian Reconciliation Foundation. Therefore, these Jewish Holocaust survivors satisfy the criteria of eligibility for a payment under the Slave Labor Class I of this settlement.
5. Of the 2,368 claimants in the Thirteenth Group of Slave Labor Class I, the 2,346 approved for payment for forced or slave labor under the German Foundation and paid via the Claims Conference are by definition Jewish, as the Claims Conference processes claims only from Jewish individuals. The remaining 22 claimants approved for payment for forced or slave labor and paid via one of the other partner organizations of the German Foundation or the Austrian Reconciliation Fund have attested under notarized signature that they were, or were thought to have been, Jewish at the time

¹ Distribution Plan, Volume I, pp. 155-6.

² Distribution Plan, Volume I, p. 149.

of persecution.³ Therefore, all 2,368 claimants are Jewish, thereby meeting the definition of being victims or targets of Nazi persecution, and are eligible for compensation under Slave Labor Class I.

6. The Claims Conference has reviewed the Thirteenth Group List of Claimants and crosschecked that list against the Opt-Out List provided to the Claims Conference by the Special Master and determined that there are no matches.

7. The Claims Conference certifies that the claimants listed in Appendix A are eligible for compensation under the Swiss Banks Settlement.


8. The Claims Conference is now prepared to transfer payments to these 2,368 Holocaust survivors. The Claims Conference respectfully requests \$3,433,600 to fund the payment of \$1,450 (or local currency equivalent) to each of the above-described Holocaust survivors.⁴

9. To summarize, the Claims Conference is currently prepared to distribute an additional \$3,433,600 to 2,368 Holocaust survivors under Slave Labor Class I of the Swiss Banks Settlement in accordance with the guidelines set forth under the Distribution Plan. We are pleased to report that the forthcoming payment of \$3,433,600 to 2,368 members of Slave Labor Class I, when added to the previous awards of \$198,226,600 to 136,708 members of the Slave Labor Class I brings the total awards made, or shortly to be paid, thus far, to 139,076 Jewish members of Slave Labor Class I, and a total amount of \$201,660,200 awarded to these class members.

10. In view of the foregoing, the Claims Conference respectfully files the appended list of names and addresses of claimants under seal with the Court (see accompanying "Thirteenth Report Appendix"—Appendix A). The Claims Conference will make payments to these claimants on or about October 7, 2003. Names and addresses of additional eligible class members will be submitted in the coming weeks.

September 23, 2003

Respectfully submitted,


Greg Schneider
Chief Operating Officer
Conference on Jewish Material Claims Against Germany

Attachments: 2,368 Slave Labor Class I approved Holocaust survivors (names and addresses) ("Thirteenth Report Appendix"—Appendix A); a redacted copy of one notarized signature (Appendix B)

³ Attached please find, as Appendix B, an example of one such notarized signature (as redacted).

⁴ Memorandum and Order, September 25, 2002. On September 25, 2002, Judge Korman adopted the Special Master's recommendation and ordered that supplemental distributions be made for Slave Laborers from unanticipated interest income on the Settlement Fund. A 45% proportional adjustment to the amounts previously designated was approved increasing the payment from \$1,000 to \$1,450.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE:

HOLOCAUST VICTIM ASSETS
LITIGATION

This document relates to: All Cases

Case No. CV 96-4849 (ERK)(MDG)
(Consolidated with CV 96-5161 and
CV 97-461)

MEMORANDUM & ORDER

Korman, C.J.

I am in receipt of the May 23, 2003 Report and Recommendations of the International Organization for Migration (IOM) for the Fifth Group of Claims in In Re Holocaust Victim Assets Litigation (Swiss Banks) ("Fifth IOM Report") that includes claims that were paid by the German Foundation and satisfy target group requirements as indicated in the Report or that independently satisfy the criteria described in the Plan of Allocation and Distribution of Settlement Proceeds ("Distribution Plan") and were determined by IOM to be credible based on the available historical evidence. The Fifth IOM Report advises that in accordance with the Distribution Plan, my Memorandum & Order dated June 28, 2001, and my Memorandum & Order dated September 25, 2002, IOM will be prepared, on or about June 9, 2003 to begin to transfer payments to:

700 members of Slave Labor Class I
15 members of Slave Labour Class II, and
65 members of the Refugee Class.

All of the 780 individuals described in the Fifth IOM Report satisfy the eligibility criteria as stated in the Swiss Banks Settlement Agreement, the Distribution Plan and the HVAP Rules as adopted by the Court in its implementing orders. IOM has filed with the Court a report summarizing, for each claimant, the basis for payment recommendation. In the interest of privacy, each claimant is

identified in the summary report by claim number rather than by name. The names and addresses of these individuals have been filed with the Court under seal in an appendix accompanying the Fifth IOM Report.

Accordingly, in anticipation of the forthcoming distribution of:

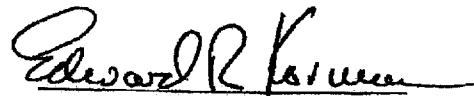
- USD 1,450 to each of the 700 individuals under Slave Labor Class I;
- USD 1,000 to each of the 15 individuals under Slave Labor Class II;
- USD 3,625 to each of the 62 individuals under Category 1 of the Refugee Class;
- USD 725 to each of the 2 individuals under Category 2 of the Refugee Class;
- and
- USD 4,350 to 1 individual under both Category 1 and Category 2 of the Refugee Class

who comprise this fifth group of claimants it is hereby

ORDERED that the signatories to the Settlement Fund are hereby directed to transfer USD 1,260,550 from the Settlement Fund to the IOM-HVAP Citibank Geneva Account to meet the projected distribution as described in the Fifth IOM Report.

I will issue additional orders transferring further sums of money from the Settlement Fund as applications are approved.

SO ORDERED:



Edward R. Korman
United States District Judge

Dated: Brooklyn, New York

June
May 17, 2003



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

**Holocaust
Victim Assets
Programme**
SWISS BANKS

23 May 2003

**REPORT AND RECOMMENDATIONS MADE BY
THE INTERNATIONAL ORGANIZATION FOR MIGRATION
FOR THE FIFTH GROUP OF CLAIMS UNDER THE
HOLOCAUST VICTIM ASSETS PROGRAMME (SWISS BANKS)**

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I. INTRODUCTION

1. The International Organization for Migration ("IOM") submits its fifth report to the Court containing the recommendations for payment of claims ("Group V") that were processed by IOM under the Holocaust Victim Assets Programme (Swiss Banks) ("HVAP"). This Group V report is different from IOM's first four submissions in that Group V represents the first consolidated report submitted. Group V contains claims from all three Swiss Banks subclasses, together with Swiss Banks GFLCP Slave Labour Class I Overlap claims similar to those that have been recommended for payment in previous groups. Group V consists of the following claims: 201 Slave Labour Class I Overlap;¹ 499 Slave Labour Class I Direct;² 15 Slave Labour Class II; and 65 Refugee Class. In all three subclasses, 780 claims are recommended for payment. Recommendations for each Slave Labour Class I, Slave Labour Class II and Refugee Class claim are included in Exhibits 2 - 4.

II. JURISDICTION

2. Jurisdictional issues were addressed in IOM's first report to the Court dated 5 July 2001 and incorporated herein by reference (Report and Recommendations Made By The International Organization For Migration For The First Group Of Claimants Under The Holocaust Victim Assets Programme - (Swiss Banks)).

III. SLAVE LABOUR CLASS I OVERLAP CLAIMS

3. Under the Swiss Banks Settlement, all victims and targets of Nazi persecution who performed slave labour for any private entity, any entity owned or controlled by the state or by Nazi authorities, or the concentration camp or ghetto authorities, are members of Slave Labour Class I.³ According to the Settlement Agreement, "Victim or Target of Nazi Persecution means any individual, corporation, partnership, sole proprietorship, unincorporated association, community, congregation, group, organization or other entity persecuted or targeted for persecution by the Nazi regime because they were or were believed to be Jewish, Romani, Jehovah's Witness, homosexual, or physically or mentally disabled or handicapped."⁴
4. In his Distribution Plan, the Special Master adopted a presumption that each Jewish, Roma, Jehovah's Witness, disabled and homosexual former slave labourer who receives a payment from the German Fund (whether as "slave" or "forced" labourer) should also receive an additional payment from the Swiss Banks Settlement Fund to augment the amount that individual received from the German Fund.⁵ Accordingly, the 201 claims included in the Group V Slave Labour Class I Overlap payment recommendations were among the 5,034 claims approved by the German Foundation in the German Forced Labour Compensation Programme ("GFLCP-Forced Labour") Tranche 6 on 26 November 2002.

¹ Overlap claims are those claims submitted by Swiss Banks Slave Labour Class I claimants on a German Forced Labour Compensation Programme ("GFLCP") claim form for those countries that fall within IOM's mandate under that programme's jurisdiction. These claims were initially filed with IOM pursuant to the German federal law, "A Law on the Creation of a Foundation for 'Remembrance, Responsibility and Future' (the "German Foundation Act"). To date, all claims presented to the Court as "Slave Labour Class I Overlap" have already been approved for slave and forced labour awards by the German Foundation.

² These are claims filed by Swiss Banks claimants directly on separate Swiss Banks ("HVAP") claim forms.

³ Special Master's Plan of Allocation and Distribution of Settlement Proceeds ("Distribution Plan"), at 148.

⁴ See, Settlement Agreement, Section 1.

⁵ Distribution Plan, at 149.

5. Claims filed with IOM under the German Foundation Act must be submitted on the official GFLCP-Forced Labour claim form. The GFLCP-Forced Labour claim form, together with the IOM guidelines for the claim form, were approved by the German Foundation.⁶
6. In accordance with the HVAP Principles of Law and Rules of Procedure ("HVAP Rules"), IOM accepts the self-attestation of claimants as to whether they were persecuted or targeted for persecution because they were or were believed to be Roma, Jehovah's Witness, homosexual or mentally or physically disabled.
7. Question 7 of the GFLCP – Forced Labour claim form asks the claimant to indicate his/her ethnic origin. All individuals who, in answer to this question, indicated that their ethnic origin was Roma, Sinti, Zigeuner, Tsiganes, Zingari, Atsinganoi or Gypsy are included among the claims in Group V.
8. Question 107 of the GFLCP – Forced Labour claim form asks the claimant if he/she is Jehovah's Witness, Roma, homosexual or disabled and whether he/she was held in a concentration camp, ghetto, another place of confinement, forced labour camp, prison, SS brigade, or a similar place and forced to work. All individuals who, in answer to this question, indicated membership in one of the above four target groups are included among the claims in Group V.
9. IOM does not seek further to verify whether a claimant is indeed a victim or target of Nazi persecution if the information available on the claim form (ethnic origin, personal statement or other information) or in the claim file (documentary evidence) supports the claimant's self-attestation. During the claims review process, however, and as a result of discussions with Roma organizations, IOM has become aware that many Roma were reluctant to identify themselves as such. If no identification or supporting information is available on the claim form or in the claim file, IOM undertakes further verification in accordance with the criteria specified in the Distribution Plan and the HVAP Rules.
10. From the claimants who were identified as potential candidates for Swiss Banks Slave Labour Class I based on their responses to GFLCP – Forced Labour claim form Questions 7 and 107, the target group has been verified in 201 cases to date. These include 194 Roma and 7 Jehovah's Witnesses. IOM will continue to verify target group membership for remaining claimants and when membership has been verified, IOM will recommend their claims for inclusion in a future Swiss Banks Slave Labour Class I Overlap payment group.
11. As and when the Court so directs, pursuant to the Court's Orders of 28 June 2001 and 25 September 2002, IOM will distribute a one-time payment, in full, of USD 1,450 to each of the 201 Slave Labour Class I Overlap claimants recommended for payment in this report.

IV. SLAVE LABOUR CLASS I DIRECT CLAIMS

12. IOM notes that, while the Distribution Plan envisions that the Swiss Banks Programme should benefit from the presumption of slave labour accorded to claimants who have received a payment from the German Fund for slave or forced labour, the Distribution Plan

⁶ A copy of the GFLCP-Forced Labour claim form was attached to the Report and Recommendations Made by the International Organization for Migration for the Second Group of Claims Under the Holocaust Victim Assets Programme (Swiss Banks).

does not require that claimants must first receive compensation from the German Fund in order to receive a payment from the Swiss Banks Settlement. The Distribution Plan specifically provides that, even in cases where a person was denied compensation under the German Programme from an IOM partner organization, the individual could make direct application to IOM⁷ under the Swiss Banks Programme on HVAP claim forms. Moreover, in recognition of the age of the survivor population and the delicate health of many survivors, IOM seeks as much as possible to proceed with processing and payment even when the German Foundation has not yet made a determination.

13. The 499 claims submitted as Slave Labour Class I Direct claims are comprised of claims that were filed directly with the Swiss Banks Programme on HVAP claim forms. The Slave Labour Class I Direct claims that are recommended for payment in Group V were submitted by 1 Jehovah's Witness, 1 Homosexual and 497 Roma claimants from the Czech Republic.
14. A background historical summary that describes this claimant group in detail and the evidence that has been either submitted by the claimants or obtained from historians and the available historical record is included in Exhibit 2.
15. While the substantive slave labour review is expedited for overlap claims, the target group membership is generally easier to ascertain for direct claims. Nonetheless, IOM applies consistent criteria in reviewing substantive slave labour for all Slave Labour Class I claims, whether overlap or direct.
16. Eligibility for a distribution from the German Fund is generally demonstrated by the applicant's submission of supporting material. If no relevant documentary evidence is available, the claimant's eligibility can be made credible in some other way. The Commentary to the German Fund legislation notes with respect to evidence that, "extensive proofs of the fact of persecution and the use of forced labour already exist. These can and must be used. Written testimony can also be used as documentary evidence within the meaning of this provision. However, the affected persons because of their advanced age should not be burdened with unreasonable and protracted evidentiary requirements. A simple entry, for example, as a concentration camp prisoner or as a forced labourer, in the archives of the International Tracing Service in Bad Arolsen is to be accepted as sufficient fulfilment of the proof requirement. In the absence of such material evidence, it is the responsibility of the applicant to make the damages claimed credible."⁸
17. The Czech claimants included in this report seek to establish their eligibility through the submission of so-called "c.255" certificates or other evidence. The c.255 certificate is issued by the former Czechoslovak Ministry of National Defence (and continued by the successor ministry within the Czech Republic) to distinguish several categories of individuals with regard to their involvement in WW II.
18. One such category of individuals is political prisoners, who were deemed to have assisted in the war effort against the Germans through their passive activities. The c.255 certificate indicates the name, date and place of birth, category of activity and dates of activity. For

⁷ See Distribution Plan, at 156. Persons may also make direct application to the Claims Conference in such circumstances.

⁸ As reprinted in the Distribution Plan at n.416. The Distribution Plan refers to the International Missing Persons Service in Arolsen. It is currently known as the International Tracing Service in Bad Arolsen.

the most part, the certificate does not provide information about the place or reason for incarceration.

19. In order to obtain the c.255 certificate, however, an individual must complete a lengthy questionnaire describing specific WW II activities. Political prisoners must also describe the reason for and circumstances of their persecution and incarceration. Roma, whose imprisonment was motivated by racial persecution, are considered to have been political prisoners under the governing law.
20. The decision whether or not to issue a c.255 certificate is made by an official of the Ministry of National Defence. The governing law is silent as to evidentiary requirements. As a matter of practice, the Ministry of National Defence has accepted archival evidence or three sworn witness statements.
21. The German Foundation has accepted this c.255 certificate as support for the eligibility of claims. Of the 116 claims in which c.255 certificates were presented and that are recommended for payment as direct claims by IOM, 101 (approximately 87 percent) were also paid by the German Foundation, according to information received through electronic matching by the German Foundation of a list of IOM's direct Swiss Banks claims against claims it approved from the Czech Partner Organization.⁹ Some of the remaining claimants with IOM may not have submitted claims to the Czech Partner Organization under the German Foundation programme. The Czech Partner Organization has completed processing of slave labour claims by victims and at this time, no further information is available. IOM will attempt to match against approved heirs claims from the Czech Partner Organization once this information becomes available.
22. IOM has identified 2 claimants who have not presented c.255 certificates but who were paid by the German Foundation through the Czech Partner Organization for slave or forced labour. IOM also recommends these claims for payment.
23. To the extent that IOM recommends them for payment, those claims in which c.255 certificates were not presented contained other documents which, taken together with the personal statements and the known historical circumstances described in Exhibit 2, rendered the claims credible.
24. As and when the Court so directs, pursuant to the Court's Orders of 28 June 2001 and 25 September 2002, IOM will distribute a one-time payment, in full, of USD 1,450 to each of the 499 Slave Labour Class I Direct claimants recommended for payment in this report.
25. As indicated in paragraph 12 above, the Distribution Plan provides for the payment of claimants who do not first receive a payment from the German Foundation. IOM recommends payment of these claims because it believes that the historical evidence gathered to date and included in Exhibit 2, the historical accuracy of the claimants' data and in due consideration of their age, it is in the claimants' best interests for the Court to issue payments sooner rather than later, and not wait for the German Foundation's determination.

⁹ In agreement with the German Foundation, IOM periodically submits a list of IOM registered Slave Labour Labour Class I Direct claimants to the Foundation (IOM claim numbers, names and dates of birth only). To the extent that matching with approved claims from partner organizations validates the underlying Swiss Banks claims for slave or forced labour, IOM can verify the claims through the partner organization's results.

V. SLAVE LABOUR CLASS II CLAIMS

26. In accordance with the Distribution Plan, IOM is also charged with making distributions to claimants who are members of Slave Labour Class II. A claimant may demonstrate eligibility for compensation in Slave Labour Class II in one of two ways:
- (a) If a claimant's name appears on the Slave Labour Class II Name List, the claimant is presumed to have made a plausible showing that he/she is a member of Slave Labour Class II; or
 - (b) If a claimant's name does not appear on the Slave Labour Class II Name List, the claimant must plausibly demonstrate that he/she performed slave labour for one of the entities identified on the Slave Labour Class II List.¹⁰
27. IOM recommends fifteen (15) Slave Labour Class II claims for payment in Group V. Thirteen (13) claimants have plausibly demonstrated that they were forced to work for a company on the Slave Labour Class II List and two (2) claimants' names appear on the Slave Labour Class II Name List.
28. The thirteen claimants who were forced to work for a company on the Slave Labour Class II List either named the company or its subsidiary in their personal statement and/or provided documentary evidence, such as a work card or witness statement to corroborate their claim.
29. The information provided by two claimants allowed IOM to confirm that the claimant's last name, first name, date of birth, sex, place of origin and nationality was an exact match with the information on the Slave Labour Class II Name List.
30. As and when the Court so directs, pursuant to the Court's Order dated 28 June 2001, IOM will distribute a one-time payment, in full, of USD 1,000 to each of the 15 Slave Labour Class II claimants recommended for payment in this report.

VI. REFUGEE CLASS CLAIMS

31. In accordance with the Distribution Plan, IOM is charged with making distributions to Roma, Jehovah's Witness, homosexual and disabled members of the Swiss Banks Refugee Class. The Refugee Class comprises claims for (a) Denial of Entry into or Expulsion from Switzerland (Category 1) and (b) Detention, Mistreatment or Abuse (Category 2). Claimants whose names appear on the List of Refugees Expelled From or Denied Entry Into Switzerland, or who plausibly demonstrate, through documents, an interview or otherwise, that they were denied entry into or expelled from Switzerland are eligible for Category 1 and should receive a payment of USD 3,625. Claimants who were admitted into Switzerland as refugees but who plausibly demonstrate, as described above, that they were thereafter detained, abused or mistreated, and whose names are matched against the

¹⁰ Distribution Plan, at 165. The claimant may plausibly demonstrate that slave labour was performed for one of these entities by submitting a sworn statement (or the equivalent) explaining the nature of the slave labour performed and all evidence, documentary and non-documentary, that the claimant may reasonably be expected to possess in view of the circumstances and the years that have elapsed since World War II. The Distribution Plan also provides examples of plausible elements that should be contained in the statement.

List of Refugees Admitted Into Switzerland, are eligible for Category 2 and should receive a payment of USD 725.¹¹ Claimants may be eligible for payment in both categories if they fulfill the requirements for both.

32. IOM submits herewith recommendations for 65 Refugee Class claims for the Court's consideration. IOM recommends compensation under the Swiss Banks Settlement for 65 claimants either because information provided by the claimant matches information on one of the relevant lists described above or the claimant otherwise meets the eligibility criteria under the Distribution Plan.¹¹
33. As and when the Court so directs, pursuant to the Court's Orders of 28 June 2001 and 25 September 2002, IOM will distribute a one-time payment in full of USD 3,625 to 62 Category 1 applicants, USD 725 to 2 Category 2 applicants, and USD 4,350 to 1 applicant who met the criteria of both Category 1 and Category 2, for a total of USD 230,550 to 65 members of the Refugee Class.

VII. CERTIFICATION FOR PAYMENT

34. IOM has reviewed each of the above claims that are being submitted for payment and determined that the 780 claims listed in Appendix A satisfy the eligibility criteria as stated in the Swiss Banks Settlement Agreement, the Distribution Plan and the HVAP Rules as adopted by the Court in its implementing orders.
35. IOM has crosschecked the claims in this report against the Opt-Out List provided to IOM by the Special Master and determined that there are no matches.
36. The Conference on Jewish Material Claims Against Germany, Inc. ("Claims Conference") is responsible for the claims of Jewish Slave Labour Class I and Refugee Class claimants. Because it is possible that some IOM claimants may already have received payment from the Claims Conference for Slave Labour Class I, IOM sent the list of claimants identified as potentially eligible for payment under IOM's criteria to the Claims Conference for duplicate verification on 2 January 2003. On 12 February 2003, the Claims Conference responded that it had not identified any of the IOM claims as duplicates of claims it had already paid.
37. In view of the foregoing, IOM hereby files the appended list of names and addresses of claimants recommended for payment under seal with the Court. The list is attached hereto as Appendix A. As and when the Court so directs, IOM will make payments to these claimants pursuant to the Distribution Plan and the Court's Orders of 28 June 2001 and 25 September 2002.
38. IOM will follow the procedure utilized by the Claims Conference in connection with the Slave Labour Class I claims submitted for the Court's approval, in that identifying data for each claimant, separately included herewith in an accompanying binder, will be filed under seal. Each binder is organized by claimant in claim number order, by type of evidence or documentation provided or by location of labour performed by claimant. In addition to the names, addresses, nationalities, birth dates and other identifying data for each claimant, the

¹¹ Distribution Plan, at 170-174. By its Order of 25 September 2002, the Court adopted the Special Master's recommendation and ordered that these awards be increased by 45 per cent. By its Order of 25 September 2002, the Court accepted the Special master's recommendation and ordered that these award amounts be increased by 45 percent.

binder also contains the pages from the lists compiled from the Swiss Federal Archives data upon which each claimant's name appears as well as the claimant's personal statement, translations of the personal statement where appropriate, and in some cases, other documentation. IOM has also prepared summaries of the claimants' personal statements describing their respective experiences as members of the various subclasses, attached hereto (the "Case Summaries") which are also included in the binder for convenience and to facilitate transmission. The Case Summaries do not contain claimants' names or other such identifying information and therefore will be docketed along with IOM's Group V Report.

39. IOM respectfully requests that the Court order the transfer of USD 1,260,550 from the Settlement Fund to the IOM-HVAP Citibank Geneva Account to meet the projected distribution as described in this report. A draft Order is attached hereto as Appendix B.

Geneva, 23 May 2003

Respectfully submitted,



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Norbert Wühler
Director, Claims Processing
Holocaust Victim Assets Programme (Swiss Banks)
International Organization for Migration

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE: :
HOLOCAUST VICTIM ASSETS :
LITIGATION :
----- :

Case No. CV 96-4849 (ERK)(MDG)
(Consolidated with CV 96-5161
and CV 97-461)

MEMORANDUM & ORDER

This Document Relates to: All Cases
----- X

KORMAN, Chief Judge:

I am in receipt of the September 24, 2003 Report and Recommendations of the Conference on Jewish Material Claims Against Germany, Inc. for the Seventeenth Group of Refugee Claims in In re Holocaust Victim Assets Litigation (Swiss Banks) ("Seventeenth Claims Conference Report on Refugee Class"). The Seventeenth Claims Conference Report on Refugee Class advises that in accordance with the Distribution Plan, my Memorandum & Order dated June 28, 2001, and my Memorandum & Order dated September 25, 2002, the Claims Conference will be prepared on or about October 10, 2003 to begin to transfer payments to an additional 120 members of the Refugee Class.

Each of the 120 individuals described in the Seventeenth Claims Conference Report on Refugee Class meets the eligibility criteria under the Distribution Plan by appearing on the lists of refugees provided by the Swiss Federal Archives to the Court and the Special Master and/or having been fully evaluated for the credibility of historical and descriptive

information provided in their applications. As with the prior sixteen Refugee Class submissions, the Claims Conference has filed with the Court a report summarizing, for each claimant, the basis for the payment recommendation. In the interest of privacy, each claimant is identified in the summary report by claim number rather than by name. The names and addresses of these individuals have been filed with the Court under seal in an appendix accompanying the Seventeenth Claims Conference Report on Refugee Class. Of these 120 individuals, 92 were denied entry into or expelled from Switzerland, and in accordance with the Distribution Plan and the September 25, 2002 Memorandum & Order, each will receive payment of \$3,625; 20 were admitted into Switzerland as refugees and were detained, mistreated or abused there, and in accordance with the Distribution Plan and the September 25, 2002 Memorandum & Order, each will receive payment of \$725; and eight were denied entry into or expelled from Switzerland and, subsequently, admitted and mistreated there, and therefore each will receive a payment of \$4,350. The required funding for distribution of \$3,625 to 92 individuals, \$725 to 20 individuals, and \$4,350 to eight individuals is \$382,800.

Therefore, in anticipation of the distribution of Settlement Funds to the 120 individuals who comprise this "Seventeenth Group" of recipients under the Refugee Class, as well as to additional individuals who will comprise the "Eighteenth Group" and the "Nineteenth Group" of refugees, it is hereby

ORDERED that the signatories to the Settlement Fund are hereby directed to transfer \$1,500,000 from the Settlement Fund to the Claims Conference escrow account to meet

the projected distributions to the Refugee Class described herein. The principal as well as any interest that may accrue thereon shall be solely for the benefit of the Settlement Fund.

I will issue additional orders transferring further sums from the Settlement Fund as applications from other class members are approved.

Brooklyn, New York
September 26, 2003

SO ORDERED:



Edward R. Korman
United States District Judge



CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, INC.

P.O. Box 29733 • Tel Aviv 61297 • Tel: (03) 5169692 • Fax: (03) 5169698 • Email: infor00@claimscon.org.il

P.O. Box 799 • New York, NY 10018-9998 • Tel: (646) 536-9100 • Fax: (212) 279-1629 • Email: info@claimscon.org

Sophienstr. 44 • D-60487 Frankfurt am Main, Germany • Tel: (69) 170 886 47 • Fax: (69) 170 886 49 • Email: swissrefugee@claimscom.de

Claims Conference
Swiss Refugee Program

Report and Recommendations of the
Conference on Jewish Material Claims
Against Germany, Inc.
for the
Seventeenth Group of Claims in
In re Holocaust Victim Assets Litigation (Swiss Banks) –
Refugee Class

September 25, 2003

1. This Report contains the Recommendation for Payment of Group 17 of claims that are being processed by the Conference on Jewish Material Claims Against Germany ("Claims Conference") under the Refugee Class of the Swiss Banks Settlement (the "Seventeenth Claims Conference Refugee Report"). In accordance with the Special Master's Proposed Plan of Allocation and Distribution of Settlement Proceeds approved by the Court on November 22, 2000 ("Distribution Plan"), the Claims Conference is charged with making distributions to Jewish members of the Refugee Class. The International Organization for Migration ("IOM") is charged with making distributions to Roma, Jehovah's Witness, homosexual and disabled members of the Refugee Class.

2. Group 17 submitted herewith consists of 120 Refugee Class claims for whom the Claims Conference now recommends compensation under the Swiss Banks Settlement. Each of the 120 claimants meets the eligibility criteria under the Distribution Plan, as each has plausibly demonstrated that they "were admitted into Switzerland as refugees and were detained, mistreated or abused there," or "were denied entry into or expelled from Switzerland."¹ This has been demonstrated by matching the names, birth dates and nationalities for the claimants in this group, to the information contained on the lists of names obtained by the Court and Special Master from the Swiss Federal Archives, or by fully evaluating the claims for the credibility of historical and descriptive information provided by claimants in their applications to the Program.

3. The Claims Conference has followed the procedure utilized in connection with previous Groups of claims for the Refugee Class, submitted for the Court's approval,²

¹ Distribution Plan, Volume I, p. 37.

² See Report and Recommendations of the Conference on Jewish Material Claims Against Germany, Inc. for First Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated December 11, 2001 ("First Claims Conference Report on Refugee Class"); Second Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated March 15, 2002 ("Second Claims Conference Report on Refugee Class"); Third Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated May 7, 2002 ("Third Claims Conference Report on Refugee Class"); Fourth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated July 16, 2002 ("Fourth Claims Conference Report on Refugee Class"); and Fifth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated October 18, 2002 ("Fifth Claims Conference Report on Refugee Class"); Sixth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated January 24, 2003 ("Sixth Claims Conference Report on Refugee Class"); Seventh Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated March 25, 2003 ("Seventh Claims Conference Report on Refugee Class"); Eighth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated April 10, 2003 ("Eighth Claims Conference Report on Refugee Class"); Ninth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated April 29, 2003 ("Ninth Claims Conference Report on Refugee Class"); Tenth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated May 19, 2003 ("Tenth Claims Conference Report on Refugee Class"); Eleventh Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated June 5, 2003 ("Eleventh Claims Conference Report on Refugee Class"); Twelfth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated June 5, 2003 ("Twelfth Claims Conference Report on Refugee Class"); Thirteenth

in that identifying data for each claimant – separately submitted herewith in an accompanying binder (the “Appendix”) – is filed under seal. The Appendix is organized by claimant. In addition to the names, addresses, nationalities, birth places, birth dates and other identifying data for each claimant, the Appendix also contains the pages from the lists compiled from the Swiss Federal Archives data upon which appears the claimant’s name, personal statement, and in some cases, additional documentation. The Claims Conference also has prepared a memorandum summarizing each of the 120 claimants’ Personal Statements describing their respective experiences as members of the Refugee Class, attached hereto (the “Summary”). The Summary does not contain claimants’ names or other such identifying information and therefore will be docketed along with this Seventeenth Claims Conference Refugee Report.

4. As noted above and described in further detail in the Distribution Plan, each of the 120 claims falls into one of two categories. Eight (8) of the 120 claims fall into both categories. In accordance with the Distribution Plan, “Category 1” consists of “[c]laimants who plausibly demonstrate, through documents, an interview or otherwise, that they were denied entry into or expelled from Switzerland.”³ As of September 25, 2002, these claimants are to receive a payment, identical in amount, of \$3,625.⁴ Of the 120 applicants submitted herewith, 92 are recommended for approval under Category 1. The basis for this recommendation is described in the Appendix: either (1) a description of the correspondence of claimant names, birth dates and nationalities to the Refugee Denial and Expulsion List, or (2) a description of claimant’s plausible demonstration of his or her attempt to seek refuge from Nazi persecution and denial of admission to or expulsion from Switzerland between January 1, 1933 and May 9, 1945.

We are submitting ten cases (10) in this group that describe individuals who were denied entry into or expelled from Switzerland during the period 1933 to early 1938, prior to the introduction of the ‘J-stamp’ in October, 1938. Based upon our review of

Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated July 8, 2003 (“Thirteenth Claims Conference Report on Refugee Class”); Fourteenth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated July 25, 2003 (“Fourteenth Claims Conference Report on Refugee Class”); Fifteenth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated August 31, 2003 (“Fifteenth Claims Conference Report on Refugee Class”); and Sixteenth Group of Claims in In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Class, dated September 9, 2003 (“Sixteenth Claims Conference Report on Refugee Class”).

³ Distribution Plan, Volume I, p. 37.

⁴ Memorandum and Order, September 25, 2002. On September 25, 2002, Judge Korman adopted the Special Master’s recommendation and ordered that supplemental distributions be made for Swiss Refugees from unanticipated interest income on the Settlement Fund. A 45% proportional adjustment to the amounts previously designated was approved, now increasing the Category 1 payment from \$2,500 to \$3,625.

the Final Bergier Report of March 22, 2002, and our discussions with the Office of the Special Master, we recommend these claims for payment.⁵

Claimants in this group, with the year of claim noted, include: RC 10914 (1936), RC 1610 (1938), RC 9520 (1938), RC 10205 (1938), RC 9435 (August 1938), RC 10408 (1938), RC 2197 (1935), RC 5882 (1938), RC 1180 (1938), RC 5401 (1934).

5. In accordance with the Distribution Plan, "Category 2" consists of "[c]laimants who plausibly demonstrate, through documents, a statement or otherwise, that they were admitted into Switzerland as refugees and were detained, mistreated or abused there, and whose names are matched against the List of Refugees Admitted into Switzerland."⁶ As of September 25, 2002, these claimants are to receive a payment, identical in amount, of \$725.⁷ Of the 120 applicants submitted herewith, 20 are recommended for approval under Category 2. The basis for this recommendation is described in the Appendix: either (1) a description of the correspondence of claimant names, birth dates and nationalities to the List of Refugees Admitted into Switzerland, or (2) a description of claimant's plausible demonstration of his or her admission to and/or presence in Switzerland having sought refuge from Nazi persecution between January 1, 1933 and May 9, 1945. In addition, each of the 20 individuals recommended for approval under Category 2 has plausibly demonstrated that he or she was detained, mistreated or abused while in Switzerland.

6. Included in this Group are eight (8) claims that are recommended for approval in both Category 1 and Category 2. The basis for this recommendation is described fully in the Appendix and Summary. Among the eight claims is one (1) claim that was submitted by a claimant whose name appears on both the list of Persons Denied Entry and the list of Persons Admitted to Switzerland provided by the Swiss Federal Archives to the Court (RC 5534). Three (3) claims were submitted by claimants who provide a plausible claim in Category 1, and whose description of subsequent admission and mistreatment is also confirmed by their names appearing on the List of Persons Admitted (RC 10837, RC 1720, RC 6018). Three (3) claims were submitted by claimants who do not appear on either list and who plausibly demonstrate that they were mistreated in Switzerland and subsequently expelled (RC 10205, RC 1558, RC 5226). One (1) claim was submitted by a claimant who does not appear on either list and who plausibly demonstrates that he was denied entry to Switzerland and subsequently admitted and mistreated (RC 9732).

⁵ See discussion of Bergier Report documentation of mistreatment of Refugees prior to late 1938 in Report and Recommendations of the Conference on Jewish Material Claims Against Germany, Inc. for the Sixth Group of Claims in *In re Holocaust Victim Assets Litigation (Swiss Banks)- Refugee Claims*, dated January 24, 2003 ("Sixth Claims Conference Report on Refugee Class"), pp 2-3. The relevant excerpts from the Sixth Report are annexed hereto for the Court's convenience.

⁶ Distribution Plan, Volume I, p. 37.

⁷ Memorandum and Order, September 25, 2002. A 45% proportional adjustment to the amounts previously designated now increases the Category 2 payment from \$500 to \$725.

7. Of the 120 claimants recommended for approval in Group 17, one (1) filed his claim under the "informal application" procedure initially adopted by the German Foundation "Remembrance, Responsibility, and the Future," and subsequently approved by the Court on January 22, 2002.⁸ As described in the January 18, 2002 letter upon which the Court's order was based, on or before December 31, 2001, this one (1) claimant communicated his interest in applying to the Refugee Program, and subsequently filed a formal claim within the required three-month period following mailing of the application.

8. Pursuant to the Court orders dated June 28, 2001 and September 25, 2002, the Claims Conference is now prepared to distribute a one-time payment in full of \$3,625 or \$725 to each of the approved Category 1 and Category 2 applicants, respectively. The Claims Conference is prepared to distribute a one-time payment in full of \$4,350 to the claimants approved for payment under Categories 1 and 2 (as described in Paragraph 6 above).

9. The Claims Conference has reviewed the Group 17 List of Claimants and cross-checked that list against the Opt-Out List provided to the Claims Conference by the Special Master and has determined that there are no matches.

10. In conclusion, the Claims Conference respectfully certifies that the claims listed in the Appendix are compensable under the Refugee Class of the Swiss Banks Settlement.

11. The required funding for payment to 120 Refugee Class members in Group 17 is \$382,800 (consisting of \$333,500 for 92 individuals in Category 1, \$14,500 for 20 class members in Category 2, and \$34,800 for eight (8) claimants approved for payment under both Categories 1 and 2). At this time, the Claims Conference requests that \$1,500,000 be transferred from the Settlement Fund to the Claims Conference escrow account for the Refugee Class for anticipated payments to 120 claimants in this Group 17 as well as anticipated payments to individuals in Group 18 and Group 19.

The \$1,500,000 will be allocated as follows. There is a balance of \$178,225 remaining from the \$1,000,000 transferred pursuant to the Court's Memorandum & Order of July 25, 2003 (in connection with the "Fourteenth Claims Conference Report on Refugee Class"), plus accrued interest to date.⁹ The \$178,225 will be applied to the above-described payment of \$382,800 to the 120 Refugee Class members in this

⁸ Memorandum and Order, January 22, 2002

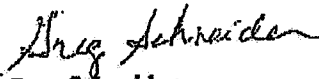
⁹ As noted in the chart, "Amount Available in Escrow", the \$ 750,000 transferred in connection with the Twelfth Group was intended to and has been used to fund payments to the subsequent Thirteenth Group.

"Seventeenth Group," leaving a balance of \$204,575 to be funded from the \$1,500,000 transfer. After these payments to members of the "Seventeenth Group" are distributed, there will still remain a balance of \$1,295,425 (\$1,500,000 minus \$204,575), plus accrued interest. As in the past, the remaining amount (\$1,295,425 plus interest) will be held in escrow pending future distributions to other members of the Refugee Class. The Claims Conference anticipates that the submissions for the "Eighteenth Group" and "Nineteenth Group" of Refugee Class members will be finalized in October 2003. As always, we will promptly advise the Court and coordinate with the Special Master and Deputy Special Master as we continue to review and recommend for approval additional Refugee Class claims.

12. In view of the foregoing, the Claims Conference respectfully files the appended list of names and addresses of claimants under seal with the Court. The Claims Conference will distribute this Seventeenth Group of payments of \$725, \$3,625, or \$4,350 as appropriate, as set forth in the attached chart, on or about October 10, 2003 to each of the 120 Holocaust survivors listed in the accompanying Appendix. Names and addresses of additional class members will be submitted in the near future.

September 25, 2003

Respectfully submitted,



Greg Schneider
Chief Operating Officer
Conference on Jewish Material Claims Against Germany

Attachment:

Binder filed under seal, containing 120 Refugee Class Members Summaries

**Seventeenth Claims Conference Report:
Refugee Class under Swiss Banks Settlement Beneficiaries by Country and Category**

<u>Country</u>	<u>Approved in Category 1</u>	<u>Approved in Category 2</u>	<u>Approved in both Category 1 and 2</u>	<u>Total</u>
Australia	1	0	0	1
Austria	1	1	0	2
Belgium	0	1	0	1
Canada	6	1	0	7
France	7	3	2	12
Germany	1	0	0	1
Great Britain	1	1	0	2
Israel	42	10	3	55
Italy	1	0	0	1
Netherlands	0	1	1	2
Spain	1	0	0	1
Sweden	1	0	0	1
United States	29	2	2	33
Venezuela	1	0	0	1
Total:	92	20	8	120

Amount Available in Escrow (Footnote 9)

	Date	Transfer from Court to Claims Conference	Transfers from Claims Conference to Class Members	Amount Available
	July 12, 2001	\$100,000		\$100,000
Group 1	Week of December 10, 2001		\$77,500	\$22,500
	March 22, 2002	\$130,000		\$152,500
Group 2	Week of March 28, 2002		\$100,000	\$52,500
Group 3	Week of May 9, 2002		\$47,500	\$5,000
Group 4	Week of July 29, 2002	\$500,000	\$141,000	\$364,000
Group 5	Week of October 21, 2002		\$226,925	\$137,075
Group 6	Week of February 10, 2003	\$750,000	\$554,625	\$332,450
Group 7	Week of April 7, 2003		\$157,325	\$175,125
Group 8	Week of April 28, 2003	\$750,000	\$181,250	\$743,875
Group 9	Week of May 5, 2003		\$188,500	\$555,375
Group 10	Week of May 19, 2003		\$200,825	\$354,550
Group 11	Week of June 9, 2003		\$176,900	\$177,650
Group 12	Week of June 23, 2003	\$750,000	\$206,625	\$721,025
Group 13	Week of July 18, 2003		\$381,350	\$339,675
Group 14	Week of August 11, 2003	\$1,000,000	\$390,775	\$948,900
Group 15	Week of September 5, 2003		\$386,425	\$562,475
Group 16	Week of September 15, 2003		\$384,250	\$178,225

Note: Does not include interest.

SWISS REFUGEE PAYMENTS

Group	Date of Court Order	# Category 1	# Category 2	# Bath	# Total	Amount Total	+ 45% Increase	Total Funds Distributed
1	December 11, 2001	15	80	0	95	\$77,500		\$77,500
2	March 15, 2002	14	130	0	144	\$100,000		\$100,000
3	May 7, 2002	4	75	0	79	\$47,500		\$47,500
4	July 16, 2002	18	192	0	210	\$141,000		\$141,000
[REDACTED]								
5	October 21, 2002	26	171	2	199	\$228,925		\$228,925
6	January 29, 2003	115	100	15	230	\$554,625		\$554,625
7	April 7, 2003	33	16	6	55	\$157,325		\$157,325
8	April 14, 2003	45	7	3	55	\$181,250		\$181,250
9	May 2, 2003	45	5	5	55	\$188,500		\$188,500
10	May 20, 2003	51	4	3	58	\$200,825		\$200,825
11	June 9, 2003	48	8	1	56	\$176,900		\$176,900
12	June 9, 2003	57	0	0	57	\$206,625		\$206,625
13	July 10, 2003	101	9	2	112	\$381,350		\$381,350
14	July 31, 2003	96	11	8	115	\$380,775		\$380,775
15	August 31, 2003	86	13	15	114	\$386,425		\$386,425
16	September 9, 2003	87	11	14	112	\$384,250		\$384,250
17	(anticipated)	92	20	8	120	\$382,800		\$382,800
TOTAL		931	842	82	1865	\$4,184,575	\$164,700	\$4,349,275

Exhibit A

Excerpt from pp 106-107 of the Final Bergier Report of March 22, 2002

Civilian refugees between 1933 and 1937

A large number of people left Germany immediately after the National Socialists took power in January 1933. The two largest groups were, on the one hand, politically persecuted communists and social democrats; and on the other, Jews who were under threat of anti-Semitic violence, boycotts and legalised discrimination. In spring 1933, the Swiss Federal authorities passed a law, which was to remain in force until 1944, distinguishing between political and other refugees. Political refugees were those who were under personal threat owing to their political activities. The Federal authorities were extremely reticent to recognise political refugees; communists in particular were not welcome. According to an instruction issued by the Federal Department of Justice and Police (*Eidgenössisches Justiz- und Polizeidepartement*, EJPD) only "high state officials, leaders of left-wing parties and well-known authors" should be accepted as political refugees. On the basis of this restrictive interpretation of the term "refugee", Switzerland granted political asylum to only 644 people between 1933 and 1945, of these, 252 cases were admitted during the war. The Federal Council had the final decision on granting political asylum; political refugees were the responsibility of the Federal Prosecutor's Office (*Bundesanwaltschaft*), which was part of the EJPD.

All other refugees were considered simply as foreigners from a legal point of view and were subject to the stipulation of the Federal Law on Residence and Settlement of Foreigners of 26 March 1931, which came into force in 1934. From an administrative point of view, they were the responsibility of the cantonal police, which issued so-called tolerance permits (valid for a few months only), residence permits and settlement permits. The Police Division of the EJPD co-ordinated cantonal policy regarding foreigners; as the highest authority, the Police Division had to approve the issuing of work permits and longer-term residence permits in particular. In addition the Division could lodge an objection to cantonal decisions. Between 1933 and 1938, however, the cantons still enjoyed a good deal of freedom in the way they implemented their policy with regard to refugees. Some cantons adopted a very restrictive policy while others freely issued tolerance permits. The latter were granted on the condition that the recipient did not engage in gainful employment and left Switzerland as soon as possible. Switzerland saw itself as a transit state, a halfway station for refugees where they would organise their emigration to other countries such as France, the Netherlands or the USA. In view of the restrictive policy adopted by Switzerland after the end of the First World War, it was hardly worth considering as a place of permanent residence. In his manual for emigrants published in 1935, the Jewish sociologist Mark Wischnitzer wrote "The ban on employing foreigners is implemented to the letter in Switzerland." He also mentioned the authorities' fight against 'over-foreignisation' (*'Überfremdung'*), which had negative repercussions in particular for Jewish emigrants. Accordingly, at the end of 1937 there were only around 5,000 refugees in Switzerland.

Michael Bradfield
Special Master
Holocaust Victim Assets Litigation
Case No. CV 96-4849
51 Louisiana Avenue, N.W.
Washington, D.C. 20001

Report on the Claims Resolution Process
(as of June 30, 2003)

This report describes the progress made by the Claims Resolution Tribunal (the "CRT") in resolving the 33,496 claims filed with it since the publication on February 5, 2001 (the "ICEP List") of 21,000 "probable or possible" accounts of victims of Nazi persecution in Swiss banks from the 1933-1945 period. The CRT operates under the supervision of Special Masters Paul Volcker and Michael Bradfield on behalf of Chief Judge Edward R. Korman of the United States District Court for the Eastern District of New York (the "Court"). The report covers the period from February 5, 2001, when the ICEP List was published, through June 30, 2003. General information regarding the CRT, as well as press releases and the texts of the approved decisions, are available on its website -- www.crt-ii.org.

Introduction

The CRT's current mandate is to process claims brought by Victims or Targets of Nazi Persecution¹ or their heirs to Swiss bank accounts under the Settlement Agreement reached in the Holocaust Victim Assets Litigation. In January 1999, the defendant banks agreed to create a US\$ 1.25 billion Settlement Fund.

Pursuant to a distribution plan proposed by Special Master Judah Gribetz and approved by the Court, the amount of up to US\$ 800 million was set aside to satisfy claims to bank accounts.² As proposed by Special Master Gribetz, the CRT was designated as the organization responsible for processing claims to deposited assets. In addition, the CRT was subsequently also made responsible for processing insurance claims against two Swiss insurance carriers.³

¹A "Victim or Target of Nazi Persecution" is defined in the Settlement Agreement as "any individual, corporation, partnership, sole proprietorship, unincorporated association, community, congregation, group, organization or other entity persecuted or targeted for persecution by the Nazi Regime because they were or were believed to be Jewish, Romani, Jehovah's Witness, homosexual, or physically or mentally disabled or handicapped."

²The Settlement Agreement defined the following five Settlement Classes: Deposited Assets Class; Looted Assets Class; Slave Labor Class I; Slave Labor Class II; and the Refugee Class. Apart from the Deposited Assets Class, a claims program was set up for the two Slave Labor Classes and the Refugee Class. No claims program was created for the Looted Assets Class; instead, US\$ 100 million (subsequently increased to \$145 million) was allocated for humanitarian programs serving needy Nazi victims.

³The Settlement Agreement was amended to cover claims against two Swiss insurance carriers, Swiss Re and Swiss Life. The Settlement Fund and the insurance carriers are each responsible for up to US\$ 25 million to cover the amounts awarded on the policy claims.

Background

The CRT was established in October 1997 in connection with the investigation of Swiss banks conducted by the Independent Committee of Eminent Persons ("ICEP" or the "Committee"). The CRT's initial task, which became known as the "CRT-I process," was to adjudicate claims to accounts in Swiss banks that were open and were dormant since the end of the Second World War and that had been published by Swiss banks in 1997. The purpose of the ICEP investigation was to conduct a forensic audit of Swiss banks (1) to identify accounts in Swiss banks of Victims of Nazi Persecution that had been dormant since the Second World War or had otherwise not been made available to the Victims or their heirs and (2) to assess the Swiss banks' treatment of the accounts of Victims of Nazi Persecution.

The ICEP investigation was concluded in December 1999, when the Committee published its final report.⁴ The Committee identified accounts in Swiss banks from the 1933-1945 period that had a "probable or possible" relationship with Victims of Nazi persecution, and it recommended the publication of the account owner names for those accounts that have a strong probability of a relationship with victims.⁵ The Committee recommended that the CRT be given the responsibility for processing claims by Victims of Nazi Persecution or their heirs to accounts identified during the investigation. Among other things, the Committee made additional recommendations relating to (1) the creation of, and access to, a database of Victim accounts identified during the audit; (2) notice to potential claimants; and (3) rules for valuing the accounts.

In accordance with the ICEP recommendations and pursuant to Special Master Gribetz's distribution plan, the Court by its Order of November 22, 2000 designated the CRT as the organization responsible for processing the deposited assets claims. As previously noted, a total of US\$ 800 million was allocated by the Court from the Settlement Fund to satisfy these "CRT-II" claims.

By Order of December 8, 2000, the Court appointed Messrs. Paul Volcker and Michael Bradfield as Special Masters to establish, organize and supervise the claims resolution process.

On July 26, 2001, the United States Court of Appeals for the Second Circuit affirmed the Court's approval of the Settlement Agreement. It concluded that the Court "did not abuse its discretion in allocating \$800 million to the 'Deposited Assets' class. The existence and estimated value of the claimed deposit accounts was established by extensive forensic accounting. In addition, these claims are based on well-established legal principles, having the ability of being proved with concrete documentation, and are readily valued in terms of time and inflation. By contrast, the claims of the other four classes are based on novel and untested legal theories of liability, would have been very difficult to prove at trial, and will be very difficult to accurately value. Any allocation of a settlement of this magnitude and comprising such different types of claims must be based, at least in part, on the comparative strengths and weaknesses of the asserted legal claims." In re Holocaust Victim Assets Litigation, 2001 WL 868507 (2nd Cir. (N.Y.)) (unpublished opinion).

⁴ Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (December 1999), <http://www.icep-iaep.org>.

⁵ The number of probable or possible Victim accounts was subsequently adjusted downwards to approximately 36,000. The CRT's "Account History Database" comprises these 36,000 accounts. See infra.

Structure and Procedures

The CRT, which has the status of an association under the Swiss law, has a Secretariat consisting of approximately 70 staff members. The CRT's procedures are defined in the Rules Governing the Claims Resolution Process (the "Rules"), which were proposed by Special Masters Volcker and Bradfield and approved by the Court. The Rules were most recently amended on February 28, 2003 and April 25, 2003. (See Appendix A showing these amendments to the Rules).⁶ Under the Rules, the CRT has access to the data resources compiled during the ICEP investigation. These include both electronic and hard copy information about the accounts identified by the ICEP auditors as "probably or possibly" belonging to Holocaust Victims. The electronic data is consolidated into an Account History Database ("AHD"), which is maintained at the offices of the CRT by a Data Librarian. The Rules also provide that the CRT will have access to the Total Accounts Databases ("TADs"), consisting of electronic data relating to the approximately 4.1 million accounts that were open or opened during the relevant period and for which records still exist in Swiss banks. The Special Masters and the CRT have initiated the process of accessing the TADs.

Unlike the CRT-I process, which involved arbitration between individual claimants and banks, the CRT-II process is largely an administrative process. In the CRT-II process, the banks are not parties, but may be requested by the CRT to provide voluntary assistance in the process. Where possible, the CRT attempts to assist claimants by contacting archives in search of additional relevant information and by performing historical research. The procedures used thus far to process the claims are as follows. Account Owner names provided in the claim forms are matched through a computerized process to the names of the account owners contained in the AHD. The computer-generated matches are reviewed to determine whether the claimed account owner is the same as the owner of the account according to the bank records assembled by the ICEP auditors. If the CRT determines that there is an identity match and that the claimant is entitled to an award from the Settlement Fund, it certifies its decision through the Special Masters to the Court for its approval. Awards approved by the Court are paid out of the Settlement Fund, which is also used to cover the administrative expenses of the process.

The Claims

A total of 32,814 claims were filed with the CRT by the filing deadline of August 31, 2001, and 682 claims were received after the deadline but before December 31, 2002. Prior to the expiration of the deadline, the Court ordered that those Initial Questionnaires that can be processed as claim forms be treated as timely claims under the CRT-II program. The Initial Questionnaires are being analyzed to identify those that can be processed as CRT-II claim forms.

In addition to the claims to deposited assets, some 1,500 insurance policy claims are being handled by the CRT pursuant to the amended Settlement Agreement.

The CRT also received a number of late claims. Between August 31, 2001 and December 31, 2002, the CRT received 682 late claims to deposited assets. Between January 1, 2002 and December 31, 2002, it received 809 claims to insurance policies. On April 8, 2003, Judge Korman approved an order authorizing the CRT to treat these late claims received before

⁶ In addition, in 2002, certain amendments were made to the Rules Governing the Claims Resolution Process. The Rules, as amended, are posted on the CRT website (www.crt-ii.org).

December 31, 2002, provided that such claims do not prejudice a timely filed claim. (See Appendix B.)

Claimant Information

Claimants seeking information about the Claims Resolution Process can find information on the CRT's website. In addition, the CRT receives phone calls from claimants using its toll-free number -- 011-800-0123-0456 (from the United States). (The first digits of the toll-free number vary depending on the country from which the claimant is calling.) In response to claimant inquiries, the CRT provides general information regarding the status of a claim.

Statistical Information

Total Number and Value of Approved Awards

For both CRT I and CRT II, 1,643 accounts belonging to Victims of Nazi persecution have been awarded, with a current value of \$125.9 million, as of August 11, 2003. The Court has approved a total of 905 CRT II awards as of August 11, 2003. For CRT I, which took place in 1997 through 2001, 207 accounts were determined to be accounts of Victims of Targets of Nazi Persecution. The Awards for these accounts amounted to \$11.7 million when adjusted for current value.

As of June 30, 2003, for both CRT I and CRT II, 1,590 accounts belonging to Victims of Nazi persecution have been awarded, with a current value of \$122.7 million. The following statistics are with respect to the 865 CRT II awards (for 1,383 accounts) approved by the Court as of June 30, 2003. These awards total \$111 million. The largest award was for \$4.8 million, and the smallest award was for \$459. The average award amount is \$128,350. All awards are published on the CRT's website.

Characteristics of Awards

Each award contains a description of the facts known regarding the account owner and his or her fate, which is derived from the claim form, and the information that is available in the bank records. The awards share certain characteristics as noted below.

In the 865 awards approved as of June 30, 2003, there were 1,383 accounts awarded. The accounts fall into the following disposition categories:

Presumed closed	518	Suspended/collectivized and later closed	41
Closed - unknown to whom 1937-1945	327	Unknown ⁷	11
Open and dormant	125	Other ⁸	5
Closed - unknown to whom after 1945	93	Paid to the Hungarian Government	2
Closed unknown when	73	Paid to the Polish Government	2
Transferred to a Nazi controlled bank	71	Paid to the Unclaimed Assets Fund	1
German accounts closed - unknown to whom before 1937	57		
Paid to Bank as Fees or Profit	57	Total	1,383

As shown in Table A, there is specific documentary evidence that 71 accounts were transferred to Nazi controlled banks. With respect to 42 of these 71 accounts, the awards indicate the specific Nazi controlled bank to which the accounts were transferred. The CRT believes that many other accounts were transferred to Nazi authorities, especially with respect to account owners from Germany (in the period 1933-1945) and from Austria (in the period 1938-1945). Detailed information regarding the 71 accounts transferred to Nazi controlled banks is available in Appendix C to this Report.

As shown on Table B, the most commonly awarded accounts are custody accounts and demand deposit accounts. In most cases, depositors that opened custody accounts also opened demand deposits to receive payments of interest and dividends.

Custody Account	446	Safe deposit box	61
Demand Deposit Account	436	Other Type of Account	6
Unknown Type of Account	361		
Savings/Passbook Account	73	Total	1,383

⁷ The accounts with a disposition listed as "Unknown" are from: 5 awards involving accounts identified in census forms obtained from the Austrian State Archives (In re Accounts of Alfred Benesch, Elise Benesch and Josef Benes, In re Account of Irma Braun and Felix Harry Braun, In re Account of David Israel Frischer, In re Account of Dr. Rudolph Löbl, In re Accounts of Anna Marcus and Susanne Marcus) and 3 other awards -- In re Account of Wilhelmine Schoenholz (an account of unknown type was awarded based on German government documents provided by the Claimant and no disposition was indicated), In re Accounts of Anna Tempel and Dr. Alexander Brat (two accounts of unknown type were awarded based on 5 January 1939 and 20 April 1940 letters included in the Bank records; there is no indication of the accounts' disposition in the letters), and In re Accounts of Wilhelm Löwbeer and Paul Löwbeer (a custody account and a demand deposit account were transferred from Account Owner Wilhelm Löwbeer to Account Owner Paul Löwbeer on 14 March 1938; there are no separate bank records for Account Owner Paul Löwbeer and therefore no indication of when or if these accounts were closed).

⁸ The following awards include accounts with a disposition listed as "Other": In re Account of Moritz Bettelheim (an account of unknown type was transferred to a Swiss Government fund pursuant to the 1962 Federal Decree), In re Account of Dr. Jenő Kozma, Dr. Jenő Kozma's son (Sohn), Jenőme Kozma and Stephanie Haasz (a demand deposit account was transferred to the Swiss Federal Accounting Department on 24 July 1973), In re Account of Hugo Maier and Paula Maier (on 20 December 1939, the Bank transferred two demand deposit accounts into a third demand deposit account, which was closed unknown by whom on 20 June 1941), and In re Account of Avram Micu Rabner (an account of unknown type was transferred on 3 March 1994 into a collective account containing the assets of customers who were presumably deceased).

Of the 1,383 accounts awarded, 1,269 accounts were published in the ICEP List of Accounts Owners and Power of Attorney Holders and 114 accounts were not published in the ICEP List but were awarded based on records from the Austrian State Archives, contemporaneous documentation provided by the claimants, or bank records for accounts identified in the ICEP investigation but not published.

The 865 awards approved by the Court to date involve 1,097 account owners.⁹ As shown on Table C, the largest number of Account Owners came from Germany, Austria, and France. The Account Owners were from the following countries:

Austria	201	Hungary	83	Slovakia	1
Belarus	1	Italy	28	Switzerland ¹⁰	10
Belgium	11	Latvia	13	The Netherlands	18
Bulgaria	2	Lithuania	7	Ukraine	2
Croatia	8	Luxembourg	3	Yugoslavia	21
Czechoslovakia	94	Mexico ¹¹	1	Unknown	4
Estonia	1	Palestine ¹²	2		
France	117	Poland	51		
Germany	315	Romania	101		
Greece	1	Russia	1		
				Total	1,097

As shown in Table D, more Account Owners died in concentration camps, ghettos or slave labor camps than those who had any other fate. For a detailed look at the fates of the Account Owners, Appendix D contains a list of each Account Owner's name, country of residence and fate, including information regarding concentration camps, ghettos or slave labor camps where available.

⁹ Of the 1,097 account owners, 25 account owners are companies. When determining the account owner's fate in situations where the account owner is a company, the fate of the company's principal owner was used. The companies' owners had the following fates: 7 died of natural causes before the end of the War; 7 fled their country of residence; 4 died in a concentration camp, ghetto or slave labor camp; 2 were imprisoned in a concentration camp, ghetto, or slave labor camp and then fled their country of residence; 1 was imprisoned in a concentration camp, ghetto or slave labor camp and then hid; 1 committed suicide; 1 survived a concentration camp, ghetto, or slave labor camp; 1 otherwise survived the Holocaust; and 1 is a Jewish organization.

¹⁰ The source for the country of residence of the Account Owner is the bank records, and if no country of residence is available, then the information provided by the claimant is used. Consequently, although 10 account owners are identified as having Switzerland as their country of residence, some of them had only provided a Swiss address but resided elsewhere. In the following cases the account owner or his or her relative traveled to Switzerland or lived in Switzerland for a brief period: In re Account of Fri. (Miss) Flora Baer, In re Account of Selma Corti and Hildegard Aeberhard (2 account owners), In re Account of Henri Csango, In re Account of Daniela Heimler, In re Account of Jean Hurtig and Jenny Hurtig, née Cornea, In re Account of Bertha Siegal, and In re Account of Anna Wyss. In one case, the Account Owner lived in Switzerland, left during the War, and his account was frozen after he had left Switzerland. See infra In re Accounts of Alexandre Rado, Helene Rado and Geopress S.A.

¹¹ Although Mexico City was the city included in the bank records, the claimant provided an explanation as to why the Account Owner may have provided such city as his place of residence. The account awarded remained open and dormant with the Bank. See In re Accounts of Max Haendler.

¹² In two cases, the bank records refer to the account owner residing in Palestine, but there are no records to whom the accounts were closed. See In re Account of David Katz and In re Account of Jozef Goldberg.

Died in concentration camp, ghetto, or slave labor camp	318
Fled country of residence	309
Died of natural causes before the end of the War	90
Fate unknown	84
Survived concentration camp, ghetto, or slave labor camp	79
Otherwise survived the Holocaust	77
Otherwise killed by Nazis	49
Hid from Nazi authorities during the War	35
Imprisoned in concentration camp, ghetto, or slave labor camp then fled	28
Committed suicide in anticipation of incarceration by Nazi authorities	19
Imprisoned in concentration camp, ghetto, or slave labor camp then hid	4
Died in combat	4
Other ¹³	1
Total	1,097

Table E shows the statistics with respect to the status of Account Owners as Victims or Targets of Nazi Persecution.

Jewish	1,044
Jewish Spouse	20
Unknown, but joint Account Owner is Jewish	20
Unknown, but Yad Vashem name match	6
Believed Jewish	4
Homosexual	1
Unknown, but joint Account Owner's spouse is Jewish	1
Jehovah's Witness	1
Total	1,097

With respect to the 865 awards, 999 Claimants received awards. As shown in Table F, the 999 Claimants come from 38 different countries. Although more Claimants reside in the United States than any other country, more than half of the Claimants are from Europe, South America, and Israel. The Claimants are from the following countries:

¹³ In *In re Account of Ath. Philon*, the Account Owner is the Athens, Greece lodge of the Jewish organization *B'nai B'rith International*.

Andorra	1	Greece	1	Slovakia	2
Argentina	13	Hungary	25	Slovenia	2
Australia	41	Ireland	1	Spain	2
Austria	20	Israel	146	Sweden	2
Belgium	9	Italy	9	Switzerland	29
Bosnia and Hercegovina	1	Jamaica	1	The Netherlands	14
Brazil	6	Luxembourg	1	United Kingdom	52
Bulgaria	4	Mexico	5	United States	399
Canada	47	Norway	1	Uruguay	6
Chile	5	Peru	1	Yugoslavia	1
Croatia	4	Poland	1		
Czech Republic	17	Portugal	1		
France	82	Romania	9		
Germany	35	Russia	3	Total	999

Of the 999 Claimants, 27 are themselves the Account Owner and 579 are direct descendants of the Account Owner. The 579 direct descendants include 354 children, 204 grandchildren and 21 great-grandchildren. Table G shows the claimant's relationship to the Account Owner.

Brother/Sister-in-law	5	Other ¹⁵	27
Child	354	Same Person	27
Cousin	53	Sibling	12
Daughter-in-law	20	Son-in-law	3
Grandchild	204	Spouse	20
Grandchild-in-law	5	Step-child	2
Great Niece/Nephew	86	Step-grandchild	1
Great-Grandchild	21		
Niece/Nephew	159	Total	999

As shown in Table H, a substantial number of Claimants had filed claims with other organizations to recover the account awarded prior to filing a claim with the CRT after the publication of the ICEP List. In addition, in 4 awards, the account owners or their heirs requested information from a bank and did not receive a response; in 10 awards, either a bank or the Swiss Bankers Association refused to help the account owners or heirs; in 18 awards, the account owners or heirs were either unsuccessful when they tried to access their accounts or were told that they would be charged a substantial fee to search for the account; and in 30 awards, the account owners or their heirs were deliberately misinformed by a bank about the

¹⁴ When determining the Claimant's relationship to the Account Owner in awards where more than one Account Owner is listed, the closest relationship between Claimant and Account Owner is used. For example, if the Account Owners were the Claimant's father and uncle, the relationship is listed as "child."

¹⁵ The "other" category includes a broad range of extended relationships, including, husband's paternal aunt, cousin's husband, aunt's sister-in-law, great uncle by marriage, grandfather's cousin, and mother's cousin's husband. Pursuant to Article 23 of the Rules Governing the Claims Resolution Process, the CRT may "make an award to any relative of the Account owner, whether by blood or by marriage, who has submitted a claim . . ."

existence of an account. Moreover, the existence of a prior claim indicates that these claimants based their claims not only on the presence of their relative's name on ICEP List of Account Owners, but on information known to them prior to the publication of the ICEP List.

Filed Initial Questionnaire in the Holocaust Victim Assets Litigation	222
Filed ATAG Ernst & Young claim form	75
Filed claim with the New York State Holocaust Claims Processing Office	58
Filed Initial Questionnaire for someone other than the Account Owner	38
Filed claim with the Swiss Banking Ombudsman	12
Filed ATAG Ernst & Young claim form for someone other than the Account Owner	7
Filed claim with CRT I	6
Filed claim with CRT I for someone other than the Account Owner	2
Total	420

As shown on Table I, most claimants were able to provide information in their claim forms that matched unpublished information in the bank records available to the CRT. Unfortunately, in many cases, no unpublished information is available in the bank records for the CRT to use to determine the validity of a claim. During the three-year investigation of the Swiss banks by ICEP, no records were found for some 2.8 million accounts, while minimal records were found for some 4.1 million accounts. With respect to the 4.1 million accounts, in many cases, the sole source of information regarding an account is a ledger listing the name of the account owner without further identifying information or an account opening card providing little detail concerning the account owner. Consequently, in cases where there is little or no unpublished information, the CRT focuses on additional factors that strengthen the plausibility of the claim – for example, the existence of claims made by the claimant to an account held by such account owner before the publication of the account owner's name and any documentation (e.g., birth/death certificates, immigration papers, etc.) provided by the claimant listing the account owner's name.

Matched unpublished information	747
No unpublished information to match	83
No match to unpublished information but filed Initial Questionnaire	80
No match to unpublished information but matched information in Yad Vashem	42
Provided information matching Austrian Census Records	27
No match to unpublished information but filed ATAG Ernst & Young claim	13
No match to unpublished information but filed claim with the HCPO	5
No match to unpublished information	5
No match to unpublished information but filed claim with Swiss Banking Ombudsman	2
Total	999

Illustrative Awards

Below are descriptions of some significant awards rendered by the CRT in the period January 1, 2003 to June 30, 2003. Five categories of awards are described: awards involving accounts paid to the Nazis, awards involving accounts that remain open and dormant, awards

involving accounts taken into bank profits, awards involving accounts that were closed unknown by whom, and awards in which the account owners' heirs were turned away or intentionally misinformed by the bank.

Accounts Paid to the Nazis. In In re Accounts of Albert Gerngross, Paul Gerngross, Martha Gerngross and A. Gerngross A.G., the Claimant is the estate of the late niece of Account Owner Albert Gerngross. Account Owners Albert and Paul Gerngross were brothers, and Account Owner Martha Gerngross was married to Paul Gerngross. All of the Account Owners, who were Jewish, resided in Vienna, Austria, and were shareholders in their business, *A. Gerngross A.G.* In 1939, after the *Anschluss*, Albert Gerngross fled to Switzerland, while Martha and Paul Gerngross fled first to England and then to Uruguay, where they remained until returning to Austria after the end of the Second World War. Before fleeing Austria, the Account Owners were forced to submit census forms registering their assets in accordance with the Nazi Regime's decree of April 26, 1938. These records indicate that Paul and Martha Gerngross had savings and bank assets worth approximately 270,000.00 Reichsmarks, including SFr. 84.61 held in a demand deposit account by Paul Gerngross at the Bank. The Bank's records indicate the Account Owners held five accounts: Albert Gerngross held a custody account and a demand deposit account; Paul and Martha Gerngross both held one custody account each; and *A. Gerngross A.G.* held an account of an unknown type. Albert Gerngross's custody account was transferred on April 14, 1938 to the *Oesterreichische Creditanstalt-Wiener Bankverein* in Vienna, with a balance of SFr. 47,000.00. Paul and Martha Gerngross's custody accounts were transferred to the *LänderBank Wien A.G.* in Vienna on August 16, 1938, with balances of SFr. 16,500.00 and SFr. 1,900.00. The ICEP auditors determined that the three custody accounts had been paid to the Nazi authorities. Because of the evidence regarding the closure of accounts to the Nazis, the CRT awarded them to the claimant. In addition, the CRT considered Albert Gerngross's demand deposit account and *A. Gerngross A.G.*'s account of unknown type, which were presumed to have been closed at an unknown date. Given that the other accounts of these Account Owners were paid to the Nazi authorities, and given that there is no evidence in the Bank's records that the Account Owners or their heirs closed these two accounts and received the proceeds themselves, the CRT concluded in this case that it was plausible that the proceeds of these two accounts were not paid to the Account Owners or their heirs. Because the values of these accounts were unknown, the average values for a demand deposit account, SFr. 2,140.00, and an account of unknown type, SFr. 3,950.00, were used in calculating the award. The Austrian census records also show that Account Owner Paul Gerngross held a demand deposit account not mentioned in the Bank's records, with a balance of SFr. 84.61 as of June 29, 1938. The CRT concluded that this account had also been paid to the Nazi authorities. The total amount awarded was \$622,387.91.

In In re Accounts of Bertha Rothschild, the Claimant is the great-niece of the Account Owner. Account Owner Bertha Rothschild, who was Jewish, was a wealthy German national and held a custody account that contained securities valued at SFr. 434,083.00. The account was closed unknown to whom on December 31, 1936, shortly after the promulgation of Nazi legislation that required all residents of Germany to deposit their foreign shares with a designated German foreign exchange bank (The Seventh Ordinance Regarding Implementation of the Foreign Exchange Control Law, effective November 19, 1936). The award noted that the proceeds of the custody account were transferred to an account at the Nazi-controlled *Deutsche Bank* in December 1936. Consequently, given the apparent transfer in December 1936 of the proceeds of the custody account to a Nazi-controlled bank, the CRT concluded that the account

was to be awarded. The CRT noted that Bertha Rothschild emigrated from Germany in 1936 and paid a flight-tax and other discriminatory taxes to the Nazis from the *Deutsche Bank* account. The CRT concluded that all but 6.1% of the Account Owner's assets at *Deutsche Bank*, or approximately SFr. 4,976,271.72, were confiscated by the Nazis. The remaining 6.1% (or SFr. 323,272.18) were deposited in an account held at a Swiss bank in 1939. The CRT concluded that the Account Owner received these proceeds. The CRT also had information indicating that the heirs of Bertha Rothschild received some compensation from the German Government for assets confiscated by the Nazis. Specifically, the Account Owner's brother filed a restitution claim with the German Government seeking compensation for discriminatory levies and stolen assets, and in a decision dated May 30, 1974, the German Government agreed to compensate him and paid him approximately \$1.6 million dollars. As the approximate value of Bertha Rothschild's estate as of November 11, 1938 was \$4.8 million, to date, her heirs have received only one-third of the value of Bertha Rothschild's assets in 1938. This award provided an additional SFr. 434,083.00 of restitution, which brings the total restitution to approximately 40% of the original value of her assets leaving 60% of her confiscation losses still uncompensated. Consequently, the total award amount was \$4,037,981.40.

Accounts That Remain Open and Dormant. In *In re Account of Hedwig Hauser*, the Claimant is the Account Owner. Account Owner Hedwig Hauser, who is Jewish, was born on December 9, 1915 in Prosimerice (Prossmeritz) near Znaim, Czechoslovakia. Until 1939, she lived in Znojmo and Ung. Hradisch, Czechoslovakia. In the 1930s, Hedwig Hauser's mother told her that she had opened an account into which she deposited 30,000.00 Czech Crowns for her benefit. Hedwig Hauser fled Czechoslovakia immediately after the Nazi occupation of the country in 1939. She tried to flee on a refugee ship bound for Palestine, but it was intercepted by British forces and redirected to Mauritius, where she was detained until 1945. Both of Hedwig Hauser's parents perished in Treblinka. The Bank's records indicate that Hedwig Hauser held a savings account, numbered 2153. The account was transferred to a collective account for dormant assets on September 4, 1985. Accordingly, the CRT concluded that the Account Owner did not receive the proceeds of the account. The amount in the account on the date of its transfer was SFr. 41.45. Because the account remains open and dormant, it was awarded to the Claimant, who received \$7,720.93.

In *In re Account of Leon Kroll*, the Claimants are the brothers of the Account Owner. Account Owner Leon Kroll (Kröl), who was Jewish, was married and had one daughter. The family lived in Lodz, Poland, where Leon Kroll worked in the family textile business. In the early 1940s, Leon Kroll was deported with his wife and daughter to a concentration camp in Germany. Later he was returned to the Lodz ghetto, and on an unknown date, he was deported by the Nazis from the ghetto and did not return. The only survivors of Leon Kroll's family were his brothers (the Claimants), and two other siblings, who subsequently died of natural causes. The Bank's records indicate that Leon Kroll held an account of unknown type. The balance of the account as of June 30, 1937 was SFr. 179.00. The Bank's records indicate the account was transferred to a suspense account on an unknown date and remains open and dormant. Accordingly, the CRT concluded that the Account Owner did not receive the proceeds of the account. Because the amount in the account was less than SFr. 3,950.00, the average value for an account of unknown type, the average value was used in calculating the award for this account. The amount awarded to the Claimants for the open and dormant account was \$36,183.21.

In In re Account of J. Lecher, the Claimant is the son of the Account Owner. Account Owner J. Lecher, who was Jewish, was married and resided in Berhomet Village, Wiznice Quarter, Czernowitz County in Romania. The Account Owner, her husband and their son, the Claimant, were forced to live in a ghetto and were later transferred to a slave labor camp in Romania, where they remained for four years between 1941 and 1945. The Claimant stated that the family immigrated to Palestine in 1947. The Bank's record indicates that J. Lecher held a savings/passbook account numbered 607. The amount in the account on December 14, 1938 was SFr. 862.20. The Bank's record indicates the account was transferred to a suspense account on December 29, 1959 and remains open and dormant. Accordingly, the CRT concluded that the Account Owner did not receive the proceeds of the account. Using the known value for the account adjusted to a current value, the Claimant was awarded \$7,897.71 for this open and dormant account.

Accounts Taken into Bank Profits. In In re Account of Ernst Handel, the Claimant is the nephew of the Account Owner. Account Owner Ernst Handel, who was Jewish, was married and resided in Vienna, Austria. The Account Owner's brother-in-law, the Claimant's father, managed a factory called *Kawe Prima Fabrica Romana* and traveled to Switzerland for business. Around 1939, he sent his two sisters, the Account Owner's wife and her sister, to Shanghai, China, to save them from Nazi persecution. Thereafter, the Account Owner and his wife, who never had any children, fled to the United States, while the Account Owner's brother-in-law went to Palestine in 1940. The Bank's records indicate that Ernst Handel of Vienna, Austria, held a custody account numbered 22488 that was opened on 26 May 1939, and into which SFr. 3,000.00 were transferred from the Zurich branch to the Geneva branch on May 20, 1939. Ernst Handel also held a demand deposit account that was opened on May 26, 1939. The Bank's records indicate both accounts were closed to fees by the Bank on December 1, 1949, on which date the demand deposit account had a negative balance of SFr. 141.90. Accordingly, the CRT concluded that the Account Owner did not receive the proceeds of the accounts. Because the amount in the demand deposit account was less than the average value for a demand deposit account, SFr. 2,140.00, the average value was used in calculating the award for this account. The total amount awarded to the Claimant for the accounts closed by the application of fees was \$44,656.93.

In In re Account of Ferdinand Müller, the Claimant is the son of the Account Owner. Account Owner Ferdinand Müller was born in 1883 in Nyek, Galanta, Czechoslovakia, and was married in 1910 in Trinava, Czechoslovakia. The couple resided in Galanta and had five children including the Claimant. Ferdinand Müller, who was Jewish, was an independent businessman who worked in construction and transportation until the spring of 1944, when he and his family were deported to Auschwitz, where Ferdinand Müller, his wife and two of their daughters perished. Ferdinand Müller, as well as his cousin, sent 200,000.00 Korona to Switzerland in 1938, via their insurance agent, for safe keeping because of the impending war. In 1949, one of the Claimant's sisters told him that she had begun corresponding with a Swiss bank with regards to the family funds. The Claimant also made some attempts to locate the bank with which his sister had been in contact, but was unsuccessful. The Claimant's sister died in 1950 in Budapest, Hungary, from injuries inflicted while she was in Auschwitz. The family's house was destroyed during the Second World War and an art collection, among other assets, was looted from the house. Despite being insured by *Riunione Adriatica di Sicurtà* (a subsidiary of *Generali*), no response was made to the claim submitted by the family for compensation for the house. The Bank's records indicate that Ferdinand Müller held an account of unknown type.

On June 30, 1937, the account was transferred to a suspense account. The amount in the account on the date of its transfer was SFr. 13.00. The Bank's records indicate that on an unknown date, the account was closed by the Bank to its profit and loss account. Accordingly, the CRT concluded that the Account Owner did not receive the proceeds of the account. Because the amount in the account was less than the average value for an account of unknown type, SFr. 3,950.00, the average value was used in calculating the award for this account. The total amount awarded for the account taken into the Bank's profits was \$36,183.21.

Accounts Closed Unknown by Whom. In In re Accounts of Rose Herz, Margarethe Cohen and Max Seeler-Herrmann, the Claimant is the daughter of Account Owner Rose Herz. Account Owner Rose Herz and Account Owner Max Seeler-Herrmann were Jewish and siblings, and Account Owner Margarethe Cohen was their niece. Rose Herz was born on September 15, 1883, and was married. In 1938, she was forced to flee Germany for Palestine, and she died on September 22, 1970 in Haifa, Israel. Max Seeler-Herrmann was born in 1890 in Landsberg an der Warthe, Germany, and was married. He resided in Berlin, Germany, where he owned a company named *Seeler & Cohn*. In 1938, Max Seeler-Herrmann and his wife were deported and both were murdered by the Nazis. Margarethe Cohen was born in 1902 and was married. She resided in Nazi Germany, but managed to survive the Holocaust and died in the 1980s. The Bank's records indicate the Account Owners held four accounts: each held one custody account and Rosa Herz also held an account of unknown type. Rosa Herz's custody account was opened in 1931 and closed on September 16, 1937. Max Seeler-Herrmann's custody account was closed on September 16, 1937. Margarethe Cohen's custody account was opened in 1931 and closed on June 26, 1936. With respect to these three accounts, the CRT noted that in 1933, the Nazis embarked on a campaign to seize the domestic and foreign assets of its Jewish nationals through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss banks; that Account Owner Herz remained in Germany until 1938, while her account was closed in 1937; that Account Owner Seeler-Herrmann remained in Germany before being deported and then murdered; that Account Owner Margarethe Cohen apparently remained in Germany throughout the War; and that the Account Owners therefore would not have been able to repatriate their accounts to Germany during this time without their confiscation. With respect to the account of unknown type held by Account Owner Herz, closed on an unknown date, given that there is no evidence in the Bank's records that the Account Owner or her heirs closed the account and received the proceeds themselves, the CRT concluded that it was plausible that the account proceeds were not paid to the Account Owner or her heirs. The amounts in all of the accounts on their closure dates are unknown, and therefore the average value of a custody account, SFr. 13,000.00, and the average value of an account of unknown type, SFr. 3,950.00, were used to calculate the award amount. The Claimant was awarded \$393,435.11.

In In re Account of Edith Oppenheim, the Claimant is the granddaughter of the Account Owner. Account Owner Edith Oppenheim, née Schachnow, was born on March 5, 1894 in Hohensalza (Inowroclaw), Poland, was married, and had two children. Edith Oppenheim came from a family of successful bankers and was a financial advisor and stockbroker for the bank *Brüder Ginsberg* in Berlin. She also married into another successful banking family. Her husband died in 1928 in Berlin, and from 1930 until approximately 1942, Edith Oppenheim, who was Jewish, lived in Berlin. She was in hiding for some time and was captured by the Nazis on August 25, 1943. She was deported on July 12, 1944 to Auschwitz, where she perished. The Bank's records indicate that Edith Oppenheim held two custody accounts. These records do not

show when the accounts at issue were closed, or to whom they were paid, nor do these records indicate the value of these accounts. Given Edith Oppenheim's death in Auschwitz in 1944 and the closure of her accounts by the Bank without a record of their disposition, the CRT concluded that it was plausible that the account proceeds were not paid to the Account Owner or her heirs. The amounts in both custody accounts are unknown, and therefore the average value of a custody account, SFr. 13,000.00, was used to calculate the award amount. The Claimant was awarded \$238,167.94.

In In re Accounts of Alexandre Rado, Helene Rado and Geopress S.A., the Claimant is the nephew of the Account Owners. Account Owner Alexandre (Sandor) Rado was born on 5 November 1899 in Ujpest, Hungary, and Account Owner Helene Rado, née Jansen, was born in approximately 1906 in Germany. Account Owner Geopress S.A. was a company owned by Alexandre Rado. Alexandre and Helene Rado were married in 1930 in Berlin, Germany, and had two children. Alexandre Rado, who was Jewish, was a Hungarian citizen who conducted a clandestine intelligence operation on behalf of the Russians during the Second World War while based in Switzerland. Between 1934 and 1943, he resided at 116 Rue de Lausanne in Geneva, Switzerland. Alexandre Rado's company, Geopress S.A., was based in Geneva, had been established in France before 1934 and was in the business of producing maps. Alexandre Rado maintained bank and safe deposit accounts with the Bank in Geneva and New York during this period. His intelligence operation was exposed in 1943, and all the property in his apartment in Geneva was seized by the Swiss military police. By this time, Alexandre Rado had fled to France. He was tried by a Swiss court in 1947 in absentia, sentenced to three years in prison and banned from entering Switzerland for fifteen years, and was therefore unable to return to retrieve his assets in Switzerland. Alexandre Rado was handed over to the Soviet authorities in 1945 by the British authorities in Egypt, where he had tried to seek asylum, and was imprisoned by the Russian authorities until 1955 in Gulag for collaborating with the United States and Great Britain. Alexandre Rado died in Budapest, Hungary around 1980, while his wife, Helene Rado, died in 1959, also in Budapest. The Bank's records indicate that Account Owners Alexandre and Helene Rado held a joint custody account numbered 39040, as well as an account of unknown type, which they owned together with Geopress S.A. and which was frozen on January 3, 1944. The records also indicate that Alexander Rado held an account of unknown type at the Bank's New York branch, which was frozen in 1941. The records include a memorandum identifying Alexandre Rado as a Jewish Russian spy in Switzerland during the Second World War, who was expelled from Switzerland around the time that his accounts were frozen, and stating that he resurfaced behind the Iron Curtain in Hungary in 1955. The Bank's records do not show when the accounts at issue were closed or to whom they were paid, nor do these records indicate the value of these accounts. Given that there is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves, the CRT concluded that it was plausible that the account proceeds were not paid to the Account Owners or their heirs. The amounts in three accounts are unknown, and therefore the average value of a custody account, SFr. 13,000.00, and the average value of an account of unknown type, SFr. 3,950.00 (for each of the two accounts of unknown type), were used to calculate the award amount. The Claimant was awarded \$181,739.13.

Cases In Which The Account Owners' Heirs Were Turned Away by Bank. In In re Account of Dr. Julius Homburger, the Claimant, who originally filed her claim with the New York State Holocaust Claims Processing Office, is the daughter of the Account Owner. Account Owner Dr. Julius Homburger was born on October 26, 1894 in Karlsruhe, Germany, and was

married on June 22, 1926 in Leipzig, Germany. Julius Homburger, who was Jewish, was a physician in Frankfurt, Germany, and his wife was a nurse. Julius Homburger and his family were able to escape Germany through Switzerland in 1935 and immigrated to Palestine, where he died in Haifa, Israel on June 28, 1950. The Claimant attempted to locate accounts belonging to her parents after the Second World War, but was unable to find any such accounts. She contacted the Swiss Bankers Association in 1989 and 1996, and inquired with the Swiss Consulate in Montreal in 1989 about locating accounts belonging to her parents. The Claimant's mother, Julius Homburger's wife, also contacted the Bank in 1987 inquiring about any accounts belonging to her husband or herself, but was unsuccessful in her attempts to locate any such accounts. In responding to the Claimant's inquiries, the Bank stated that, because records were kept only for ten years and subsequently shredded, an investigation would be fruitless. The Bank further explained that, in order to search all its branches, it required death certificates, letters testamentary or letters of administration, as well as a check for SFr. 2,000.00. The Claimant stated that she provided the Bank with a notarized power of attorney from her mother and evidence that her father had died some 40 years previously, but the Bank responded with letters restating its ten-year document retention policy and emphasizing that the Claimant had not proved her right to inquire about possible accounts of her parents. The Bank's records indicate that Julius Homburger held an account of unknown type, which was opened on September 19, 1935, and closed on March 19, 1936. Given the Bank's withholding of information about the Account Owner's account in response to his wife's inquiries and that there is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves, the CRT concluded in this case that it was plausible that the account proceeds were not paid to the Account Owner or his heirs. The amount in the account on the date of its closure is unknown, and therefore, the average value of an account of unknown type, SFr. 3,950.00, was used. The Claimant was awarded \$34,347.83.

In In re Account of Oskar Kraus, the Claimant is the son of the Account Owner. Account Owner Oskar Kraus was born in Vienna, Austria, on December 12, 1881, was married in Vienna in 1915, and had one child, the Claimant. Oskar Kraus, who was Jewish, was the director of a factory called "*Hammerbrotwerke*," which was located in Vienna. According to the Claimant, Oskar Kraus owned at least two bank accounts in Zurich, Switzerland, and received monthly statements for the accounts; however, after the Nazi annexation of Austria in the spring of 1938 (the "*Anschluss*"), the bank statements for one of the accounts were no longer received. The Claimant indicated that he was able to retrieve the second account owned by his father, which was valued at approximately 5,000.00 United States Dollars, before he was forced to emigrate to the United States in August of 1938. Oskar Kraus died on December 12, 1939, in Vienna, while his wife died on April 13, 1939, also in Vienna. Oskar Kraus was forced to submit census forms registering his assets in accordance with an Nazi Regime's decree of April 26, 1938. The Austrian census records indicate that Oskar Kraus held assets including various Swiss and German shares and an account at a Swiss bank. The records show that the value of the above-mentioned Swiss shares was later transferred to a German bank. The records from the two Swiss banks indicate that Oskar Kraus held three accounts: one custody account at Bank I, one custody account at Bank II, and one demand deposit account at Bank II. The records at Bank I indicate that Oskar Kraus's custody account, numbered 30797, was opened in 1931 and closed on August 5, 1938. With regard to the custody account at Bank I, the CRT found that the facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and, subsequently, their accounts are closed unknown to whom or are transferred to Nazi-controlled

banks. Given that this account was closed after the *Anschluss* and almost simultaneously with the accounts at Bank II, which were apparently transferred to the Nazis as described below, the CRT concluded that it was plausible that the account proceeds were not paid to the Account Owner or his heirs. Because the records do not indicate the value of this account, the average value of a custody account, SFr. 13,000.00, was used to calculate the award amount.

The records at Bank II indicate that Oskar Kraus held an unnumbered custody account and a demand deposit account. A document from May 24, 1946, indicates that on August 8, 1938, the custody account was liquidated. The Swiss shares in this account were sold for the benefit of the Account Owner; however, the proceeds of the shares, together with the value of the demand deposit account, were transferred to a German bank. The German bonds and shares were transferred on the same date to a bank in Vienna. The ICEP auditors determined that the amounts in both the custody and demand deposit accounts at Bank II had been paid to the Nazi authorities. Documents from Bank II also indicate that on May 19, 1946, the Claimant wrote to the Bank requesting a list of the stocks, bonds, and other holdings held by his late father as of March 1938. A handwritten notation on this letter indicates that a Bank employee ascertained that the account for which information was sought was closed in 1938. An internal memorandum, dated May 24, 1946, prepared by Bank II after the receipt of the Claimant's letter, shows that the custody account was liquidated "by the order of the Account Owner" and transferred, as stated above, to a German bank and an Austrian bank. The Bank replied by letter dated May 25, 1946, stating that for reasons of principle it could not disclose the information sought, and it requested official documentation establishing the death of the Claimant's father and the fact that the Claimant was his heir. Based on these facts, the CRT concluded that the Account Owner did not receive the proceeds of his deposits. Records from Bank II and the Austrian State Archives indicate that as of August 8, 1938, the value of the securities in the custody account and the value of the demand deposit account at Bank II totaled SFr. 46,683.10. The total amount awarded was \$555,191.63.

Denials of Claims

The efforts of the CRT have been focused on identifying awards for approval by the Court; consequently, no denials have been submitted to the Court for approval. It is expected that denials of claims will be submitted to the Court in 2003. After the Court has reviewed and approved such denials, they will be sent to claimants.

Status of Insurance Claims Processing

Number of Claims

The CRT received a total of 1,526 claims to insurance policies. Of these, 747 claims came directly from Claimants and 779 claims came from the International Commission on Holocaust Era Insurance Claims ("ICHEIC"). In addition, the CRT also received a number of insurance claims after the December 31, 2001 deadline: 809 were received between December 31, 2001 and December 31, 2002; and, to date, six have been received after December 31, 2002. As noted above, the late claims received before December 31, 2002 have been determined by order of the Court to be eligible for processing. (See Appendix B.)

Processing of Claims

Of the 1,526 timely claims received by the CRT, all have been through an initial screening review. The initial screening review set aside claims with respect to non-participating countries, non-participating companies, non-victim claims, non-insurance claims, and duplicate claims. Of the 1,526 claims reviewed, 288 were determined to be ineligible for further processing. (The 809 late claims are now going through the initial screening review.)

Of the 1,238 claims eligible for processing, 1,179 claims have been sent to insurance companies for research and 59 claims remain to be sent to insurance companies.

- Number of claims sent to Swiss Re: 644
- Number of claims sent to Swiss Life: 245
- Number of claims sent to both Swiss Re and Swiss Life: 290

Awards

The CRT has received few positive responses from the insurance companies. Swiss Life reported only 9 matches to the CRT and recommended payment with respect to only 1 of the matches. Swiss Re reported 28 matches to the CRT and recommended payment of 3 of them by the CRT and referral of 25 of them to the German Foundation Initiative. The CRT is now preparing awards with respect to the 4 cases recommended for payment from the Settlement fund, and the German Foundation Initiative is being contacted with respect to the other matches. Additional awards with respect to certain plausible matches reported to the CRT by these Swiss insurance companies are also being prepared by the CRT.

RULES GOVERNING THE CLAIMS RESOLUTION PROCESS (AS AMENDED)

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Article 26 Unrelated Claimants

In cases where the identity of the Account Owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated Claimants have established a plausible relationship to a person with the same name as the Account Owner, the Award may provide for a pro rata share of the full amount in the Account to each Claimant or group of Claimants who would be otherwise entitled under these Rules.

Article 27 Application of Rules of Distribution

1. Fair and Equitable Results
In applying the Rules of Distribution, the CRT shall seek to achieve the result that is most fair and equitable under the circumstances.
2. Applicable Law
The CRT shall determine the law to be applied to the relationship between an Account Owner and a bank.

Article 28 Presumptions Relating to Claims to Certain Closed Accounts

In order to make an Award under Article 22 for claims to Accounts that were categorized by ICEP as "closed unknown by whom", a determination shall be made as to whether the Account Owners or their heirs received the proceeds of the Account prior to the time when the claim was submitted to the CRT. In the absence of evidence to the contrary, the CRT presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances³:

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);

³ See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War. Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners and heirs because of the banks' concerns regarding double liability;⁴
- i) the Account Owners, the Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War, and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.⁵

⁴ See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

⁵ As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 - 51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have

Article 29 Value Presumptions for Accounts with Unknown or Low Values

For an Account for which an Award is made under Article 22, but the amount in the Account is unavailable from bank records or the amount in the Account (1945 value) is less than the amount set forth below, the amount in the Account (1945 value) is to be determined from the following schedule, in absence of plausible evidence to the contrary:

Custody Account	SFr. 13,000
Demand Deposit Account	SFr. 2,140
Savings/Passbook Account	SFr. 830
Safe Deposit Box	SFr. 1,240
Other Types of Accounts	SFr. 2,200
Unknown Account Type	SFr. 3,950

APPEALS PROCEDURES

Article 30 Appeals Procedures

1. Appeals of Inadmissibility Decisions

Claimants whose claims are ruled inadmissible under Article 18 of these Rules may appeal that decision to the Court through the Special Masters within ninety days of the date of the letter accompanying the decision.

(continued...)

required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . .", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).

DATA LIBRARIAN RULES

1. A Data Librarian shall be responsible for a Data Library consisting of the Account History Database, the Account Dossiers, and the Total Accounts Databases to be made available to the CRT under the provisions of these Data Librarian Rules for resolving claims of Victims or their heirs to Accounts in Swiss banks from the 1933-1945 period. The Data Librarian would make this information available to the CRT for the purpose of (a) resolving admissible claims in an effective and efficient manner that is consistent with the requirements of due process and (b) assuring compliance with Swiss laws on data privacy and confidentiality, and the rules on data confidentiality established by the SFBC in its decisions of March 30, 2000 and, for this purpose, the SFBC will serve in a supervisory role with respect to the arrangements in this Appendix A. The Data Librarian shall operate as provided in these Data Librarian Rules.

2. The Data Librarian shall be selected from independent accounting firms resident in Switzerland. This firm shall be independent but shall be retained and mandated by the Special Masters, and shall report to them and to the SFBC. The Data Librarian shall be subject to the budget for the operation of the Data Librarian established by the Special Masters.

3. Under the supervision of the Data Librarian, the Account History Database and the Account Dossiers shall be located at the CRT. The Account History Database shall be maintained on a secure server, and both the secure server for the Account History Database, accessible through computer terminals on the desks of specifically authorized CRT staff, and the Account Dossiers are to be located in secure office space that is separate from that of the CRT. The Total Accounts Databases shall remain at individual banks with access only through secure terminals located in the office space occupied by the Data Librarian at the CRT.

4. The data resources referred to in Paragraph 3 of this Appendix A would be available to the CRT staff for Matching and Research of specific claims deemed to be admissible under Article 18 of the Rules under the following arrangements:

- a) the CRT shall, with the assistance of qualified experts, design and create computer programs that would match the names in claims to the names in the Account History Database and the Total Accounts Database. The programs shall, in addition to Matching names, also match information common to the claim and Account record that might assist with determining the validity of the name match;
- b) the computer programs shall be similar to those used by the ICEP auditors, but shall involve a more significant element of fuzzy matching in order to more comprehensively match names in claims to the Germanized spellings in the consolidated database (Germanized only because the names were recorded in Swiss banks in the 1930s and 1940s); and
- c) the CRT may, with the assistance of computer professionals as may be necessary, adjust the computer matching programs as experience indicates.

5. The programs would be used for (a) accessing the Account History Database when claims are judged to be admissible by the CRT under Article 18, and (b) accessing the Total Accounts Database when such access is authorized under Article 20(1), Article 21(1), and Article 21(4)(b)(ii). When so authorized under these Rules, the CRT's computer system would execute programs on the server maintained by the Data Librarian that would match the relevant names in the claim as determined by the CRT to the names in the Account History Database and/or the Total Accounts Databases.

6. If there is a Matching of names to the Account History Database (in the exact sense and in the fuzzy sense) to the names in the admissible claim or claims, then:

- a) a list of Accounts deemed relevant by the CRT would be sent by the computer programs to both the Data Librarian and to the CRT; and
- b) copies of the complete computer records for each Account in the list would be extracted by the computer programs and downloaded to the CRT's system and queued to the appropriate CRT staff designated to work on the adjudication of the claims.

7. Based on the list of Accounts generated by the programs, the Data Librarian, after redacting any information in the Account Dossier concerning persons unrelated to the Account, would make a copy of the Account or Accounts Dossiers for each Account in the list and give the copies to the CRT.

8. The CRT's computer system would have facilities for viewing information assembled about the claims and claimed Accounts in order to facilitate the decision on which, if any, claimant is entitled to an award.

9.
 - a) The Special Masters shall retain an audit firm authorized to audit banks in Switzerland to perform Matching and Research on behalf of the CRT using the Total Accounts Databases as authorized under Article 20(1), Article 21(1) and Article 21(4)(b)(ii) of the Rules in the office space of the Data Librarian at the CRT, and before any printouts of electronic data or copies of hard copy data in connection with such Matching and Research can be removed from the offices of the Data Librarian, such printouts of electronic data or copies of hard copy data will be subject to inspection by the Data Librarian who shall redact:
 - i) information about persons unrelated to the Account for which the Matching and Research was undertaken, and
 - ii) the name and any information that would necessarily identify an intermediary who established and managed an Account as a fiduciary of the claimed Account owner (an "Intermediary Account").
 - b) If the CRT, or ICEP auditors acting on behalf of the CRT, conduct on-site Research as provided in Article 5(3) of the Rules Governing the Claims Resolution Process, the Data Librarian shall make an on-site review of any information resulting from this Research, and redact such information as provided for in Paragraphs 9(a)(i) and

(ii) of this Appendix A before such information may be removed from a bank and used by the CRT in the claims resolution process.

10. If the Matching and Research results in the identification of an Intermediary Account, the Data Librarian shall: a) inform the CRT that an intermediary held the Account in question as the fiduciary for the claimed Account owners and b) provide to the CRT a printout of electronic data and a copy of hard copy data concerning the Intermediary Account redacted as provided in Paragraph 9 of this Appendix A.

11. The Data Librarian shall inform the CRT of the reason or reasons for any redactions of any information as unrelated to the Account for which Research was undertaken.

12. Procedures are to be established to facilitate tracking of compliance with the foregoing rules including:

- a) a requirement that every time the programs are executed, they would automatically generate an audit trail showing exactly what has transpired (e.g., showing admissible claim names, matching Account names, the destination computer, as well as the names of all computer programs involved and the last date of modification for each program) and
- b) a requirement that the Data Librarian maintain records of all actions taken by the firm selected to carry out the task of Data Librarian, including a record of all documents both before and after redaction.

13. The Data Librarian shall report quarterly on the operation of the program contained in these Data Librarian Rules to the Special Masters and the SFBC. The Data Librarian may use the audit trail reports provided in Paragraph 12(a) and (b) of this Appendix A in preparing quarterly reports, and to propose additional audit procedures designed to test compliance with the procedures provided for in these Data Librarian Rules. In addition, arrangements shall be made by the Special Masters, in consultation with the SFBC, consistent with the requirements for maintaining compliance with Swiss data protection laws, to review the appropriateness of document redaction by the Data Librarian.

14. The procedures provided for in these Data Librarian Rules shall be reviewed quarterly in the light of the reports of the Data Librarian to determine whether or not the procedures are accomplishing the dual goals established in the first Point of these Data Librarian Rules.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: HOLOCAUST VICTIM
ASSETS LITIGATION

Case No. CV-96-4849
(ERK)(MDG) (Consolidated
with CV 99-5161 and
CV 97-461)

ORDER

This Document Relates to: All Cases

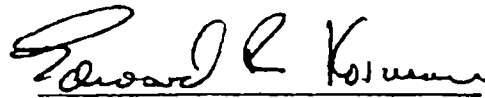
Korman, Chief Judge:

Upon hearing discussion of the issue, and on the basis of the material set forth in the Appendix to this Order, it is hereby

ORDERED that, in the absence of evidence to the contrary, it shall be presumed by CRT-II that German account owners and their heirs did not receive the benefit of any of their Swiss accounts closed on or after January 30, 1933. It is further

ORDERED that the Appendix annexed to this Order hereby is incorporated by reference as "Appendix C" to the Rules Governing the Claims Resolution Process (as amended).

SO ORDERED:



Edward R. Korman
United States District Judge

Dated: April 25, 2003
Brooklyn, New York

APPENDIX C

Of the several hundred awards CRT-II has issued to date, a number have involved German account owners whose Swiss bank accounts were closed between 1933 and 1936. The CRT has held in abeyance decisions on many of these accounts pending further analysis of German conduct during these early years of Nazi rule toward owners of foreign capital, and the Swiss banks' response to such German policies.¹ The March 22, 2002 Final Report of the "Independent Commission of Experts Switzerland – Second World War," Switzerland, National Socialism and the Second World War. Final Report ("Final Bergier Report") and its companion study on dormant accounts,² have clarified that Nazi expropriation of the Swiss bank accounts of Jewish and other targets of Nazi persecution commenced as early as 1933, shortly after Hitler's rise to power. The Bergier Commission further reported that Swiss banking practices enabled these expropriations to occur. Several of the claims analyzed by CRT-II since commencing operations provide specific examples of the practices outlined by the Bergier Commission.

Accordingly, based upon the conclusions of the Bergier Commission, as further evidenced by a number of claims and statistics analyzed by the CRT, the CRT adopts the following presumption:

where accounts of German owners were closed on or after January 30, 1933, the date of Hitler's accession as Chancellor, absent evidence to the contrary such as bank records, the CRT will presume that the account owners and their heirs did not receive the benefit of their assets.³

¹ Accounts of German account owners closed as of 1937 and thereafter have been awarded to claimants based upon the facts of the particular cases, the circumstances outlined in the Rules Governing the Claims Resolution Process (As Amended) ("CRT Rules"), Article 28 – Presumptions Relating to Claims to Certain Closed Accounts, and the adverse inference presumption under the law of the United States, also set forth in Article 28 (at note 3).

² Bonhage, Barbara, Lussy, Hanspeter, and Perrenoud, Marc, *Nachrichtenlose Verögen bei Schweizer Banken. Depots, Konten und Safes von Opfern des nationalsozialistischen Regimes und Restitutionsprobleme in der Nachkriegszeit. Unabhängige Expertenkommission Schweiz – Zweiter Weltkrieg*, Hgg. Chronos Verlag, Volume 15 (hereinafter, "Dormant Accounts Study"). With the exception of a summary report, the Dormant Accounts Study has not been translated into English, and the CRT therefore has obtained its own translation of the main body of the study.

³ See CRT Rules, Article 28(a) (if account was closed after date of

A more detailed description of the basis for this conclusion – the findings of the Bergier Commission in its Final Report and the related Dormant Accounts Study, as well as the CRT's own case examples – is set forth below.

A. Bergier Final Report and Dormant Accounts Study

The Final Bergier Report examined some of the Third Reich's economic measures affecting Swiss bank depositors, including Nazi victims, and observed that these "draconian" practices took effect as early as 1931 and intensified after Hitler's rise to power:

After the banking and currency crisis of 1931, German foreign exchange controls became even more draconian. Non-declaration of assets in foreign currencies was already being severely punished before the Nazis came to power. Afterwards, penalties were further increased. Under the Law on Treason against the German Economy ... passed on 12 June 1933, all German citizens as well as all foreigners living in Germany were obliged to register the foreign currencies and securities they held abroad. In 1934, a similar law was passed in Italy. In 1938, all Jewish property in Germany had to be registered. At the same time, many special taxes and levies were introduced such as the so-called "Sühneleistung" (atonement fine) instituted after the pogrom in November 1938 and the *Reichsfluchtsteuer* (emigration tax), which were extended and already levied on people who were likely to emigrate. To avoid the high penalties and meet the financial burden, many Jews and others who were persecuted had to withdraw their assets and securities from Switzerland.

occupation of country of residence of Account Owner and before 1945, CRT presumes, in the absence of evidence to the contrary, that neither the account owners nor their heirs received the proceeds of the claimed account). With respect to Germany, the "date of occupation" will be interpreted as January 30, 1933. Article 28(j) provides that where "there is no indication in the bank records that the Account Owners or their heirs received the proceeds of the Account," the CRT presumes that neither the account owners nor their heirs received the account proceeds. Footnote 3 to Article 28 sets forth the "adverse inference" rule under the law of the United States upon which Article 28(j) is based.

The machinery of Nazi legislation also specifically targeted assets abroad. According to a law passed on 19 November 1936, all people resident in Germany had to deposit their foreign shares with a designated German foreign exchange bank. In order to ensure that this regulation was respected, a further law against economic sabotage was passed shortly afterwards, according to which flight of capital could entail the death penalty. At the same time, the Nazi authorities subjected their victims to physical and psychological pressure in order to force them to turn over their assets.⁴

The Bergier Commission observed that Swiss banks did not attempt to interfere with transfers made under duress, which commenced as early as 1933:

The Swiss banks complied with the instructions of their German customers signed at times under duress, and transferred securities to the German banks indicated. Between 1933 and 1939 Credit Suisse, for example, transferred securities valued at around 8 million francs to Deutsche Bank, while the Zurich office of the Swiss Bank Corporation transferred securities totaling over 6 million francs in value in accordance with the 1936 Law on Compulsory Deposits (*Depotzwangsgesetz*). Furthermore, the Swiss Bank Corporation sold shares quoted in Switzerland for a total market value of 8 million francs on behalf of German customers who probably had to transfer these proceeds too to banks designated by the Reichsbank. A considerable number of such transfers took place in 1936, but transactions of this sort also continued during the war.⁵

The companion Dormant Accounts Study elaborates that the early German foreign currency restrictions had an immediate impact upon Swiss bank accounts in at least three respects: (1) a marked withdrawal of German capital from Swiss banks by customers acting under duress; (2) bank espionage; and (3) a “compensation” arrangement between the Swiss National Bank and the German Reichsbank whereby German assets in which the banks had an interest were “set off” by the savings deposits of the banks’ German clients.

⁴ Final Bergier Report, at 274-5 (emphasis added).

⁵ Id., at 275 (emphasis added).

a. *Foreign capital withdrawal*

The Dormant Accounts Study observes that because the Law on Treason against the German Economy (*Gesetz gegen den Verat der Deutschen Volkswirtschaft*), passed on 12 June 1933 ("Law on Treason, 12 June 1933"), was enforced through harsh measures, "very many German customers gave Swiss banks instructions to turn over their accounts and securities to the *Reichsbank*."⁶ According to the Dormant Accounts Study, the withdrawal of money to Germany was so strong that it led to a drop in the balances and in cash registers. For the *Schweizerische Kreditanstalt*, next to the main branch, business in the Basel branch was particularly affected, so that in August 1933 "daily dozens of passbook/savings books from Germany [were] cashed in."⁷ The branch at Kreuzlingen liquidated 650 passbook/savings books and 250 custody accounts. The Dormant Accounts Study observes that of the cantonal and local banks, the *Basler* and *Aargauische Kantonalbank*, the *Thurgauischer Kantonalbank* and the smaller border banks were most strongly affected.⁸ The Study further notes that an extraordinary number of accounts and securities were closed by German customers in 1933.⁹

A statistical analysis of German-domiciled accounts contained in the CRT's Accounts History Database ("AHD") tentatively matching to claims filed with the CRT bears out the findings of the Dormant Accounts Study.¹⁰ The CRT has identified 1,583 accounts of German account owners closed between 1933 and 1936 that may match to the names of account owners set forth on claim forms. Of these, some 830, or 52.4%, were closed in 1933. The following table details the number of tentatively matched accounts closed by month in the year 1933. The chart evidences a dramatic increase in closure following the enactment of the Law on Treason against the German Economy on 12 June 1933.¹¹

⁶ Dormant Accounts Study, at 66-67.

⁷ Id., at 67.

⁸ Id.

⁹ See id., at 65.

¹⁰ The "AHD" is the database of 36,000 accounts identified by the ICEP auditors as probably or possibly belonging to victims of Nazi persecution.

¹¹ There is no evidence in the bank records to indicate that these account closures voluntarily were initiated by the account owners in response to the German

February 1933	37
March 1933	43
April 1933	38
May 1933	61
June 1-11, 1933	32
June 12-30, 1933	82
July 1933	117
August 1933	162
September 1933	70
October 1933	58
November 1933	68
December 1933	62
TOTAL	830

The CRT also has analyzed all German accounts in the AHD that were closed in 1933. The following table details the number of German-domiciled accounts closed by month in the year 1933 and again evidences a dramatic increase in closure following the enactment of the Law on Treason against the German Economy on 12 June 1933.

Month	Number of Accounts Closed	Number of Accounts Closed
February 1933	37	48
March 1933	43	64
April 1933	38	61
May 1933	61	82
June 1-11, 1933	32	42

legislation.

June 12-30, 1933	82	117
July 1933	117	182
August 1933	162	252
September 1933	70	111
October 1933	58	102
November 1933	68	88
December 1933	62	94
TOTAL	830	1,243

For all German-domiciled accounts in the AHD that are known to have been closed in 1933, 297 were closed in the four and one-half months *prior* to June 12, 1933, as opposed to the 764 accounts that were closed in the four and one-half months *after* June 12. This represents an increase of 257.2 percent. This ratio is approximately the same for those accounts that tentatively match to names in claim forms: 211 matched accounts were closed in the four and one-half months prior to June 12, as opposed to 489 in the four and one-half months after June 12, an increase of 231.7 percent.

Of the 1,243 total German-domiciled accounts identified in the AHD as having been closed in 1933, 946, or 76.1 percent, were closed after June 12, 1933. For the 830 matched accounts closed in 1933, 619, or 74.6 percent, were closed after June 12.

b. Bank Espionage

The Dormant Accounts Study observes that after Germany introduced foreign exchange controls in 1931, German tax and customs officials began to try to gather information about German-owned assets in Swiss banks through the means of bank espionage.¹²

Immediately after the introduction of foreign exchange controls in Germany in 1931, its financial and customs authorities attempted -- through bank espionage in Switzerland -- to obtain information about German clients. In individual cases, bank employees supplied this client information to German foreign exchange investigators. ...¹³

¹² See Dormant Accounts Study, at 105-126.

¹³ *Id.*, at 540.

The Dormant Accounts Study notes that the German government specifically targeted Swiss banks with German spies beginning in 1931 in order to locate assets that, despite recent legislation, had not been declared to the government. The Study describes the largest known case of "successful bank espionage" as involving an employee of the *Zürcher Kantonalbank*. According to the Study, in 1932, this employee betrayed approximately 400 addresses of German bank customers to the tax authorities in the German town of Singen. These customers had custody accounts in the bank totaling 18 million Swiss Francs.¹⁴

c. Swiss National Bank and Reichsbank "Compensation" Arrangement

The Dormant Accounts Study points out that Swiss banks along the German and Austrian border were particularly affected "[i]n 1933 and 1936 [by the Nazi Regime's] introduction of capital flight legislation [and its forced implementation] under threat of draconian penalties."¹⁵ At the same time, confiscatory Nazi legislation within Germany also was impacting the banks' financial interests by blocking assets backed by Swiss mortgages. To compensate for these losses, "the Swiss National Bank concluded a compensation procedure with the *Reichsbank*: the frontier banks could compensate their mortgage-backed claims blocked in Germany and/or Austria with savings deposits in Switzerland, as long as these had been reported to the National Socialist authorities. The credit accounts affected by the compensation thus ceased to exist."

The Study notes that the *Volksbank* in particular benefited from this arrangement:

After the Swiss National Bank asked the *Reichsbank* to "cause those relevant German creditors to agree through the intervention of the *Reichsbank*" (citation omitted), the Basel branch of the

¹⁴ Dormant Accounts Study, at 106. See also ICEP Report, Annex 5, at 86, Par. 23 ("In 1932, advertisements appeared in a Swiss newspaper offering loans to Swiss bank employees; they were part of a scheme to purchase information from the employees regarding the names of Germans who held accounts in Swiss banks in exchange for a commission based on the total account value. One employee of a large commercial bank, who was arrested with the bank's assistance, was convicted by Swiss authorities for espionage activities, in part, for providing account details of Germans owning Swiss bank accounts to the Nazis. At the time of his arrest, funds from 10 of the 74 accounts that he had disclosed to the Nazis had already been transferred to Germany").

¹⁵ Dormant Accounts Study, at 540.

Schweizerische Volksbank was able to compensate for debts in Germany totaling approximately two million Swiss Francs with assets from savings accounts. The management of the *Volksbank*, who enjoyed excellent relationships with the *Reichsbank* through the middle of 1944, even gained an expansion of the compensation in December 1934 of approximately 760,000.00 Swiss Francs. In return, the *Volksbank* management declared itself willing to cancel [certain debts owed by Germany] in relation to additional assets that could be included in the compensation program. The *Basler Kantonalbank* was also satisfied with the border regulations, and was able, despite the resistance of German account owners, to "bring in" assets worth 600,000.00 Swiss Francs through the compensation of existing German debts worth 780,000.00 Swiss Francs.¹⁶

B. Examples from CRT-II Files

The CRT's own case files confirm that Nazi confiscation of Swiss bank accounts began as early as 1933 and continued steadily thereafter. In In re Account of Auguste and Aaron Levis, the bank records contain a letter from one of the account owners dated July 28, 1933 asking for her safe deposit box to be closed because she was being forced to transfer

¹⁶ Dormant Accounts Study, at 175-176. The Study points out that the concept of using assets in Swiss banks to compensate Swiss economic claims was revived in the 1950s. When Eastern European states threatened to expropriate Swiss property located in those nations, Switzerland declared that it was willing, in partial guarantee of its economic interests, to pay to the respective Eastern European governments the "dormant" Swiss accounts of their nationals. Dormant Accounts Study, at 170. See also Peter Hug & Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Disposition of Assets Deposited in Swiss Banks by Missing Nazi Victims: Hearing Before the House Comm. on Banking and Fin. Servs., 104th Cong., 2d Sess. (December 11, 1996), at 322 (describing 1949 agreement between Switzerland and Poland whereby the assets of Polish citizens who had died supposedly without heirs were transferred to Poland and then used to compensate Swiss citizens who had claims against Poland for communist-initiated expropriations of Swiss assets) (cited in Distribution Plan, Vol. I, at 44 n. 94). A similar arrangement was reached with Hungary. Gerhard L. Weinberg, "German Wartime Plans and Policies Regarding Neutral Nations," Statement before American Historical Association, January 10, 1998, at 3-4 (cited in Distribution Plan, Vol. II, Annex G, at G-33 n. 94).

the contents to the Reichsbank. The safe deposit box was in fact closed on November 4, 1933. The account owners were German Jews who died in Germany in 1933 and 1934. Likewise, in In re Account of Hedwig Bendix, the account owner, a German Jew who lived in Czechoslovakia until she was deported in 1941 for Lodz, Poland where she was presumably killed, held four accounts of unknown type, one of which was closed on September 20, 1934. The bank records indicate that some of the account owner's assets had been transferred to the Reichsbank.

In other cases, the evidence suggests that the account owner was an early target of Nazi persecution including, among other things, forced transfer of property. For example, in In re Account of Hermann Rothschild, the account owner, a German Jew who was imprisoned at the Dachau concentration camp from 1933 to 1935 or 1936, held a demand deposit account which was closed on March 20, 1935 by an unknown entity.

The CRT also has made awards with respect to several claims for accounts closed in 1936, in which the banks apparently relied upon direct Nazi instructions to transfer securities pursuant to the November 19, 1936 Seventh Ordinance Regarding Implementation of the Foreign Exchange Control Law (the "Seventh Ordinance"). For example, in In re Account of Erna Solmsen, the account owner, a German Jew who died during deportation in 1942, held a custody account at the bank. The bank records indicate that on December 1, 1936, securities in the amount of 27,000.00 Swiss Francs were transferred from the account owner's account to the Dresdner Bank in Berlin and the account was closed. The bank records explicitly refer to the Seventh Ordinance. Bank correspondence dated February 16, 1937 states that in the period from the effective date of the Seventh Ordinance to January 31, 1937, securities from 291 customer custody accounts in the amount of 6,266,760.00 Swiss Francs were transferred to various banks in Germany.

Similarly, in In re Account of Walter Herzog, the account owner, a German Jew who perished in the Buchenwald concentration camp in 1945, held a custody account at a Swiss bank. The bank records refer to the Seventh Ordinance and also contain a letter dated November 25, 1936 from Deutsche Bank & Disconto-Gesellschaft in Konstanz informing the bank that all custody accounts containing foreign securities noted on the German Stock Exchange must be transferred to a Devisenbank in Germany. Deutsche Bank & Disconto-Gesellschaft offered its services in this regard. In addition, correspondence between the Swiss bank's primary branch and its Zurich branch describes the preparation of lists of account owners who are subject to the new law. In one letter, the bank's general director agreed to suggestions proposed by the Zurich branch to charge a transfer fee, in addition to a customary surcharge charge of .5 - 1% of the total value of the securities transferred to the German Devisenbank. The bank records indicate that the account of Walter Herzog, then valued at 20,000 Swiss Francs, was paid to Nazi-controlled Deutsche Bank & Disconto-Gesellschaft on January 28, 1937.

Likewise, in In re Accounts of Heinrich Fink, a claim originally submitted to the Holocaust Claims Processing Office ("HCPO") of the New York State Banking Department, the bank records pertaining to this account again refer to the Seventh Ordinance. As in the Solmsen case, bank correspondence in the Fink file dated February 16, 1937 indicates that from the effective date of the law through January 31, 1937, securities from 291 customer custody accounts, totaling 6,266,760 Swiss Francs, were transferred to various banks in Germany. The records further indicate that on December 14, 1936, securities in the amount of 5,000 Swiss Francs were transferred from the account of Heinrich Fink to the Dresdner Bank in Berlin. As a result of this transfer, the account was closed.

Finally, with respect to the German-Swiss compensation border bank compensation procedure outlined above, the practice is reflected in bank files reviewed by the CRT for an account owner from Herten, Germany. In In re Account of Karl Stein, the bank records, consist of a ledger card, bank correspondence, internal bank lists, and printouts from the Bank's database. The Account Owner held a numbered savings/passbook account. On December 8, 1933, according to the bank files, the account was on a list of Swiss bank accounts transferred to the German Government's account at the *Reichsbank*. The account balance on December 8, 1933 was 2,321.25 Swiss Francs.

The list of accounts that were transferred to the German *Reichsbank* – in addition to that of Karl Stein – is three pages long. The list indicates that as of December 8, 1933, assets totaling 195,900.75 Swiss Francs were transferred to the German *Reichsbank*. A handwritten addendum notes an additional 13,700.00 Swiss Francs that were transferred by December 18, 1933, for a total of 209,600.00 Swiss Francs from this bank's passbook/savings Account Owners alone.

The records also include lists of those mortgages that come into consideration as assets that could be used to compensate for the savings deposits of German Account Owners. One list indicates that these mortgages totaled 120,477.60 Swiss Francs as of December 8, 1933. Another list indicates mortgages totaling 174,387.70 as of that date.

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These anecdotal examples, drawn from some of the cases studied by the CRT, further illustrate the banking practices outlined in the Final Bergier Report and its companion Dormant Accounts Study. As noted above, the Bergier Commission's findings warrant the presumption that where accounts of German owners were closed on or after January 30, 1933, the proceeds of the accounts were not paid to the account owners or their heirs absent bank records or other evidence to the contrary.

A photograph of a young Robert M. Kaufman, right, was part of the documentation needed in a class action settlement to prove the family's persecution during the Nazi era. Victims included his grandmother and his parents.



Settling Accounts, But Not Minds

Holocaust Survivors Relive Past In Case Against Swiss Banks

By WILLIAM GLABERSON

In his Manhattan office, Robert M. Kaufman thumbed a fresh photocopy of a list his father compiled in 1938 to comply with Nazi laws requiring Jews to itemize their property. Among the possessions in the family's Vienna apartment, his father told officials 64 years ago, were two baskets, 42 soup spoons and a 10-by-13-foot carpet.

"This has brought back so many memories," said Mr. Kaufman, who is now 72 and a prominent New York lawyer. The details on the form he first saw this summer, he said recently, brought back images of a life long ago, before his family came to the United States as refugees in 1939. He could picture, he said, the apartment he last saw as a 9-year-old, with its big Viennese stove where he had once shyly warmed a thermometer to avoid school.

Robert Kaufman is among nearly 40,000 people who have filed claims under a \$1.25 billion settlement of a class action suit in Federal Dis-

trict Court in Brooklyn in 2000. The suit was the definitive American legal case against Swiss banks on behalf of Holocaust victims for lost or looted Nazi-era accounts. Mr. Kaufman and about 500 others were among the first to receive payments this past year, which ranged from \$1,200 to more than \$4 million.

But the process, some of the claimants say, has stirred up recollections of everyday life before the Nazi era. The judge in the Brooklyn case, Edward R. Korman, set up a tribunal in Zurich to review claims, and the lawyers there sometimes provoke powerful emotions when they call survivors to gather information.

"They are sitting in their house doing their everyday activities," said Dov Rubinstein, a lawyer who helps run the tribunal, "and then you call them and you take them back 60 years."

To make claims, people all over the world use

Continued on Page 58



For Mr. Kaufman, 72, renewed memories.

Reliving the Past in Holocaust Lawsuit

Continued From Page B1

reconstructing family histories and studying old documents, as Mr. Kaufman did when investigators sent him his family's property form. The histories are used to try to establish a family relationship to depositors who were victims of Nazi persecution.

Erna Frischer, an 83-year-old widow from Forest Hills, Queens, said in a recent interview that there were few days when she did not think of her father, who died as the war was beginning, or her mother, who was killed at Auschwitz. Even so, she said, the claims process "brought it all again to the surface."

An 88-year-old retired scientist, who loathes the attention that a sudden cash award will bring and insisted on anonymity, said a young lawyer at the tribunal helped him prove family lore that a bachelor uncle named Leo had a Swiss account. Recently, he received \$100,000. (In many of these cases, the amounts of lost deposits cannot be determined precisely, so the awards are estimated based on a study of similar accounts and adjusted for inflation.)

"I accepted it," the retired scientist said, "as a gift from the time of darkness."

On file in the Brooklyn court are hundreds of award decisions that Judge Korman has approved so far.

"The claimant stated," one says, "that his cousin, who was Jewish, was sent to Auschwitz in May 1944 and that because he had a hunched back, he was sent to the crematorium upon arrival."

A woman submitted an aging postcard her mother had received describing an uncle's trip to Switzerland. Neither of them survived the war.

One man wrote that he went with his father to the Swiss bank where the father opened an account in 1933, and that he could describe the interior of the bank building.

Another man recalled the password for the Swiss account. Several said parents told them the money in Switzerland was for their schooling.

Another woman wrote of her fear that the Nazis might torture younger members of the family to get information about Swiss accounts. In the decision granting her claim, it was noted that her mother "died from starvation in the Budapest ghetto in January 1945, never disclosing the account numbers."

The investigations uncovered lost family stories. A Czech woman submitted a claim for the account of her father, a Prague patent lawyer. Using databases of Holocaust victims and matching them to Swiss bank records, investigators at the tribunal showed that the woman's aunt also had accounts, seven in Lausanne, Basel and Zurich.

The aunt, a concert singer, was killed in a concentration camp in Poland. The tribunal concluded it was unlikely that any relatives had ob-

tained the money because of Swiss banks' practice of "withholding or misstating account information in their responses to inquiries." The banks have argued that such misleading actions were aberrations, not policy. The award to the Czech woman, approved last week, was \$4.8 million.

Mr. Kaufman's journey through memories of long-ago Vienna began when a distant relative told him that she had noticed the names of his deceased mother, grandmother and a maternal aunt on a published list of people who had once held Swiss accounts. He was astonished, he said. Though he had heard of the Holocaust lawsuit, he had no idea that it had anything to do with him.

"Sixty years and suddenly this appears," he said. "I think I had tears in my eyes all that day."

Mr. Kaufman, a partner at the Proskauer Rose law firm in Manhat-

A cash award is called 'a gift from the time of darkness.'

tan and a former president of the City Bar Association, began gathering documents. He sketched out the family tree. Death certificates had to be pulled out of files. In the stark terms of many of the claims, he described the trauma of those times. He and, later, his older sister, he wrote, had been sent to England on the rescue trains known as the Kindertransport. He was 9 when he traveled alone in December 1938.

His mother joined them in 1939 with his father, he wrote, "who had first been arrested and sent to Dachau because he was Jewish."

The toll on Mr. Kaufman's family continued even after their escapes. Although his uncle and aunt, the younger sister his mother fused over, also made it to England, his uncle was placed in a psychiatric institution where he later died. In 1945, his aunt committed suicide by walking in front of a London bus.

The 60 employees of the tribunal in Zurich compare the information provided by claimants with unpublished bank records and government filings. When a tribunal lawyer sent Mr. Kaufman that Jewish property census form from 1938, his parents' handwriting and the detailed catalog of their holdings down to their salt-shakers, transported him.

"I was picturing our apartment in Vienna," he said. "I hadn't thought of it in 30 or 40 years."

The image of the big stove where he had mischievously warmed the thermometer came back. The memories, he said, made him feel closer

in particular to his father, who had painstakingly listed those items so long ago. Even in Vienna, Mr. Kaufman said, his father had been a remote man. "He was much more reserved when he came out of Dachau," he said.

Years after his father died in 1976, the English family who had taken in Bobby Kaufman from the Kindertransport sent Mr. Kaufman a letter that his father had written in 1946. It demonstrated his reserve.

"It was a sunny Sunday," his father wrote, "just a few weeks after I had been released from Dachau concentration camp and a few days after I had left Nazi-dominated Vienna, when the train carried me, a free man again, through the plains of England. And I shall never forget the change which Bobby had undergone, whom I had last seen half a year earlier, shy and timid as if ever expecting an insult or something worse. And whom I found a happy youngster."

Holding that letter, Mr. Kaufman said it had surprised him because his father had not actually visited with him at the time, but had only watched him, apparently, from a distance. "In a way," he said of the claims process and its unexpected legacy from his father, "this gave me much more of a connection than I had ever had before."

Once in the United States, he said, his father, a successful importer in Vienna, never seemed to adapt to the country he had been forced to adopt.

When Mr. Kaufman got a check this summer, he decided to use the money to benefit refugees and immigrants, like his aunt, mother and grandmother, who had opened those bank accounts in Switzerland.

Under Judge Korman's order, claimants under 75 are being paid 65 percent of the awards that are based on estimates until there is some indication that the \$800 million set aside to cover the bank claims will be adequate. (The rest of the \$1.25 billion settlement fund is being used to pay the claims of other Holocaust victims, including slave laborers who worked for German and Swiss companies and refugees who were denied entrance to Switzerland during the war. More information can be found at www.crt-li.org, the Claims Resolution Tribunal's Web site.)

In the decision recommending that Judge Korman award Mr. Kaufman about \$200,000, the tribunal said there was no evidence that his relatives had ever received their deposited funds. But the bank records, the decision said, suggested that "it is plausible that there was a coerced transfer to the Nazis" of money in at least two of the accounts.

It took more than 60 years, Mr. Kaufman said, for the small step of returning money to the people who owned it. "And almost all the people to whom it happened," he said wistfully, "are dead."

Swiss Banks Settlement: Slave Labor Class I
Administered by the Conference on Jewish Material Claims
Against Germany (Claims Conference) on behalf of the United
States District Court

Geographic Distribution of Approved Claimants by Country and
Award (as of September 16, 2003)

Country	Approved Claimants	Amount Paid
Argentina	505	\$732,250
Australia	3,381	\$4,902,450
Austria	402	\$582,900
Bahamas	1	\$1,450
Belarus	163	\$236,350
Belgium	658	\$954,100
Bermuda	1	\$1,450
Bolivia	15	\$21,750
Bosnia-Herzegovina	36	\$52,200
Brazil	734	\$1,064,300
Bulgaria	5	\$7,250
Canada	6,412	\$9,297,400
Chile	88	\$127,600
Colombia	25	\$36,250
Costa Rica	16	\$23,200
Croatia	130	\$188,500
Cyprus	1	\$1,450
Czech Republic	1,133	\$1,642,850
Denmark	160	\$232,000
Dominican Republic	3	\$4,350
Ecuador	16	\$23,200
Estonia	9	\$13,050
Finland	3	\$4,350
France	1,775	\$2,573,750
Germany	2,791	\$4,046,950
Great Britain	794	\$1,151,300
Greece	153	\$221,850
Guatemala	6	\$8,700
Hungary	12,440	\$18,038,000
Ireland	4	\$5,800
Israel	62,996	\$91,344,200
Italy	121	\$175,450
Ivory Coast	1	\$1,450
Japan	1	\$1,450
Kazakhstan	18	\$26,100
Kyrgyzstan	1	\$1,450
Latvia	47	\$68,150
Lithuania	122	\$176,900
Luxembourg	7	\$10,150
Malta	1	\$1,450
Mexico	52	\$75,400
Moldova	243	\$352,350
Monaco	2	\$2,900
Netherlands	791	\$1,146,950

Swiss Banks Settlement: Slave Labor Class I
Administered by the Conference on Jewish Material Claims
Against Germany (Claims Conference) on behalf of the United
States District Court

Geographic Distribution of Approved Claimants by Country and
Award (as of September 16, 2003)

Country	Approved Claimants	Amount Paid
Netherlands Antilles	1	\$1,450
New Zealand	28	\$40,600
Norway	50	\$72,500
Panama	3	\$4,350
Paraguay	7	\$10,150
Peru	18	\$26,100
Poland	785	\$1,138,250
Portugal	2	\$2,900
Romania	693	\$1,004,850
Russian Federation	745	\$1,080,250
Serbia-Montenegro	123	\$178,350
Slovak Republic	684	\$991,800
Slovenia	14	\$20,300
South Africa	73	\$105,850
Spain	21	\$30,450
Sweden	1,061	\$1,538,450
Switzerland	206	\$298,700
Turkey	1	\$1,450
Ukraine	1,570	\$2,276,500
United States	33,689	\$48,849,050
Uruguay	121	\$175,450
Uzbekistan	8	\$11,600
Venezuela	160	\$232,000
Yugoslavia	5	\$7,250
Zimbabwe	3	\$4,350
Total	136,334	\$197,684,300

Note: This geographic distribution is as of September 2003 and may not be reflective of the final program statistics. We anticipate that several thousand, perhaps even up to thirty thousand, additional claimants will be approved. Included among these are significant numbers of cases which will likely be in a different geographic distribution as many open cases are from Eastern Europe and the Former Soviet Union and Israel.

The dollar figure provided may slightly vary from actual amounts due to administrative variances such as a survivor who received an initial payment of \$1,000 and unfortunately died before the Court increased the amount by an additional \$450. The supplemental payment of \$450 will be paid to the heir(s) but that process has not been completed.

Swiss Banks Settlement: Slave Labor Class I
Administered by the Conference on Jewish Material Claims
Against Germany (Claims Conference) on behalf of the United
States District Court

Geographic Distribution of Approved Claimants by US State and
Award (as of September 16, 2003)

US State	Approved Claimants	Amount Paid
Alabama	24	\$34,800
Alaska	1	\$1,450
Arizona	207	\$300,150
Arkansas	3	\$4,350
California	4,161	\$6,033,450
Colorado	167	\$242,150
Connecticut	409	\$593,050
Delaware	13	\$18,850
District Of Columbia	13	\$18,850
Florida	4,230	\$6,133,500
Georgia	164	\$237,800
Hawaii	4	\$5,800
Idaho	1	\$1,450
Illinois	961	\$1,393,450
Indiana	70	\$101,500
Iowa	16	\$23,200
Kansas	44	\$63,800
Kentucky	31	\$44,950
Louisiana	28	\$40,600
Maine	16	\$23,200
Maryland	606	\$878,700
Massachusetts	529	\$767,050
Michigan	624	\$904,800
Minnesota	129	\$187,050
Mississippi	3	\$4,350
Missouri	123	\$178,350
Montana	1	\$1,450
Nebraska	28	\$40,600
Nevada	116	\$168,200
New Hampshire	11	\$15,950
New Jersey	2,383	\$3,455,350
New Mexico	13	\$18,850
New York	15,593	\$22,609,850
North Carolina	40	\$58,000
Ohio	858	\$1,244,100
Oklahoma	13	\$18,850
Oregon	71	\$102,950
Pennsylvania	808	\$1,171,600
Puerto Rico	1	\$1,450
Rhode Island	34	\$49,300

Swiss Banks Settlement: Slave Labor Class I
Administered by the Conference on Jewish Material Claims
Against Germany (Claims Conference) on behalf of the United
States District Court

Geographic Distribution of Approved Claimants by US State and
Award (as of September 16, 2003)

US State	Approved Claimants	Amount Paid
South Carolina	21	\$30,450
South Dakota	1	\$1,450
Tennessee	59	\$85,550
Texas	265	\$384,250
Unknown	385	\$558,250
Utah	5	\$7,250
Vermont	7	\$10,150
Virginia	99	\$143,550
Washington	147	\$213,150
West Virginia	1	\$1,450
Wisconsin	150	\$217,500
Wyoming	2	\$2,900
Total	33,689	\$48,849,050

Note: This geographic distribution is as of September 2003 and may not be reflective of the final program statistics. We anticipate that several thousand, perhaps even up to thirty thousand, additional claimants will be approved. Included among these are significant numbers of cases which will likely be in a different geographic distribution as many open cases are from Eastern Europe and the Former Soviet Union and Israel.

The dollar figure provided may slightly vary from actual amounts due to administrative variances such as a survivor who received an initial payment of \$1,000 and unfortunately died before the Court increased the amount by an additional \$450. The supplemental payment of \$450 will be paid to the heir(s) but that process has not been completed.

**Swiss Banks Settlement: Slave Labour Class I
Administered by the International Organization for Migration
on behalf of the United States District Court**

**Geographic Distribution of Approved Claimants
by Country and Award
(as of September 25, 2003)**

Country	Approved Claimants	Amount Paid
Argentina	1	\$1,450
Australia	4	\$5,800
Austria	51	\$73,950
Belgium	2	\$2,900
Canada	3	\$4,350
Croatia	1	\$1,450
Czech Republic	498	\$722,100
France	5	\$7,250
Germany	640	\$928,000
Hungary	13	\$18,850
Luxembourg	1	\$1,450
Netherlands	4	\$5,800
Norway	1	\$1,450
Slovakia	15	\$21,750
South Africa	1	\$1,450
Sweden	2	\$2,900
Switzerland	2	\$2,900
United Kingdom	2	\$2,900
United States	11	\$15,950
Yugoslavia	3	\$4,350
TOTAL	1,260	\$1,827,000



CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, INC. ועידת התביעות

15 East 26th Street • Room 906 • New York, NY 10010 • Tel. (212) 696-4944 • Fax (212) 679-2126 • Email: info@claimscon.org

September 25, 2003

Special Master Judah Gribetz
Deputy Special Master Shari Reig
Bingham McCutchen I.I.P
399 Park Ave - 24th Floor
New York, NY 10022

Dear Judah and Shari:

As per your request, I am outlining the status of the processing, on the Court's behalf, by the Claims Conference of Slave Labor Class I (SLCI) claims under the Swiss Banks Settlement. This memo is a broad overview, highlighting key elements.

Overlap with the German Foundation

- To date, the Claims Conference has received 265,198 applications.
- We have identified 25,451 applications as duplicates. The process of identifying duplicates is, unfortunately, a labor intensive endeavor. The computer system identifies potential matches which then each has to be reviewed manually. A trained caseworker has to determine for each case if in fact there is an identity match.
- We have approved 139,076 Holocaust survivors under this program.
 - Of this, approximately 40,000 are recipients under the Claims Conference Article 2 Fund or Central and Eastern European Fund (CEEf) pension programs. These beneficiaries were the least complicated to process as significant information relating to identity, persecution history and banking information is known to the Claims Conference. Since we knew that these survivors were eligible for a payment under SLCI of the Swiss Banks Settlement, and advised the Court accordingly, several thousand of these survivors were deemed by the Court to have applied under SLCI on the basis of their Article 2 and CEEf applications. See, e.g., Court order dated June 28, 2001.
 - Approximately 34,000 recipients are also recipients of pensions under the German Federal Indemnification Law (BEG). While the Claims Conference negotiated Protocol I of the Luxembourg Agreement that led to the enactment of the German Indemnification Laws in the early 1950's, the German government

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administers these programs directly. Contrary to the Article 2 Fund and CEEF recipients, the Claims Conference did not have details of the identity of such recipients nor their persecution history or banking information. The only information known to us was that these survivors are BEG pension recipients. To expedite the distribution of funds, we obtained permission from each individual survivor to gain access to his or her file and record the results into our database. We were therefore required to research each file in the 11 various archives located throughout Germany.

- Approximately 16,000 SLCI beneficiaries are recipients of Israeli Ministry of Finance pensions as a result of Nazi persecution. In an arrangement parallel to the above described process for the German Federal Indemnification Program, the Claims Conference reviewed each relevant file housed in the Ministry of Finance archive located in Tel Aviv.
- For in excess of 30,000 claims, the Claims Conference has located documentation in various other archives not related to previous compensation programs. The largest of our research efforts were focused at Yad Vashem in Jerusalem and the United States Holocaust Memorial Museum in Washington, D.C. In both institutions, Claims Conference staff are reviewing thousands of reels of microfilm of archival material in an effort to obtain documentation verifying the persecution history of claimants. In some instances, such as for persons who worked in Romanian labor battalions, tens of thousands of pages of previous un-reviewed material were examined by Claims Conference researchers. In addition, we are working with over 60 other archives, mostly across Europe, to develop additional documentation.

In order for our process to be as comprehensive as possible and in accordance with the German Foundation Law, unless we have evidence that negates eligibility of the applicant, we send the applicant a request for further information about his/her persecution.

- Thus far, we have identified approximately 82,000 claimants that we will not be in a position to approve. We are in the process of issuing letters advising these claimants of the decision. To date, approximately 66,000 letters have been sent. An independent appeals process has been established as approved by the Court's order dated February 11, 2003.
- For the remaining approximately 26,000 applications, we continue to process the claims, reviewing further information that may have been submitted by applicants and continuing our archival research. Of these claims, more than half the applications are on behalf of heirs. For many

of these heirs, we have already verified the relevant persecution history and will soon resolve the significant administrative issues required for processing.

Swiss Banks Slave Labor Class I – Divergence with the German Foundation

Under the Plan of Allocation and Distribution, the Claims Conference processes payments for all Jewish class members of SLCI. There are three areas of divergence with the German Foundation:

➤ Austrian Reconciliation Foundation

Parallel to the German Foundation is the Austrian Reconciliation Foundation which makes payment to forced or slave laborers who were forced to work on the territory of Austria. While there have been many administrative barriers -- such as claimants applying to the “wrong” Foundation, applying to both foundations, and determinations of jurisdiction if a person was a slave laborer on both Austrian and non-Austrian territory -- we have overcome most of the obstacles. The Claims Conference is responsible for payment to all eligible Jewish class members. We are working closely with the Austrian Foundation to identify their Jewish beneficiaries and have already paid over 1,000 survivors in this category.

➤ Jewish class members in Poland, Czech Republic and Former Soviet Union (FSU)

Under the German Foundation, all claimants in these countries are processed by the local partner organizations. However, the Claims Conference is responsible for SLCI payments to Jewish class members. Again, we have already paid thousands of claimants in these countries; however, we believe that there potentially are a few thousand more. We are working closely with the German Foundation, the relevant five partner organizations, local Jewish communities and survivor organizations to identify any potential beneficiaries. In addition, because the Claims Conference administers pension programs and funds social welfare programs in these countries, we were able to identify early on in the process most of the eligible claimants, but we continue to seek all potential beneficiaries.

➤ Differences in eligibility criteria

There are significant areas of difference in eligibility criteria for the German Foundation and the SLCI. For example:

- First, work performed as a POW does not qualify for payment under the German Foundation but does qualify under SLCI assuming the POW was Jewish.

- Second, under the German Foundation Law, a person who is eligible as a slave laborer is someone who was in a concentration camp, ghetto or other place of confinement with comparable conditions. The Claims Conference has applied to the German Foundation for a decision recognizing that certain places of confinement, not heretofore recognized, had comparable conditions, and awaits a decision from the German Foundation. These decisions are being made on an ongoing basis (for example, a decision granting Hungarian Labor battalions the status as places of slave labor was only made last week). We are still awaiting decisions on forced labor camps in Bulgaria, Tunisia, and other places in North Africa. Ultimately, if the German Foundation does not recognize such places as comparable to slave labor (and since there was no deportation of such Nazi victims from their homeland, which would make them eligible as “forced laborers,” as distinguished from “slave laborers,” under the German Foundation Law), such persons may be eligible for a payment from the SLCI of the Swiss Banks Settlement but not from the German Foundation. As you will recall, in discussions with the Claims Conference, the Court and the Special Master have made clear that the Court will authorize payment to an individual qualified under the definition of Slave Labor Class I regardless of the decision of the German Foundation on that particular application. While we anticipate that the German Foundation will resolve the status of the remaining unrecognized camps shortly, we will be in a position to make the SLCI payments within the next 12 weeks under any circumstances.

Projection

- We are *estimating* that there may be up to an additional 10,000 approvals for each of the following categories of survivors:
 - (i) applicants to the Program for Former Slave and Forced Laborers who are deemed under the German Foundation Law to be slave or forced laborers;
 - (ii) heirs of former slave and forced laborers; and
 - (iii) the three categories which fall outside of the German Foundation as described above.

Therefore, these *estimates* may result in an additional 30,000 approvals under SLCI.

- We are also projecting that almost all survivors will be approved by the end of 2003. No doubt there will be a small number of complicated cases which will need to be resolved in the beginning of 2004. In addition, heir cases and appeals will continue to be analyzed on in 2004, with the vast majority resolved during the first half of the year.

I hope this information proves helpful. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Greg Schneider". The signature is written in a cursive style with a large initial "G".

Greg Schneider
Chief Operating Officer

**HOLOCAUST VICTIM ASSETS PROGRAMME (SWISS BANKS)
GROUP V – SLAVE LABOUR CLASS I
BACKGROUND HISTORICAL SUMMARY**

I. INTRODUCTION

Slave Labour Class I claimants from the Czech Republic are predominantly Romani. Considered by place of residence during WWII, these claimants can be divided into three main groups: those who lived in the Czech Protectorate, those who lived in the Slovak Republic, and those who lived in Hungarian-occupied parts of Slovakia. A brief overview of the history of the official and non-official persecution of Romanies in those three regions is provided below in section II.

In terms of evidence, claimants can be divided into two groups: those who provided some sort of documentary evidence with their claims, and those who did not. In most cases claimants who were in a concentration camp were able to provide some form of official confirmation of that fact. One of the most common forms, discussed below in section II, is a certificate issued by the Czech and former Czechoslovak governments. There was also a very small pool of claimants with archive or other historical documentation confirming slave labour.

Romani claimants who were not in a concentration camp often did not provide any independent documentary evidence of their experiences during WWII, nor does it seem likely that any documents exist. Most of these claimants were forced to work for the German army after it occupied Slovakia and Hungary. Nonetheless, taken as a whole, and grouped by region, the cumulative weight of the personal evidence provided by these claimants is compelling. The evidence of one such group of claimants, who performed forced labour at Plavec work camp in Slovakia, is reviewed in detail in section III.

II. HISTORICAL OVERVIEW

1. Czech Romanies During WWII

A. Czech concentration camps – Lety u Pisku and Hodonin u Kunstatu

As early as May 31, 1939 a decree was issued in the Nazi-controlled Czech Protectorate of Bohemia and Moravia forbidding Romanies from camping in groups larger than immediate families. By September 2, 1939, itinerant life had been banned altogether.¹ These initial decrees were followed by progressively more restrictive regulations directed at Romanies, culminating in a decree of June 10, 1942 requiring the registration of the entire Romany population.²

Since 1940 work camps had existed at Lety u Pisku in southern Bohemia, and Hodonin u Kunstatu in Moravia. The inmates of these camps were primarily 'asocial' men of 18 years and older who were purportedly being re-educated to become productive members of society. About 25 per cent of these men were Romanies.³

¹ Necas, Cúbor, *The Holocaust of Czech Roma*, translated by Simon Pellar, Prague: Prostor, 1999, at 41-42

² *Ibid.* at 43

³ *Ibid.* at 42.

In August 1942, each of these camps was designated as a concentration camp for Romanies, and non-Romany inmates were transferred elsewhere. Both camps were quickly filled and soon over-filled with Romanies of all ages who had been identified in the registration campaign begun in June.⁴ These so-called 'Gypsy camps' were purportedly created for the purpose of educating Romanies to work (despite the fact that many of the inmates were previously working). However, it is clear from the organization of the camps, and the outcome, that they were destined to be transit camps to collect Romanies to be deported to Auschwitz and killed.⁵

At Lety u Pisku the main work project for the inmates was building part of the main-line road from Plzen to Moravska Ostrava, in particular the section from Lety to Stare Sidlo. Activities included breaking rocks, digging ditches, levelling, and transporting earth and building materials in wheelbarrows. Other camp activities included working in the surrounding fields, and forestry work in the neighbouring woods. Inmates also worked in the camp, performing kitchen and maintenance duties. Inmates of all ages were expected to work, as possible: "Therefore all men and women are ordered to work while children shall do so according to their strength and ability."⁶

Living conditions in the camp, where inmates were subject to overcrowding, poor nutrition, lack of hygienic facilities, and extremely cruel treatment and physical abuse, were dire. Of the approximately 1300 Czech Romanies who were incarcerated there, more than 300 died of typhus. Half of the inmates were deported to Auschwitz, where the majority perished, and another 300 or so were released when the camp was closed in May 1943. A small number of the inmates were transferred to Hodonin.⁷

At Hodonin the main labour performed after August 1942 was also road-building and related activities such as quarrying, stone-crushing, moving rocks, and excavation, as well as activities connected with the running of the camp itself. The inmates earned nominal wages for their work, which were not paid to them, but instead transferred to the Land Office in Brno.⁸

Similar to Lety, the living conditions and the treatment of the inmates were horrendous. According to the doctor assigned to the camp:

The hygienic situation was terrible. The Gypsies were not just unbelievably dirty, louse-infested, ragged and starving, but also had numerous infectious diseases that were often of epidemic proportions.⁹

Of the 1395 people who went through Hodonin, 262 were released, 67 escaped and were not re-captured, 207 died in the camp, and 863 were transported to Auschwitz. Most of the transports to Auschwitz were completed by August 1943. A final group of inmates remained

⁴ *Ibid.* at 49.

⁵ *Ibid.* at 44-46.

⁶ *Ibid.* at 81.

⁷ *Ibid.*

⁸ *Ibid.* at 130-132.

⁹ *Ibid.* at 135.

to dismantle the camp and take inventory, and these inmates were sent to Auschwitz in July 1944.¹⁰

B. Czech Romanies at Auschwitz

Beginning in December 1942, Czech Romanies designated as 'asocial' had been specifically targeted by the authorities for arrest and direct deportation to Auschwitz, although the plans for the deportations had been made even earlier. Initially it was planned to begin by transporting the inmates of the camps at Hodonin and Lety, and then re-populating these camps with further arrests of Czech Romanies, but the outbreaks of typhus at Lety and trachoma at Hodonin brought about a change in plans. Instead, most of the first transports of Czech Romanies to Auschwitz were made up of individuals who had not previously been incarcerated, mostly from Moravia, and partly from Bohemia.

The first mass transport was sent from Brno in March 1943 (1038 individuals), followed closely by one from Prague (648 individuals) and another from Olomouc (1039 individuals). The largest transports of individuals from the camps occurred near the time of their closure: Lety - May 1943 (853 individuals), and Hodonin - August 1943 (773 individuals).¹¹

At Auschwitz, Romanies lived together in family groups in the so-called gypsy camps. The conditions were unspeakable. While the purpose of the camp was to concentrate Romanies from throughout the Reich and Nazi-occupied territories and kill them, either by working them to death or in the gas chambers, the demands of the Reich for labour in late 1943 and 1944 meant that some Romanies were transferred to other concentration and work camps during that period. By August 1944, those left in the camp were primarily children, the elderly, and women with babies. On the night of August 2-3, 1944, they were taken to the gas chambers and killed.¹²

Those who survived Auschwitz had been transferred to work at other camps such as Natzweiler, Buchenwald, Flossenbug and Ravensbruck. As the war came to an end and camps were closed, many survivors of the camps were faced with the further ordeal of forced death marches to escape the advancing Allied fronts.¹³

C. Summary

It is impossible to determine exactly how many Czech Romanies were incarcerated in concentration and work camps during the war. However, it appears that of the approximately 6,500 Romanies who had been registered in the Protectorate, only 300 were never interned. Only 583 Romanies are documented as having survived internment, and more than 3,000 are recorded as having died in Lety, Hodonin, and Auschwitz alone.¹⁴

¹⁰ *Ibid.* at 112, 113, 144. There is a slight discrepancy in Necas's numbers: the total of his figures is 1399, not 1395.

¹¹ *Ibid.* at 164-165, 170.

¹² *Ibid.* at 209-210.

¹³ *Ibid.* at 208-209.

¹⁴ *Ibid.* at 213.

2. Slovak Romanies During WWII

The Slovak State was created by decree of Hitler on March 14, 1939. During its existence, the Slovak State pursued a policy of increasing repression against its Romany citizens, initially targeting the minority of Romanies who were itinerant, but eventually attacking all Romanies on the basis of race.

On June 23, 1939, Romanies in Slovakia were forbidden to live in caravans and to trade horses, and ordered to settle in the locations where they were registered.¹⁵ On January 18, 1940, all Jews and Romanies were expelled from active duty in the Slovak armed forces and assigned instead to work details.¹⁶ In 1940, the Slovak government also began creating work camps, which were initially of two types, for Jews and "Asocials". Romanies who (allegedly) refused to work fell into the 'Asocial' category.¹⁷

Beginning in 1941, many Romanies were put into forced labour camps, as discussed in more detail in the section below. Outside the forced labour camps the freedom of Romanies was severely restricted. By decree of July 21, 1943, all Romanies were required to move away from main roads and be isolated from non-Romany towns and settlements. Local authorities invoked this decree to ban Romanies from entering towns and villages, even to go shopping, or else allowed them to enter only at restricted times. During the same period local authorities were instructed to register all Romanies in their jurisdiction.¹⁸

The enforcement of the repressive measures against Romanies (and Jews) during this period was carried out mainly by the Slovak Hlinka Guards, the para-military organization of the fascist Hlinka Slovak People's Party (HSLP).¹⁹

A. Slovak Forced Labour Camps

As early as 1941 the Slovak government began to experiment with forced labour camps for so-called 'Asocials', who were often Romanies. It appears that the camps had a penal quality from their inception. A government directive for the establishment of the camps cautioned that the camps should not provide any 'special' living conditions for inmates. Inmates were to sleep inside the camp, were not allowed visitors, and were not allowed to leave the camp except to work. They were also not allowed to receive or send parcels or letters. The highest-ranking individual in the camp was the representative of the police who was charged with guarding and supervision of the camp. Guidelines for guards in the camp indicated that they should be prepared for every eventuality, and that they should always have their guns at hand.²⁰ The first camps, relatively small, were set up by local authorities in Ocova (state forest authority), Most na Ostrove (building a local road), Dubnica nad Vahom (working on the hydroelectric project), Krupina (stone quarry) and Nizny Hrabovec and Kapusany (working on the railway line).²¹

Beginning on October 1, 1942, the Slovak State began to set up large-scale forced labour camps at various locations throughout the country, including, among others, Presov -

¹⁵ Nečas, Ctibor, *Českoslovenští Romové v letech 1938-1945*. Brno: Masaryk University, 1994. at 99.

¹⁶ *Ibid.*

¹⁷ *Ibid.* at 102.

¹⁸ *Ibid.* at 153-154.

¹⁹ *Ibid.* at 160. The Hlinka Guards are often referred to by claimants as "Gardisty" - Guardists.

²⁰ *Ibid.* at 104-105.

²¹ *Ibid.* at 109.

Straszke railway project (including camps at Hanusovce nad Toplou, Nizny Hrabovec, Bystre nad Toplou, Straszke, Vranov nad Toplou, and Kapusany), Ilava, Usti nad Oravou, Revuca, and Dubnica nad Vahom. For the first time Romanies were racially targeted as forced labourers for these camps. Local councils were required to register all unemployed male Romanies of working age, and they were given a work card coloured blue that identified them as Romany. Within the camps Romanies were housed separately from the other workers.²² The camps were generally undersupplied with the necessities of life, hygienic conditions were poor, working hours were long, and there were outbreaks of typhus.²³

(1) Presov – Straszke Railway Line

This was a project to construct a 'strategically-important' railway line in Eastern Slovakia, 62 km long—50 km of new railway line, and 12 km of reconstruction, from Presov to Straszke. The massive project was already underway in 1942, but had been suffering a chronic shortage of labourers. It appears that Romany forced labourers had already been exploited by local authorities to work on the section near Kapusany (Petic camp).²⁴

The project was divided into six sections of railway track, and there were four main work divisions for Romany forced labourers, running from south to north along the railway line:

1. Nizny Hrabovec (near Vranov nad Toplou);
2. Bystre nad Toplou (barracks at Hlibovec, Habes, and Cierne);
3. Hanusovce nad Toplou (barracks at Rybniky and Legana); and
4. Petic (barracks near Medzianky).²⁵

Historical documentation indicates that Romany inmates for the camps were supplied by regional councils in Presov, Giraltovce, Humenne, Michalovce, Trebisov, Vranov nad Toplou, Stropkov, Bardejov, and Sabinov, and also from areas in Western Slovakia. Inspections by the Ministry of the Interior demonstrated that under-aged (less than 18), over-aged (older than 60), invalid and sick Romany individuals were being sent to the camps by local councils. As a result, camp doctors had to do a further selection of inmates, and those who were considered unable to work were released.²⁶

Inspections also revealed a chronic undersupply of food, particularly since inmates were expected to perform heavy labour for up to 11 hours a day, as well as a lack of soap and hygienic facilities, and a clean supply of drinking water. Inmates were reportedly filthy, and had lice, fleas and bedbugs. Out of a total of around 2700 inmates forced to work in these camps, there were 1209 reports of sick individuals, and 411 accidents. The high rate of sickness led the authorities to question whether the Jewish doctor assigned to the camps at that time was guilty of sabotage, but an investigation revealed only pitiable living conditions.²⁷ In 1943 there was a typhus epidemic in the camps.²⁸

²² *Ibid.* at 105-106.

²³ *Ibid.* at 138-140.

²⁴ See note 17.

²⁵ *Ibid.* at 115. It should be noted that Professor Necas appears to have confused Kapusany (between Presov and Hanusovce) with Velke Kapusany (60 or 70 km south of Straszke on the railway line, but not between Presov and Straszke), and when he refers in his book to Velke Kapusany, he in fact must be taken to mean Kapusany.

²⁶ *Ibid.* at 116-119.

²⁷ *Ibid.* at 124-126.

²⁸ *Ibid.* at 128.

By the end of 1943 most of the camps had been closed, and the work on the railway apparently completed. It has been calculated that by using the forced labour of the Romany inmates, the Slovak government saved nearly 3 million Slovak crowns.²⁹

(2) Revuca

The work camp at Revuca (okr. Revuca) began to operate in April 1943. The inmates were primarily Romanies. The work consisted of constructing a railway line between Revuca and Tisovec, and between Slavosovce and Chyznianska Voda. From July to October 1943, inmates who had previously been working on the Presov-Strazske line were also transferred to Revuca. Conditions in the camp appear to have been similar, or possibly worse, than those in the Presov-Strazske camps, and the camp had the highest rate of escape. According to the available documentation, the camp at Revuca operated until June 1944, when 77 of the inmates were released, 28 were transported to Dubnica nad Vahom, and 112 escaped.³⁰

(3) Dubnica nad Vahom Forced Labour Camp

In 1942, when the Slovak government was preparing to construct a large-scale work camp for Romanies to supply labour for the Dubnica nad Vahom hydro-electric project, the local German mission apparently expressed concern about having a forced labour camp located near the militarily-important arms factory in Dubnica nad Vahom. The Slovak Minister of the Interior apparently replied that the Romanies were not intelligent enough to be considered dangerous.³¹

The new forced labour camp was set up in 1942, and inmates were transported from Cadca, Dolny Kubin, Liptovsky Mikulas, Namestovo, and Trstena. By 1944, the inmates had succumbed to numerous diseases due to their poor living conditions and inadequate food supply.

(4) Usti nad Oravou

The forced labour camp at Usti nad Oravou was created to supply labour to construct a dam. The first inmates, in September 1943, were Ukrainian refugee-prisoners, including women. After December 31, 1943, women were prohibited. In February 1944, the German attaché to Slovakia intervened and had the Ukrainians transported to the Reich. In June 1944 the work camp was designated for Slovak Romanies, and transports began. Usti nad Oravou was officially dissolved in 1944. The inmates were supposed to be transported to Dubnica nad Vahom, but the quarantine in Dubnica nad Vahom apparently resulted in the inmates at Usti being released.³²

²⁹ *Ibid.* at 132.

³⁰ *Ibid.* at 146-150.

³¹ *Ibid.* at 132-133.

³² *Ibid.* at 150-151.

(5) VI. Robotný prápor slovenskej armády (6th Work Battalion of the Slovak Army)

The 6th Work Battalion of the Slovak Army was formed on March 3, 1941. It had five companies, three Jewish (21st, 22nd and 23rd companies), one 'Gypsy' (24th company), and one for criminals (25th company). Jews and 'Gypsies'³³ had been prohibited from active military service since January 31, 1940, but the Minister of Defence sought to nonetheless exploit their labour potential for various construction and fortification projects undertaken throughout Slovakia. They were thus required to fulfil their 24-month military service in the 6th Work Battalion.

The work battalion was clearly meant to be discriminatory, and to isolate the individuals assigned to it. Instead of the regular green uniforms, Romanies were required to wear brown uniforms, and Jews wore dark blue.³⁴ Prior to the creation of the 6th Work Battalion, orders had already been given within the Ministry of Defence at the end of 1940 to separate Jews and Romanies from other work units within the army, which were made up of 'Aryan' Slovaks who were not fit for regular military service.³⁵

As of April 25, 1941, there were 633 Romanies in the 24th company. It appears that the 24th company was originally based in Cemerne nad Toplou, and was made up in part of Romanies who had previously been with work units in Handlova, Kamenica nad Cirochou, Nove Mesto nad Vahom, and Liptovsky Peter.³⁶ It is documented that in 1942 the 24th company was divided into work groups that were sent to Liptovsky Peter, to work in the stone quarry and on the construction of an airport, and an access road. There was no heavy equipment, and the labourers worked with shovels and pick-axes. The overcrowded living quarters of the Romany labourers were reportedly infested with lice, fleas, bedbugs and scabies.³⁷

The 21st, 22nd, and 23rd companies of the 6th Work Battalion were dissolved on May 31, 1943, in preparation for the deportation of Jews to Germany. As of June 15, 1943, all Romanies in active military service were to be transferred to the work group in Eastern Slovakia, which now included the 24th company.³⁸ It appears that the work group was assigned to work building fortifications along the defensive line in Eastern Slovakia. Work units were also sent to northern Italy and Rumania.³⁹

³³ While there were very specific Slovak laws, based on the German models, defining who was to be officially classified as a 'Jew', the Slovak definition of 'Gypsy' was much more open-ended: "Travelling gypsies; not, however, members of that race who lead an orderly social life and who are a benefit to society." Decree of the Minister of National Defence, no. 192 471, Dov. 1940, dated February 29, 1940. Source: Ladislav Zajac, "Vnik, posobenie, a zanik VI. Robotneho praporu", in *Pracovne jednotky a uvary Slovenskej armady 1939 - 1945, VI. Robotny prapor*, Bratislava: Muzeum SNP, Banska Bystrica, 1996 at 124.

³⁴ *Ibid.* at 127.

³⁵ *Ibid.* at 129.

³⁶ *Ibid.* at 128.

³⁷ *Ibid.* at 131.

³⁸ Romanies who were in field units were to be transferred to the work group in Eastern Slovakia immediately upon their return to Slovakia. Jan Korcek, "Vojensky organizovane pracovne formacie v posobnosti MNO a MV Slovenskej republiky 1942-45," in *Pracovne jednotky a uvary Slovenskej armady 1939 - 1945, VI. Robotny prapor*, Bratislava: Muzeum SNP, Banska Bystrica, 1996 at 50.

³⁹ *Ibid.* at 55.

B. Slovak Romanies During the German Occupation of Slovakia

At the end of August 1944, Germany occupied Slovakia, and began to brutally extinguish the Slovak National Uprising, whose members ('partisans') had hoped to overthrow the fascist government of the Slovak Republic. Many Slovak Romanies were also partisans, and thus they became double targets for the German occupiers.⁴⁰

(1) Slovak Concentration Camp – Dubnica nad Vahom

In late 1944, after the German occupation of Slovakia, Dubnica nad Vahom (which had previously been a forced labour camp) became the responsibility of the Minister of National Defence, and, in November 1944, it was designated a "Security Camp for Gypsies." Transports began in September 1944, and by December 23, 1944 there were 729 Slovak Romanies (men, women and children) incarcerated at Dubnica.⁴¹

Transports to the camp were ordered by the local German Military command. There is historical documentation recording the order for transports of Romanies from localities in Western Slovakia, and responses from local councils recording the fact that the order had been complied with, and in some cases the numbers of Romanies who were transported. Such records exist for Cadca, Povazska Bystrica, Puhov, Trencin, Ilava, Kysucke Nove Mesto, Piestany, Myjava, and Nove Mesto nad Vahom. Romanies from Zilina were apparently not transported to Dubnica nad Vahom, but were instead forced to work building fortifications around Zilina.⁴²

Inmates from the camp at Usti nad Oravou were originally scheduled to be transported to Dubnica nad Vahom, but because of the quarantine and overcrowding, they were apparently released at the end of December 1944.⁴³

Extremely poor living conditions led to an outbreak of typhus by the end of December and the camp was quarantined, out of fear that the disease would spread to the non-Romany workforce employed at the Dubnica hydroelectric project and environs. Transports to the camp were curtailed at the end of December 1944.⁴⁴

The authorities made little attempt to care for the inmates at Dubnica who were stricken with typhus. It has been established that on February 23, 1945, 26 sick inmates allegedly being transported to hospital were instead driven to a pre-excavated grave and murdered there.⁴⁵

On April 8, 1945 the remaining inmates were liberated by the Red Army.⁴⁶

⁴⁰ Nečas, Ctibor, *Českoslovenští Romové v letech 1938-1945*. Brno: Masaryk University, 1994, at 160-165, 170.

⁴¹ From accounts of survivors it is known that inmates of Dubnica nad Vahom were forced to perform slave labour. Men and women often worked outside the camp, typically digging trenches. Some women worked inside the camp, cleaning and cooking. Children were also forced to work inside the camp, cleaning and helping their mothers with other tasks. According to the German Foundation, Dubnica nad Vahom concentration camp is a location where slave labour can be presumed.

⁴² *Ibid.* at 157.

⁴³ *Ibid.* at 158.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.* at 159.

⁴⁶ *Ibid.*

(2) Slovak Romanies not transported to Dubnica nad Vahom

Slovak Romanies outside the camp were targeted for extermination by German 'Einsatzkommandos' that occupied Slovakia in late 1944 and early 1945, particularly in Eastern Slovakia. The German forces were assisted by Slovak members of the Hlinka Guard, and sometimes by civilian Slovaks. It is impossible to document how many Romanies were murdered during this time, but more than 3,000 corpses were exhumed after the war, with an uncertain number being Romanies.⁴⁷

The accounts of survivors confirm that this was a time of terror and uncertainty for Slovak Romanies. They were persecuted on grounds of race as well as for their perceived identification with the partisans. Further, the increasingly repressive measures that had already been taken by the Slovak Republic to isolate Romanies from mainstream society, discussed above, made them vulnerable to exploitation by the German Army. With the Red Army approaching on the eastern front, the German Army was engaged in efforts to fortify strategic positions. Romanies were already marginalized; they had been forced to live outside Slovak villages, and their economic and social relations with those villages had effectively been severed. From survivors' statements it is clear that the German Army used Romanies as a pool of slave labour that could be rounded up as needed and used to build fortifications and provide other services, without pay, and under inhuman conditions. Many survivors have stated that those who refused to work were shot.

(3) Slovak Romanies in Hungary

Certain areas of eastern Slovakia were annexed to Hungary after 1938, and Romanies living in these areas were subject to persecution by the Hungarian government as well as the German occupiers.

Beginning in 1939, state authorities began to collect the names of all Romanies. In 1939 the local police captain in Roznava [town in south-central Slovakia that was part of Hungary after 1938] noted that "Gypsy women and men would happily work, but cannot get jobs" and "Gypsy children cannot go to school because they do not have clothes". In Roznava, Romanies were specifically prohibited from begging in the main square, in the parks, or in the bus or taxi shelters. If they did not respect this prohibition, they risked being arrested and sent to work camps with 'strict' conditions. Romanies were also advised that they should not expect any state social support, particularly from spring to fall.⁴⁸

Organized measures against Romanies in this area began in October 1944 when the German occupiers installed F. Szalasi as the new fascist head of government. Beginning at that time Romanies were forced to work digging trenches and performing other front-line work. Romanies were also put into camps and forced to perform agricultural labour. To discourage attempts to flee, free movement was prohibited, and Romanies were not allowed to leave their resident villages without permission from local authorities. In autumn 1944, it was ordered that all men between the ages of 16-60 and all women between the ages of 16-40 were to be assembled at regional collection camps, prompting many attempts to escape and

⁴⁷ *Ibid.* at 170.

⁴⁸ *Ibid.* at 95.

hide. From collection camps in occupied Slovakia, Romanies were then sent to Komarno, and from Komarno many were transported to Dachau.⁴⁹

Further, there are a number of documented cases of mass-murders of Romany citizens in occupied Hungary that occurred towards the end of the war.⁵⁰

Generally speaking the pattern in Hungary was similar to that in Slovakia, although the timing was slightly different: racial identification of Romanies, restrictions on freedom of movement, forced labour, transports to concentration camps, and, finally, mass murders carried out by both Germans and Hungarian fascists.

(4) A Note on Sources

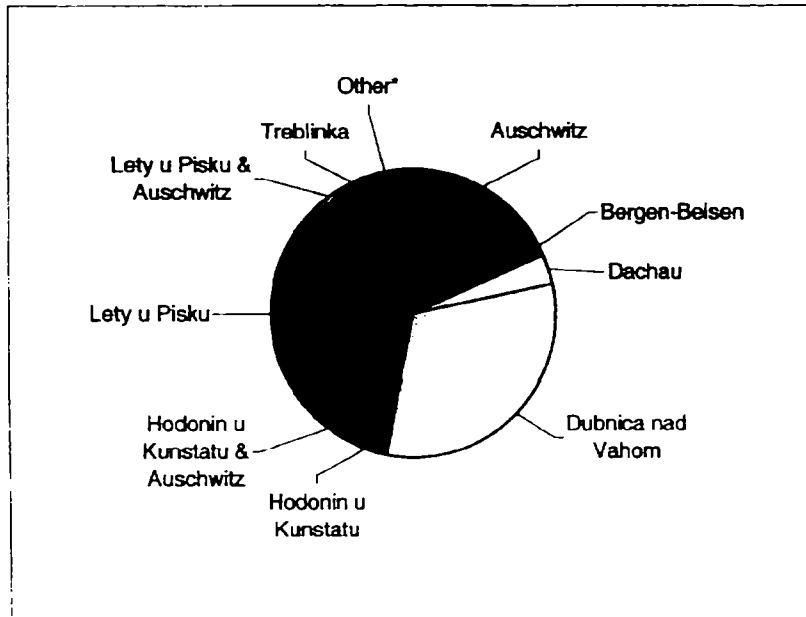
Generally speaking, historical investigation into the fate of Czech and Slovak Romanies during WWII has to date been relatively limited.⁵¹ The most notable exception is the work of Czech historian Ctibor Nečas, who has apparently spent the past 25 years working in archives and interviewing survivors. In the process, he has generated a substantial body of research. In addition to compiling lists of Romanies who were incarcerated at Lety u Pisku and Hodonin u Kunstatu, and publishing the accounts of Czech Romany survivors of Auschwitz, he has delved extensively into state and local archives in both the Czech and Slovak Republics in an attempt to locate official evidence of persecution. The two works cited here are his most recent books, and with their meticulous documentation they represent several decades of work.

⁴⁹ *Ibid.* at 96-97.

⁵⁰ *Ibid.*

⁵¹ Recently, two non-Czech researchers have interviewed survivors from Lety u Pisku. Two books with survivors' accounts have been published: Polansky, Paul, *Black Silence, The Lety Survivors Speak*, Prague/New York: G plus G, 1998 and Pape, Markus, *A nikdo vam nebude věřit*, Prague: G plus G, 1997.

GROUP V
 SLAVE LABOUR CLASS I
 LOCATION OF SLAVE LABOUR FOR CLAIMS WITH C.255 CERTIFICATE



Auschwitz	19
Bergen-Belsen	2
Dachau	4
Dubnica nad Vahom	36
Hodonin u Kunstatu	6
Hodonin u Kunstatu & Auschwitz	5
Lety u Pisku	29
Lety u Pisku & Auschwitz	5
Treblinka	2
Other*	7
 TOTAL	 115

* Brno (1), Buchenwald, Sachsenhausen (1), Nizny Hrabovec (1), Pardubice, Terezin (1), Rattnitz b. Breslau (1), Ravensbruck (1), Terezin/Mala Pevnost (1)

III. DOCUMENTARY EVIDENCE

Certificate issued under Czech/former Czechoslovak Law c.255/1946 Sb. (“c.255 Certificate”)

The c.255 Certificate was issued by the former Czechoslovak Ministry of National Defence (and continues to be issued by the successor ministry within the Czech Republic) to several categories of individuals in relation to their activities during WWII. The c.255 Certificate entitles the bearer to certain social welfare benefits.

One of the categories of individuals who are eligible to receive the c.255 Certificate are so-called ‘political prisoners’.⁵²

A ‘political prisoner’ is defined as:

An individual who, in the period between 15 March 1939 and 4 May 1945, was deprived of his or her personal freedom by imprisonment, internment, abduction or otherwise for antifascist fighting or for political activities aimed directly against the Nazi or fascist occupiers, their helpers or enemies of the Czech or Slovak peoples, or **for reasons of political, national, racial or religious persecution**, if the deprivation of personal freedom lasted at least 3 months, or for even a shorter period if the individual suffered prejudice to health or serious bodily injuries or died as a consequence of the deprivation of personal freedom.⁵³

‘Political prisoners’ are deemed to have assisted in the war effort against the Germans through their ‘passive’ activities during the period 1939-45. The c.255 Certificate indicates the name, date and place of birth of the individual, the dates during which the ‘activity’ took place, and the category of activity. The c.255 Certificate is based on a law adopted in 1946, and thus there have been many slightly different formal versions of it over the years. Generally, the c.255 Certificate does not give information about the place of incarceration or the reason, beyond stating that the individual was a political prisoner.

To obtain a c.255 Certificate, an individual must complete a lengthy questionnaire, provided by the Ministry of National Defence, outlining his or her activities during WWII, and, in the case of political prisoners, the reason for and circumstances of their persecution and incarceration. Individuals whose imprisonment was motivated by racial persecution, such as Romany people, are considered to have been political prisoners, according to Czech/former Czechoslovak law c.255/1946 Sb.

The decision to issue a c.255 Certificate is made by an official within the Ministry of National Defence, and the governing law is silent with regard to evidentiary requirements. As a matter of practice, however, the Ministry has apparently accepted archival evidence, where available, or, alternatively, three sworn witness statements.⁵⁴

⁵² Law c.255/1946 Sb. “On members of the Czechoslovak army abroad and on certain other participants in the national fight for liberation”, § 1(1)(1)(g)

⁵³ *Ibid.* at § 2(1)(5) [emphasis added]. Transl: IOM Geneva, September, 2002.

⁵⁴ Unofficial remarks of an official of the Czech Ministry of Defence made to a Czech NGO representative working on Romany issues. The administrative guidelines used by the Ministry are not available to the public.

č. j. 19428 / 1981-58

OSVĚDČENÍ

podle § 8 zákona č. 255/1946 Sb.

nar. dne 23. 1. 1930 v Brně okres Brno

státní občan československý, je

ÚČASTNÍKEM NÁRODNÍHO BOJE ZA OSVOBOZENÍ

podle zákona č. 255/1946 Sb., o příslušnících československé armády v zahraničí a o některých jiných účastnících národního boje za osvobození.

Způsob účasti na národním boji za osvobození a doba strávená ve vlastnosti účastníka národního boje za osvobození (§ 8 a 15 zákona č. 255/1946 Sb.):

čs. politický vězeň od 4. srpna 1942 /tisícdevětsetčtyřicetdva/
do 4. září 1943 /tisícdevětsetčtyřicettři/.

Toto osvědčení se vydává na žádost podanou dne 4. listopadu 19 81.

v Praze

16. 3. 19 84

L. S.

Za ministra:

Vlastnoruční podpis majitele osvědčení



[TRANSLATION]

FEDERAL MINISTRY OF NATIONAL DEFENCE

No. 194 280 / 1981-38

CERTIFICATE

According to § 8 Law no. 255/1946 Sb.

First name LAST NAME,
born 7.11.1930 in Brno, region Brno, citizen of Czechoslovakia, is

A PARTICIPANT IN THE NATIONAL STRUGGLE FOR LIBERATION

ACCORDING TO Law no. 255/1946 Sb., concerning the members of the Czechoslovak army abroad and concerning certain other participants in the national struggle for liberation.

The manner of participation in the national struggle for liberation and the period spent as a participant in the national struggle for liberation (§ § 1 to 15, Law no. 255/1946 Sb.):

Czechoslovak political prisoner from 4 August 1942 (nineteen hundred forty-two) until 4 September 1943 (nineteen hundred forty-three).

This certificate is granted pursuant to the request made 4 November 1981.

Prague, 16.03.1984

L.S.

(signed)
Signature of the bearer of the certificate

For the Minister
(signed)

IV. LOCAL CLAIMANT GROUPS

1. Plavec Work Camp

Twenty-four claimants have stated that they were forced to work for German soldiers at a camp located at Plavec, in north-central Slovakia near the Tatra mountains and the Polish border. A number of claimants who do not claim to have worked at Plavec themselves have stated that other members of their Romany communities were sent to Plavec to work. All of the claimants were living in the general region of Plavec at the time they were sent to work there, although they are now resident in various locations in the Czech Republic.

To date, we have not uncovered any independent historical record of a work camp at Plavec. However, Plavec, while not a large town, was the location of an important railway junction between Poland and both western Slovakia and eastern Slovakia, and leading to Hungary. As such, it was clearly a strategic military position for the Germans. Enhancing the railroad links between Plavec and Podolinec (to the south-west) and between Presov and Strazske had been important infrastructure projects undertaken by the Slovak government during WWII. Romanies were also employed in work camps for those projects.⁵⁵

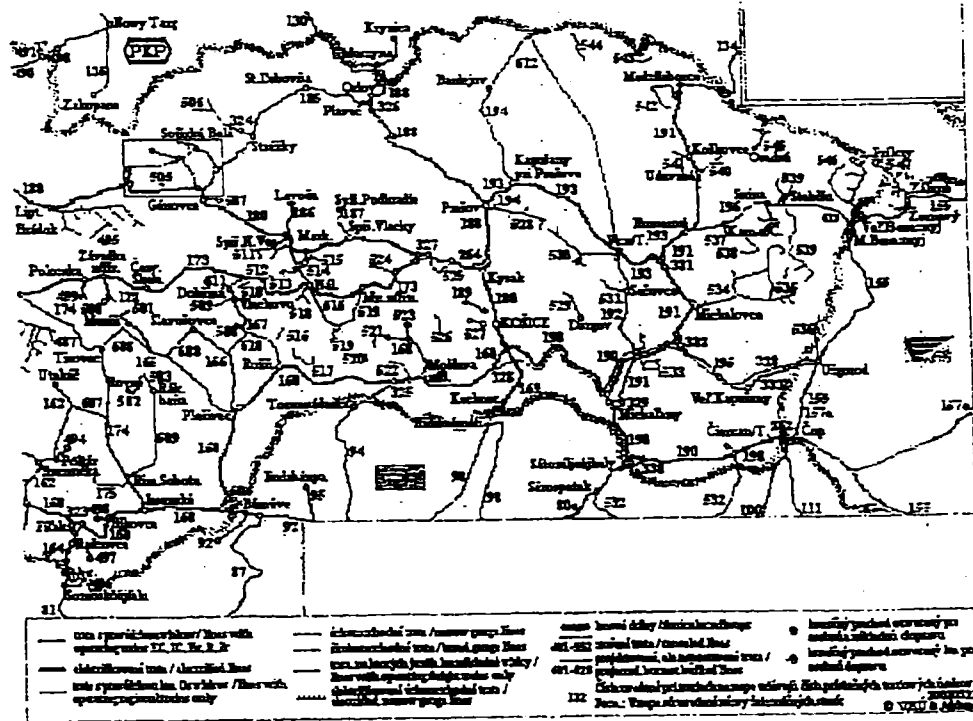
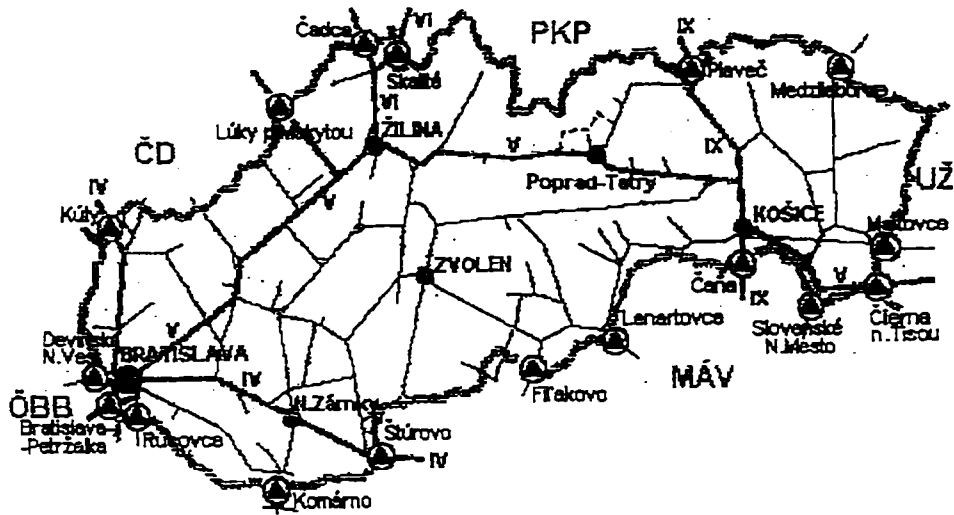
The accounts of the claimants are strikingly consistent. They stated that they were forcibly taken to Plavec and forced to live in a large barn-like structure with straw on the floor. They were forced to dig trenches and bunkers, or chop and collect firewood, or perform other related work. Children occasionally worked with their fathers, helping clear away the dirt that had been excavated, or carrying water. The living conditions were harsh and the treatment by the German soldiers was brutal. Some of the claimants who worked at or near the camp were brought there on a daily basis by German soldiers. Most of the claimants appear to have worked at the camp beginning in late 1944 until the time of the liberation of Slovakia by the Red Army. However, several claimants indicate that they were working prior to this time, for periods as long as several years, and it seems credible that the German Army could have established a presence at this border post prior to the occupation of Slovakia in 1944.

Attached is a complete translation of a representative claimant statement. Also attached is a full translation of a letter submitted by the claimant that was written by Dr. Milena Hubschmannova of Charles University, Prague. Dr. Hubschmannova is a recognized expert in Romani culture and linguistics and has been collecting the stories of Romanies from Slovakia since the 1970s.

In terms of documentary evidence, aside from testimonial evidence in the personal statements, two of the claimants have documents from local authorities attesting to the fact that these individuals performed forced labour at Plavec.

⁵⁵ Necas, 113 – 132.

Railroads in the Slovak Republic



Source: www.rail.sk

V. CONCLUSION

As described above in the introduction, and evidenced by the claims themselves, claimants from the Czech Republic fall into three geographical groups: those who were living in the Czech Protectorate during WWII, those who were living in Slovakia, and those who were living in the parts of Slovakia that fell within Hungarian territory after 1938. Nearly all the claimants are Romani.

Most of the Slave Labour Class I claimants from the Czech Republic do not provide any evidence with their claims. Nonetheless, when viewed as a whole, the claims present clear patterns of slave labour, and it is one of the primary contentions of this submission that these patterns in themselves confirm the credibility of the claims. Standing alone, many of the claims lack the detail and evidentiary basis to assess credibility. Taken as a group, the stories become compelling, a testament to terrible persecution.

Personal Statement of [Claimant]

16.6.2001 at [Czech Republic], recorded and processed by [...]

The statement of [Claimant] was recorded in his apartment in [Czech Republic]. His wife and one of his grandsons was present.

I was born in Pecovska Nova Ves, not far from Sabinov. Before the war my father worked for a builder, he was a bricklayer. He worked for him from spring to fall and in winter he was home. He travelled to building sites, often he was away from home, but he had it alright. Every week he received money. At home were six children; our parents spoke Slovak to us. My father bought some land in the village, at that time it was about 100 crowns for a meter, and there he built a brick house. It stands there even today. Two other families had homes next to us, but the other Romanies lived outside the village. There were many families there: with me in Plavec alone there could have been perhaps 80 or 90 of us fellows from the village.

The other Romanies at first lived near to us, but then they drove them away two kilometers from the village, to a little woods; they are there today. They destroyed their homes, levelled them to the ground, and said to them: "Go there and take care of yourselves!". There was a forest there, they cut down some trees and built themselves some wooden houses. Some of the gadzos helped them—cut wood for them, boards. It was the Gardists and the Germans that drove them out. But us they left there, where we were.

Gardists were like thunder with us. When they were there, not everyone could go into the village, not everyone was alike. I went once to the pub, alone. A Gardist came along and said: "What are you doing here?" "I came to sit for a minute", I said. "Get out immediately!" He threw me out. They did things like that. But after the war: "Me? What? No!" Nobody punished them, one hid behind the other.

Before that, before the Germans came, I had the right to go apprentice with the builder that my father worked for. I was supposed to go learn how to be a bricklayer. But the war came, and I didn't go anywhere.

The Jews went first. They loaded them all into a wagon, took them away to Sabinov and from there they took them directly to the place where they incinerated them. Gypsies were next in line behind them. There were about 15 or 18 Jewish families; nobody came back. They had pubs and shops, they were rich people. They left everything and nobody came back.

At that time I was 17 years old; I was young. The Germans took us away for forced labour. From my year they took all the Romanies. They only took the Slovaks that the Gardists told them to: "there, and there, are the bad people". So they took them too. The main front was moving across eastern Slovakia to Poland and Russia. They took us to dig trenches, anti-tank ditches and bunkers. The most work were the anti-tank ones, they were 2.5 m wide. We began at Velky Saris, then at Orkuany, Michalany, Narsany in Sabinov, Pecovska Nova Ves, Cervenica, Roskoviany, at that time everything was dug up all the way to Plavec. We dug for kilometers. Only Romanies did this work, those from

neighbouring villages as well. We couldn't go home, even when we were digging at Pecovska Nova Ves. We were always watched. We couldn't even wash ourselves. A fellow would be lucky to get half washed in a stream. We weren't even allowed to go three meters from the place we worked. I wanted to escape to the woods, there are deep woods there, but it wasn't possible. When we were near to Pecovska Nova Ves, then my mother could bring us something to eat, when the German allowed it, but when he didn't, then "Geh weg, geh weg, geh weg." I still remember how they cursed.

Then one day they came for us, it was perhaps three in the afternoon. That was already in the autumn of 1944, from Poland we heard bombs exploding, and some of the Germans, those who were good fellows, were already saying "Germany kaput." We were about 100 guys. They took us away to work, to the train station, and we were staring: there was a 'transporter'. There weren't any cars, only these flatbeds. So we all started to cry out, where were they taking us. They stopped in Lipiany, and then we went all the way to Plavec. We didn't know where they were taking us, we couldn't talk to them. I thought, we are stopping here, and we did.

There was a big barn there, it must have belonged to some sort of big landowner, it was enormous. It was already prepared for us, they drove us in there like dogs, like animals, all the guys were yelling. They left about half a meter of straw there, otherwise we didn't have anything. If someone had said something a fellow could have brought two or three sheets, but as it was we had nothing. Only that which we had on, overalls, muddy, wet, because it was constantly raining, we dove into the straw and that was that.

We were shut into that barn and soldiers watched over us so that nobody would escape. It wasn't possible to escape from there. There was a kind of iron bridge over the water, they also watched that. I considered jumping into the water and swimming, but it wouldn't have worked. They would have done me in like a dog.

In Plavec we were also digging. We had quotas that we had to fill. One person, for example, had 30 meters per day. When it went well, it was possible, but when it was rocky, then it wasn't. And then it was bad. Those who couldn't dig as many meters as the Germans wanted, were killed by the soldiers. Many people. From Pecovska Nova Ves alone there were five. Whoever worked slowly got a rifle-butt in the back. How many times that happened to me. Eventually I couldn't dig any more, I was tired. One knocked the wind out of me so that I couldn't get up. I was there with my cousin, who died about two years ago, he stood above me crying.

We worked like that throughout the winter. We slept in the barn without covers, 100 guys in the straw. The food that they gave us was inedible. It wasn't anything good, only a sort of watery soup, coloured with something. I wasn't used to that kind of food. When I came back, at home they couldn't recognize me. I was like death, they all cried, what was wrong with me.

Everyone in Pecovska Nova Ves really liked my father. And even for me, the entire village tried to do something when the Germans took us away. But nothing helped. The mayor came all the way to Plavec to be told that he couldn't do anything for me. At the command office they didn't want anything to do with him. Out of all the Romanies from Pecovska Nova Ves, Lipiany, Roskoviany, they were well known, he came only for me! But to no avail, we begged like dogs.

Then, the snow was already gone, all the Germans fled and we were left there. We lay in those trenches. The Russians came, they knew that we were there, so they didn't shoot. When they saw how weak we were, they loaded us into a truck and took us home. It wasn't possible to go by train. As the Germans were leaving, they cut the lines, so that the trains couldn't run. It was a kind of squad that went ahead and every 30 or 40 meters blew up the tracks. They broke up the tracks from Plavec to Kosice in three days. And then from Kosice to Poprad. After the war trains didn't run at all. So they loaded us into a truck and took us home. They didn't have anything to eat themselves, but when they saw us, they went to the villagers and got bread from them. At least a bit of bread.

My father was also taken away, but he wasn't with me. He also dug trenches along the Polish border, but further to the east than me. Mama stayed home alone with the small children. I don't know what she did, she lived, as she could. My older sister, who was born in 1924 and is already dead, stayed with my mother during the war. Mama had to constantly hide her so that the Germans wouldn't find her. Then, when the Germans fled, broke up the tracks, she knew that the war wasn't going to last long, so she fled into the woods, like the rest of the Romanies from Pecovska Nova Ves. They hid there for a week.

During the Slovak Republic it wasn't possible to lie. On every door there were the names of all the people in the house, their year of birth, so that if someone wasn't there, then immediately: "Where is he? Partisan!" No one could escape that. They knew about everyone. If somebody wasn't there, then the family went away. Everyone had to be at home, otherwise they would shoot them, they didn't care about anyone. That's how the Germans went about. They were terribly afraid of the partisans, they were afraid that people would escape to the partisans. The partisans were always wreaking havoc, blowing up things, like bridges.

Then, when the war ended, I couldn't even stand to look at that place anymore. I ran away from home by myself, I went to work at a stone quarry in Moravia...

Charles University in Prague
Faculty of Philosophy
Indological Institute
20 Celetna, 11642 Praha 1

From the statement it is apparent that, in the period before the second World War, the family of [Claimant] was fully integrated into Slovak society, and that in the village where they lived, they had their place. The family of [Claimant] did not live together with the other Romanies in that village, but lived in the village on their own land, where the father of [Claimant] had built a brick house. [Claimant] had regular work: he worked as a bricklayer, he was paid for his work and was thus able to secure a life for himself and his family. The family was well-received in the village. This is demonstrated by the incident described by [Claimant], where the mayor of the village came and tried to stop him being taken away to work.

The family of [Claimant] was in the first years of the independent Slovak state protected from direct persecution. This was probably thanks to their permanent residence and the regular employment of the father, precisely these two attributes created distinctive boundaries between those who, in the case of Romanies, were considered to be state citizens, and those who were so-called 'foreign elements.'

Thus the family was evidently not touched even by the decree from 1941, which ordered the relocation of settled Romany families living near state roads to outlying areas.

In everyday life, however, [Claimant], in spite of the position of his family, met with persecution on the part of the Gardists, who acted in accordance with the racial tone.

The evil for [Claimant] began evidently in 1943, when he was taken away by German soldiers to perform forced labour. This occurred in connection with the decree under the law passed by the Slovak government on May 29, 1940 "On the temporary regulation of the employment responsibilities of Jews and Gypsies", which obliged all unemployed and not fully employed individuals from the ages of 18 to 60 to perform work as ordered by local and notarial offices, to the benefit of the defence of the state. As [Claimant] states, he had to dig defensive trenches for the approaching front. The work unit to which he was assigned was in the valley of the river Torysy, which is situated in the region between the villages of Velky Saris and Lipany. The workers were watched strictly by the soldiers, their freedom of movement was prohibited, they were not allowed to wash, and they could not have contact with their relatives, even when they were working in their own villages.

In the fall of 1944 the work unit to which [Claimant] was assigned was transferred to the important railway intersection of Plavec, from where the railway tracks went to Poland. Here he was again forced to work hard at digging for the army. The conditions in which his unit was housed were simply unacceptable; not even the most basic needs were taken care of, for example, covers, the internee was given inadequate and very bad food. In contrast to this the work quotas were high and punishment was threatened for failing to fulfil them. [Claimant] was beaten several times because due to exhaustion he was not able to dig the given amount of meters. Other men were murdered.

Assignment to forced labour was at the close of the war one of the most common forms of discrimination against Romanies in Slovakia. It was a matter of true racial discrimination, because the workers, with some exceptions, were of Romany origin. Although the camp at Plavec is not confirmed by any available sources, the statement of [Claimant] concords with the statements of other witnesses who were interned at Plavec. Likewise all of the circumstances provided by [Claimant] concord with reality.

There is no reason to doubt any of the events related by [Claimant] or to consider his statement as other than completely trustworthy.

Prague, 11 July 2001

PhDr. Milena Hubschmannova, CSc.
Head of the Romistic Office
Indological Institute
Faculty of Philosophy
Charles University



GFLDP 1 8 AGST 2003

Statement on Roma Claims from Romania

Two categories of Roma were deported from Romania to Transnistria: a) nomadic Roma and b) settled Roma, with stable residences, who allegedly had problems with Romanian justice and/or were without a well-defined occupation. According to Romanian historian Viorel Achim, deportation of the nomadic Roma to Transnistria was based on an order of the Council of Ministers of June 25, 1942. The operation ended on August 15, 1942, by which time, according to Achim, 11,441 nomadic Roma (2,352 men, 2,375 women, and 6,714 children) had been deported to Transnistria. (*Tigarii in Istoria Romaniei*, Bucharest, 1998).

Roma with stable residences in the categories defined above were ordered deported on July 22, 1942. The deportation of this category of Roma took place in September 1942 and involved 13,176 people. This included hundreds of Roma who had relatives serving in the Romanian Army at the Eastern front. Some families of Romanians and of Turks from Dobrogea were also deported, by mistake (Achim pp. 141-142).

By the beginning of October 1942 at least 24,686 Roma had been deported to Transnistria (11,441 nomads, 13176 with stable residences, another 66 sent from prisons. An additional few hundred Roma were deported to Transnistria after this date (Achim, pg. 143). Thus, at least 25,000 Roma were deported in 1942 to Transnistria. **Given the number of deportees and the likely relative youth of many of those who survived the harsh deprivations of the deportation period, the number of claims received by the IOM is reasonable.**

Virtually all claims received by the IOM come from people who were living in the regions of Romania from which Roma were deported; virtually none came from regions from which we know no Roma were deported. **Thus, the claimant pool is reasonable and consistent with the historical record.**

The overwhelming majority of the Roma deported to Transnistria were sent to villages on the Bug River in the districts of Golta, Oceakov, Balta, and Berezovka. Initially, most of the nomadic Roma were sent to the Golta district and the vast majority of the second category was sent to the Oceakov district. According to Achim, over 130000 people from the second category were sent to Oceakov district. The deported Roma were typically "housed" in holes dug into the ground or in damaged houses in villages from which the local inhabitants had been evacuated. Sometimes a portion of a village would be evacuated of local inhabitants in order to intern the Roma in a confined space; sometimes a whole village was evacuated in order to confine the Roma there. **In December 1942 the government of Transnistria ordered that the Roma be settled in villages in groups of 150-350. This increased the number of locations where the Roma were interned. From**

the testimonies of the deportees it is clear that a number of Roma were also deported across the Bug to the Nicolaev area in Reichskommissariat Ukraine.

In theory, Roma between 12 and 60 years old, of both genders, were to perform forced labor. In fact many testimonies demonstrate that children age 6 years and above were taken out for labor, and that even younger children were taken to labor sites because their parents feared leaving them unattended.

Those who performed forced labor were supposed to receive 400 grams of bread per day, with just 200 grams to be provided for the elderly and children. The real food situation was desperate, however, with bread rations often not delivered, potatoes rarely provided, and Roma forced to eat the roots of grass plants, scraps collected from garbage and sewage heaps, and worse.

Numerous official Romanian archival documents clearly state that the situation of the Roma deported to Transnistria was an absolute disaster. Very often the Roma lacked clothes, having traded their clothes for something to eat. Literally naked, many died from epidemics (especially typhus). For example, in the single winter month of December 1942, 4% of the 3,881 Roma in the Blsaiia-Karanika area died. In Alexandrovka, 11% of the 3,585 Roma there 11% (Achim pg. 146).

Of the 25,000 Roma deported to Transnistria, at least 6,000 returned, according to official records of the Romanian gendarmerie from 1945. According to Achim, as many as half of the Roma deported to Transnistria may have survived and returned to Romania.

Four categories of perpetrators—including Romanians, local Ukrainians, Reich Germans and local Volksdeutsch—were responsible for the executions and forced labor of Roma on the Bug. The perpetrators included a) the Romanian governmental administration and gendarmerie in Transnistria; b) Ukrainian rural militia units recruited by and subordinated to the Romanian administration of Transnistria; c) local ethnic German *Volksdeutsch* who enrolled in the local SS colonies and who were subordinated directly to Reich German authorities, in accordance with the Tighina Agreement concluded by Romanian and German authorities; and d) Reich German military and other authorities, including the administration of the Reichskommissariat Ukraine and Organization Todt. Categories a, b, and c had jurisdiction on the West bank of the Bug River. German military were present both in Transnistria and to the East of the Bug. Organisation Todt operated where there were projects under their command. The administration of the Reichskommissariat Ukraine had authority to the East of the Bug.

There are many locations noted in the testimonies where deportees were taken and kept for forced/slave labor, and it is clear that groups of Roma were moved repeatedly from place to place according to where their labor was needed. In some cases this meant work burying executed Jews at one site; followed by construction work for German authorities in a town or at a site in the countryside; then agricultural work during the summer and fall on a collective farm, either in the

Volksdeutsch, Ukrainian or Romanian population zones of Transnistria. Some locations where work was required were well-known large concentration areas, but a far greater number were small villages and named collective farms (kolkhozes) where labor was performed under extreme conditions. Some of these locations are so small, as in the case of individual farms, that they often do not appear on available maps, but the testimony about them is totally convincing and frightening. In these small locations, deportees were most often penned up in pigsties and animal shelters during their non-work hours. In all cases, leaving the restricted area, whether it was closed in with barbed wire or not, was punishable by death by shooting. All of these locations, and there are well over 100 just in the claims we have reviewed thus far, must be considered as valid locations of detention.

Some claims are more specific than others in naming the places deportees were taken, according to the age, memory, and ability to even read the place names. In some cases, place names are remembered incorrectly—Domanovka, for instance, might be remembered as Domovka. Golta district had dozens of locations where labor was performed, for example. Reference to Golta or to one of those more precise locations, including named collective farms, should have equal validity. Testimonies of the suffering that occurred in all of these locations, which should be added to the German Foundation list, are absolutely convincing. Many, but not all, can be found on a detailed map of Transnistria, precisely in the zones where Roma were concentrated. A claim might mention Golta *district*; or Vradievka *commune*; or Comorovka *collective*. All are equally valid; they are simply references to different levels of the administrative structure of the district.

Regarding forced/slave labor performed directly for Germans rather than for Romanians, we recorded during our review of files in just one afternoon a considerable number of places where credible, detailed testimonies record work performed directly for Germans. Such work was extensive and harsh. It included work in gravel pits, carrying stones and sand for road works, bridge-building and railway repair, as well as cutting lumber for the German organizations charged with these functions in Transnistria and, sometimes, across the Bug in RK Ukraine; digging trenches under direct German military supervision, as defense works and sometimes as mass graves for Roma and Jews; and working on SS-owned farms and farms under *Volksdeutsch* control in the ethnic German populated zones of Transnistria. In the afternoon when we scouted for cases of labor performed for Germans, we found cases (sometimes multiple cases) of such labor directly for Germans at the following specific sites:

Saridarovka
Korcina
Kovaliovka
Ciomartie
Vradievka
Berezovka
TreiDube
Moldoka
Golta

Vasiliovka
 Nicolaev
 Berlin (Urbleu)
 Koronika

GFLCP 1 8 AUG 2003

In addition, several testimonies reported agricultural work for Anton Stiber (Steuber), which might be an individual or a farm.

Women were sexually abused by German guards on a massive scale. In some cases young boys were also abused sexually.

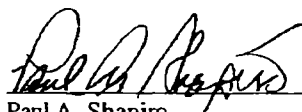
Regarding the issue of the deportation of Roma to "German occupied areas" raised in your email dated February 20, 2003, addressed to Dr. Roland and Ms. Suzanne Sehlbach, we can offer the following clarification. While the description by your team historian, Mrs. Dorothea Hoehcker regarding Romanian jurisdiction over Transnistria versus German jurisdiction in the *Reichskommissariat Ukraine* is accurate, it is essential to note that according to the very same Tighina Agreement of 31 August 1941 which attributed jurisdiction over Transnistria to Romania, Romanian jurisdiction in this area was not total. The Agreement specifically exempted from Romanian administrative control the so-called German SS colonies (districts with large *Volksdeutsch* populations), which had their own juridical status tied directly to Nazi Germany SS authorities. These colonies/villages were close to the Bug River and in the same general areas to which Romanian Roma were deported. Romanian archival documents as well as the testimonies of the deported Roma describe executions of deportees by the SS colonists and exploitation of the deportees by SS and other Germans for agricultural forced labor. The deported Roma were extensively used for forced labor by Reich German military authorities, local *Volksdeutsch*/SS authorities, and Organisation Todt.

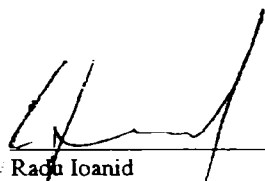
Before the deportation of Roma to Transnistria, the head of the Statistical Office of Bavaria expressed publicly during his visits to Romania a very strong interest in the "racial problem" represented by Romanian Roma. Both the German SS colonists in Transnistria and other German authorities in the area clearly used the Romanian Roma for forced labor and were involved in their executions.

There can be no doubt that forced labor by Roma in Transnistria was the general rule and was systematically enforced. Both archival documents and Roma testimonies emphasize grueling work for long hours at agricultural tasks, road-building, carrying and splitting stones, cutting wood, earth moving, bridge-building, etc. The deplorable living conditions of Roma deported to Transnistria are very well documented and can in general be described, without exaggeration, as unimaginable and horrific. Archival documents, testimonies, and the studies that have been written on this subject (by Achim and Ioanid) all converge on the same conclusion: disastrous and calculated deprivation and lack of shelter, heat, clothing and food.

The overall credibility of the claims we reviewed with respect to dates and the deportation locations is very high. For the relatively small number of cases where this credibility was lacking, we so indicated on the forms provided to us.

While the list of recognized camp locations in Transnistria that is being assembled by the German Foundation is accurate in the sense that the locations listed were camp and detention sites, the list is far from complete. As stated above, many Roma were moved (*repartizati*) for labor purposes to several locations. They may remember a district, town, locality, village, or simply a collective farm (often misspelled) name. The distinction among these, "recognizing" some and "not recognizing" others, would be erroneous, since the Roma deported to Transnistria were held at numerous sites throughout the entire area and moved from site to site and between specific named locations as the perpetrators required. Recognition of all of the locations in the highly concentrated areas where the Roma were kept, exploited and killed will reflect the historical reality of this region during the war and will ensure that legitimate claims that may fail to mention a specific location on the current list are not excluded from the settlement.


 Paul A. Shapiro 8/11/03
 Director Date
 Center for Advanced Holocaust Studies


 Radu Ioanid 8/11/02
 Director Date
 International Archival Programs

Swiss Banks Settlement: Refugee Class

Administered by the Conference on Jewish Material Claims
Against Germany (Claims Conference) on behalf of the United
States District Court

Geographic Distribution of Approved Claimants by Country and
Award (as of September 16, 2003)

Country	Approved Claimants	Amount Paid
Argentina	16	\$41,325
Australia	43	\$110,925
Austria	17	\$44,950
Belgium	79	\$144,275
Brazil	8	\$17,400
Canada	68	\$179,800
Chile	1	\$3,625
Costa Rica	1	\$725
Croatia	6	\$7,250
Czech Republic	1	\$3,625
France	182	\$314,650
Germany	16	\$34,800
Great Britain	51	\$124,700
Hungary	9	\$32,625
Israel	512	\$891,750
Italy	15	\$31,900
Luxembourg	2	\$1,450
Mexico	3	\$7,975
Monaco	1	\$725
Netherlands	41	\$55,825
New Zealand	1	\$725
Panama	1	\$3,625
Peru	2	\$7,250
Romania	1	\$3,625
Slovenia	1	\$725
South Africa	2	\$7,250
Sweden	6	\$18,850
Switzerland	7	\$14,500
Trinidad & Tobago	1	\$3,625
United States	643	\$1,837,875
Uruguay	7	\$17,400
Yugoslavia	1	\$725
Total	1,745	\$3,966,475

Swiss Banks Settlement: Refugee Class

Administered by the Conference on Jewish Material
Claims Against Germany (Claims Conference) on behalf
of the United States District Court

Geographic Distribution of Approved Claimants by US
State and Award (as of September 16, 2003)

US State	Approved Claimants	Amount Paid
Arizona	10	\$27,550
California	98	\$287,825
Colorado	5	\$18,125
Connecticut	9	\$25,375
Florida	105	\$328,425
Georgia	1	\$3,625
Illinois	10	\$28,275
Indiana	1	\$725
Louisiana	3	\$10,875
Massachusetts	15	\$40,600
Maryland	15	\$45,675
Maine	2	\$7,250
Michigan	8	\$20,300
Minnesota	5	\$12,325
Missouri	3	\$10,875
New Hampshire	1	\$725
New Jersey	50	\$136,300
New Mexico	2	\$7,250
Nevada	9	\$30,450
New York	237	\$644,525
Ohio	7	\$13,775
Oregon	2	\$7,250
Pennsylvania	18	\$60,175
South Carolina	1	\$3,625
Tennessee	3	\$11,600
Texas	5	\$15,225
Virginia	7	\$10,875
Washington	3	\$5,075
Washington DC	5	\$15,225
Wisconsin	3	\$7,975
Total	643	\$1,837,875

**Swiss Banks Settlement: Refugee Class I
Administered by the International Organization for Migration
on behalf of the United States District Court**

**Geographic Distribution of Approved Claimants
by Country and Award
(as of September 25, 2003)**

Country	Approved Claimants	Amount Paid
France	4	\$14,500
Germany	46	\$186,750
Latvia	1	\$3,625
Netherlands	4	\$14,500
Poland	2	\$7,250
Slovakia	2	\$7,250
Ukraine	1	\$3,625
United States	2	\$7,250
TOTAL	62	\$224,750

**Swiss Banks Settlement: Refugee Class II
Administered by the International Organization for Migration
on behalf of the United States District Court**

**Geographic Distribution of Approved Claimants
by Country and Award
(as of September 25, 2003)**

Country	Approved Claimants	Amount Paid
United States	1	\$725
Yugoslavia	1	\$725
TOTAL	2	\$1,450

**Swiss Banks Settlement: Refugee Class III
Administered by the International Organization for Migration
on behalf of the United States District Court**

**Geographic Distribution of Approved Claimants
by Country and Award
(as of September 25, 2003)**

Country	Approved Claimants	Amount Paid
Ukraine	1	\$4,350


administering payments to Jewish former slave and forced laborers, that the German Foundation has accepted as final the Claims Conference's "Appeals Rules for Decisions of Appeals Authority" ("Appellate Rules"), a copy of which is annexed hereto. In addition to these Appellate Rules, the German Foundation also has accepted the Claims Conference's recommendation that Jakob Hirsch and Ze'ev Victor Sher be appointed as Chairmen of this appellate authority. Mr. Hirsch, who was born in Germany in 1924 and emigrated to Israel in 1935, is an attorney who was educated at the Hebrew University of Jerusalem. He served for over two decades in the Office of the State Comptroller of Israel, including as Director, and has been involved with numerous charitable organizations in Israel and elsewhere. Mr. Sher, who was born in Austria in 1930, graduated from the Hebrew University Law School and received a Master of Laws degree from Harvard University. Among other positions, he has served in the Office of the State Comptroller of Israel, where, like Mr. Hirsch, he was Director for several years; Economic Minister to the United States and Canada; and Deputy Attorney General of Israel.

The independent appellate mechanism that has been established under the German Foundation Law for Jewish former slave and forced laborers comports with due process under the laws of the United States and also satisfies the objectives of efficiency and convenience to class members as set forth under the Distribution Plan. Accordingly, it is hereby ordered that the independent appellate body that has been established pursuant to the German Foundation Law also shall determine appeals that may be filed under Slave Labor Class I. The Claims Conference shall file with the Court all appellate guidelines, notice materials and decisions, as well as all German

Foundation determinations relating to the appellate process as relevant to the administration of Slave Labor Class I.

To the extent that issues may arise during the appellate process that are unique to Slave Labor Class I, the Claims Conference shall so advise the Court and the Court or its designee, in its discretion, may review *de novo* that portion of the appellate decision relating to Slave Labor Class I, or may issue supplemental guidelines which shall govern the appellate process for appeals arising under Slave Labor Class I. In the event that a conflict may arise between the appellate body appointed pursuant to the German Foundation Legislation and the Court, the determination of the Court shall be dispositive as to Slave Labor Class I.

SO ORDERED


Edward R. Korman
United States District Judge

Brooklyn, New York
February 11, 2003

FINAL – 1 OCTOBER 2002

***FOUNDATION “REMEMBRANCE, RESPONSIBILITY AND THE
FUTURE”***

**APPEALS RULES FOR DECISIONS OF APPEALS AUTHORITY OF THE
THE CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY
(CLAIMS CONFERENCE)**

Preamble

In implementation of Section 19 of the German Law on the Creation of a Foundation “Remembrance, Responsibility, and Future” of 2 August 2000 (Federal Law Gazette I, page 1263), hereinafter referred to as the Foundation Law, and Article 6 of the Agreement with the Foundation “Remembrance, Responsibility, and Future” dated 14 March 2001, the Claims Conference shall create an independent Appeals Authority that shall not be bound by any instructions.

1. Scope of Appeals

These rules shall govern the resolution of appeals submitted to the Appeals Authority relating to an application for individuals who believe they are eligible for a payment in accordance with:

- a) section 11 Item 1 No 1 and section 11 Item 1 No 2 of the Law Establishing the Foundation “Remembrance, Responsibility and the Future” (hereinafter the Foundation Law); and
- b) the decisions of the Board of Trustees of the Foundation (including the adopted decisions of the Historians Committee of the Board of Trustees) and;
- c) if relevant, in accordance with the decisions of the Board of Directors of the Claims Conference relating to the use of section 11 Item 1 Sentence 3 (the “opening clause”);

2. Filing and Acceptance of Claims

- 2.1 The appellant shall have three months and seven days from the date of the decision letter to lodge the appeal. The appeal shall be deemed to have been sent on the date that the appeal is postmarked to the Appeals Authority.
- 2.2 The Claims Conference shall inform the appellant as to the opportunity to appeal in the decision letter. The decision letter will inform the applicant of the right to submit any additional evidence to the appeals panel and the reasons for the decision that may

substantiate the claim. The last date for the appellant to file his or her appeal shall be noted in the letter to the applicant.

- 2.3 The appeal shall be lodged at the address of the Appeals Authority contained in the letter to the appellant.
- 2.4 The appeal shall be signed by the appellant or his or her duly appointed representative and should contain a statement of the grounds and reasons for the appeal and any additional information, affidavit or evidence not already submitted to the Claims Conference that supports the claim.

3. Appointment and Recusal of Chairperson

- 3.1 The Appeals Authority shall consist of one or two Chairperson(s) and, if needed, one or more Appeals Panelist(s). The appointment and removal of the Chairperson(s) shall be by the Claims Conference with the consent of the Foundation. The appointment of Appeals Panelists by the Chairperson(s) shall require the approval of the Claims Conference.
- 3.2 Either of the Chairperson(s) can, with the consent of the Foundation, and the other Appeals Panelist(s) can, in cases of serious violation of their duty, be removed from office forthwith upon written notification by the Claims Conference of removal.
- 3.3 Each Chairperson of the Appeals Authority and any Appeals Panelist shall be independent and impartial of the Claims Conference. The Chairperson(s) of the Appeals Authority and any Appeals Panelist shall not be members of either the Board of Directors of the Claims Conference nor serve on any Committee of the Claims Conference.
- 3.4 He or she shall be independent and impartial of the appellant in the particular case.
- 3.5 In the event that any of the Chairpersons or any Appeals Panelist has any connection between him or herself and any claimant, the relevant Chairperson or any Appeals Panelist shall declare the interest or connection and recuse him or herself from hearing the appeal. In such cases, the Chairperson or an Appeals Panelist not connected with the claimant shall determine the appeal.
- 3.6 Each Chairperson and each Appeals Panelist shall expressly declare upon taking office that he/she shall perform his/her duties as a member of the appeals body independently and impartially and shall treat all information concerning appeals proceedings confidentially.

4. Jurisdiction

- 4.1 The Appeals Authority shall have jurisdiction over all issues relating to:

- a) a determination of eligibility for a payment as a slave laborer from the Claims Conference according to the Foundation Law and the decisions of the Board of Trustees of the Foundation (including the adopted decisions of the Historians Committee of the Board of Trustees);
 - b) a determination of eligibility for a payment as a forced laborer from the Claims Conference in accordance with the Foundation Law, the decisions of the Board of Trustees of the Foundation (including the adopted decisions of the Historians Committee of the Board of Trustees) and if relevant, in accordance with the decisions of the Board of Directors of the Claims Conference relating to the use of section 11 Item 1 Sentence 3 (the "opening clause");
 - c) the validity of any deductions or the amount of any payment made to a slave or forced labor payment based upon the Foundation Law and the decisions of the Board of Trustees of the Foundation;
- 4.2 The Appeals Authority will examine whether an appeal is admissible. An appeal will be admissible if:
- a) A claim for payment was submitted prior the deadline for submitting applications; and
 - b) An appeal was submitted prior to the deadline for submitting the appeal; and
 - c) The eligible person is alive or died on or after 16 February 1999; and
 - d) The claim is filed by the eligible person (or his or her representative) or the heir of the eligible person according to section 13 Item 1 of the Foundation Law (or his or her representative). A claim shall not be admissible where another heir has already received a payment for the same deceased eligible person; and
 - e) The claim is a claim to be processed by the Claims Conference in accordance with the Foundation Law.

Notwithstanding the above, the Appeals Authority shall have jurisdiction to hear an appeal if the matter in dispute relates to one of the instances set out in sections (a) to (e) above.

5. Evidence

In addition to the information submitted by the appellant to the Appeals Authority, the Appeals Authority shall receive a copy of all the information and/or documents including any affidavit relating to the initial determination of the Claims Conference.

6. Taking of Evidence

- 6.1 To the extent possible, all decisions shall be conducted on a documents only basis.
- 6.2 Any Chairperson of the Appeals Authority may delegate an appeal to a particular Appeals Panelist.
- 6.3 Each Chairperson of the Appeals Authority, may determine in his or her sole discretion, that a particular case is unusually complex and therefore requires that additional Appeal Panelist(s) participate in the appeal. In such cases, the majority decision among the Panel shall determine the appeal. If there is no majority decision, the Chairman serving on the Panel shall have the casting vote.
- 6.4 In the event that cases that are to be decided by more than one Appeals Panelists and the Appeals Panelists are located in different locations, the appeal should be conducted by telephone conference call between the Panel.
- 6.5 A Chairperson of the Appeals Authority or the Appeals Panelist may determine, in his or her sole discretion, that an oral hearing is necessary for the determination of the appeal and in such circumstances the relevant Chairperson or Appeals Panelist or other appropriate person designated by the relevant Chairperson shall be entitled to collect such evidence by telephone conference.

7. Powers of the Appeals Authority

- 7.1 The Appeals Authority shall have the power to ask such supplementary questions to the Claims Conference as it deems appropriate.
- 7.2 In the event that the Appeals Authority believes that in order to make its decision it requires additional information in addition to that contained in the Claims Conference file, the appeals body can set the appellant another deadline of two months for producing items establishing credibility or can conduct reasonable and appropriate search to procure the evidence itself.
- 7.3 The appeals body can approach the Federal Foundation at any time with questions concerning the interpretation of the Foundation Law.

8. Decision

- 8.1 The decision of the Appeals Authority shall be in writing and shall contain the decision on the merits and the reasons why the decision was reached by the Appeals Authority. The decision shall be signed one of the Chairperson(s) of the Appeals Authority and if relevant the Appeals Panelist. The amount of the award shall be specified in the decision.

- 8.2 The decision will be sent to both the Claims Conference and the appellant.
- 8.3 Following the notification of the decision of the Appeal Authority to the Claims Conference, the Claims Conference shall, if so required by the appeal, take all necessary measures to award a payment to the appellant in accordance with the provisions of the Foundation Law.
9. Finality
- 9.1 Subject to 9.2 below, the decision of the appeal panel shall be final and binding.
- 9.2 In the event that the claimant finds new evidence within the earlier of (i) three months of the appeal decision or (ii) the end of the appeal process the claimant shall be entitled to contact the Appeals Authority and ask that the decision be reconsidered in light of the new evidence.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

----- X
IN RE: :
HOLOCAUST VICTIM ASSETS :
LITIGATION :
----- :

Case No. CV 96-4849 (ERK)(MDG)
(Consolidated with CV 96-5161
and CV 97-461)

ORDER

----- :
This Document Relates to: All Cases :
----- X

KORMAN, Chief Judge:

By Order dated February 11, 2003, I approved appellate rules and procedures to govern Slave Labor Class I claims administered by the Conference on Jewish Material Claims Against Germany, Inc. ("Claims Conference"). For reasons discussed in the February 11, 2003 Order, the appellate rules properly rely upon those adopted in connection with the slave and forced labor appellate process for the German Foundation "Remembrance, Responsibility and the Future" ("German Foundation").

The International Organization for Migration ("IOM") administers the claims of Roma, Jehovah's Witness, homosexual and disabled Nazi victims under Slave Labor Class I through the Holocaust Victim Assets Programme ("HVAP"), and also serves as one of the "partner organizations" under the German Foundation. I have been advised by IOM that the German Foundation has accepted IOM's Appeals Body and its "Principles and Rules of Appeals

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Procedure" ("Appellate Rules") as final, a copy of which is annexed hereto. In addition to these Appellate Rules, the German Foundation also has accepted IOM's recommendation that Matti Pellonpää serve as Chairman of the Appeals Body, and that Nataša Zupančič and Les Kuczynski serve as Members.

Mr. Pellonpää is a Judge at the European Court of Human Rights in Strasbourg, France where he has served in a variety of judicial functions since November 1998. He has a broad background in international human rights law, and received his Doctor of Laws degree from the University of Helsinki, Finland in 1984. His professional experience encompasses periods at the Iran-United States Claims Tribunal in The Hague, the Supreme Administrative Court of Finland in Helsinki, Finland and the United Nations Compensation Commission in Geneva, Switzerland. Ms. Zupančič holds a university degree in law from the University of Ljubljana in Ljubljana, Slovenia and is a counselor in the International Law Department of the Ministry of Foreign Affairs in Slovenia. She is a member of several advisory boards responsible for the compensation of war victims, a member of IOM's Steering Group of Most Involved Victims' Associations and has been active in the area of war reparations between Slovenia (formerly Yugoslavia) and Germany, Italy and Hungary. Mr. Kuczynski received his Juris Doctor degree from the University of Minnesota Law School in Minneapolis, Minnesota in 1972. He has been National Counsel for the Polish National Alliance since 1985 as well as National Executive Director of the Polish American Congress and Polish American Congress Charitable Foundation since 1991. In 2002, he was elected as President of the World Polonia Council and

- 2 -

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was appointed to the American Red Cross Holocaust and War Victims and Tracing and Information Center in Baltimore, Maryland. Mr. Kuczynski is also a member of IOM's Steering Group of Most Involved Victims Associations.

In addition to the Appellate Rules, IOM has submitted to the Court a proposed "HVAP Slave Labor Class I Addendum" ("the Addendum") to govern the appellate process as it may apply uniquely to Slave Labor Class I (for example, under Slave Labor Class I, there are certain additional eligibility criteria that are not generally applicable under the German Foundation Law). A copy of the Addendum is annexed hereto.

The independent appellate mechanism that has been established by IOM under the German Foundation Law for former slave and forced laborers, as supplemented by the Addendum, comports with due process under the laws of the United States and also satisfies the objectives of efficiency and convenience to class members as set forth under the Distribution Plan. Accordingly, it is hereby

ORDERED that the independent Appeals Body and Appellate Rules that have been established by IOM pursuant to the German Foundation Law, as supplemented under HVAP Slave Labor Class I by the Addendum, also shall determine appeals that may be filed under HVAP Slave Labor Class I. IOM shall file with the Court all appellate guidelines, notice materials and decisions, as well as all German Foundation determinations relating to the appellate process as relevant to the administration of HVAP Slave Labor Class I.

To the extent that issues may arise during the appellate process that are unique to HVAP Slave Labor Class I, IOM shall so advise the Court and the Court or its designee, in its discretion, may review *de novo* that portion of the appellate decision relating to HVAP Slave Labor Class I, or may issue supplemental guidelines which shall govern the appellate process for appeals arising under HVAP Slave Labor Class I. In the event that a conflict may arise between the body appointed pursuant to the German Foundation Legislation and the Court, the determination of the Court shall be dispositive as to HVAP Slave Labor Class I.

Brooklyn, New York
April 23, 2003

SO ORDERED:



Edward R. Korman
United States District Judge



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

German
Forced Labour
Compensation Programme
REMEMBRANCE, RESPONSIBILITY and FUTURE



The IOM Appeals Body for Forced Labour Claims,

Recalling the Law on the Creation of the Foundation "Remembrance, Responsibility and Future" of 2 August 2000, entered into force on 12 August 2000;

Noting that under Section 19 of this law the partner organizations of the German Foundation are to create appeals organs that are independent and subject to no outside instruction;

Recalling the commitment of the International Organization for Migration (IOM) to provide a fair, transparent and efficient eligibility procedure;

Recognizing that the severe injustice inflicted on slave and forced labourers by the National Socialist State and the human suffering it caused for the victims cannot be truly compensated by payments;

For the purpose of establishing principles and rules concerning the appeals procedure;

Hereby adopts the following:

PART ONE

General Provisions

Article 1

Definitions and Use of Terms

(A) The following definitions apply for the purpose of these Rules:

“Appeals Body” refers to the IOM Appeals Body for Forced Labour Claims established to review on appeal IOM decisions on claims for slave and forced labour and for personal injury, pursuant to Section 19 of the German Foundation Act;

“Appellant” refers to a person who submits to the IOM Appeals Body a request for review of an initial eligibility decision taken by IOM pursuant to Sections 11 and 19 of the German Foundation Act;

“Claimant” refers to a person who submitted a claim for compensation of slave and forced labour or a claim for personal injury, in connection with National Socialist injustice, pursuant to Section 11 of the German Foundation Act;

“Eligible Heirs” refers to persons who are entitled to claim and receive awards for compensation as legal successors pursuant to Section 13, paragraph 1 of the German Foundation Act;

“Foundation” refers to the German Foundation “Remembrance, Responsibility and Future” which oversees the implementation of the Foundation Act;

“Foundation’s Directives” refers to legal circulars and other official correspondence that contain decisions, interpretations or clarifications of issues and procedures by the Foundation relative to the Foundation Act;

“German Foundation Act” refers to “The Law on the Creation of a Foundation “Remembrance, Responsibility and Future” of 2 August 2000 which provides the legal basis, authority and framework for compensation of forced labour and other claims in connection with National Socialist injustice;

“GFLCP” refers to the German Forced Labour Compensation Programme of the IOM;

“IOM” refers to the International Organization for Migration;

"Partner Organizations" refers to organizations, including IOM, participating in making financial compensation available, pursuant to the terms of the German Foundation Act, to former slave and forced labourers and other victims of National Socialist injustice;

"Rules" refers to these "Principles and Rules for Appeals Procedure" in force;

"Secretariat" refers to the IOM staff members designated to support the work of the Appeals Body;

"Victim" refers to a person against whom the National Socialist State or regime inflicted severe injustice through deportation, internment, exploitation and other serious human rights violations.

(B) In these Rules, the masculine shall include the feminine and the singular the plural, and vice-versa.

Article 2 Scope of the Rules

These Rules apply to appeals against initial IOM eligibility decisions on compensation claims for slave and forced labour or claims for personal injury that were submitted to IOM under Section 19 of the Foundation Act.

Article 3 Submission of Appeals

Appeals are to be submitted in writing to the Appeals Body at IOM's Headquarters (IOM Appeals Body (FL), P.O. Box 174, CH-1211 Geneva 19, Switzerland).

Article 4 Eligibility to Submit an Appeal

The following are entitled to submit appeals:

- i) Persons who timely submitted claims to IOM as victims or eligible heirs of victims and whose claims for compensation were denied, in whole or in part, by the initial decision;
- ii) Eligible heirs of victims for whom notifications of death were timely received on behalf of victims who died after having timely submitted

-claims to IOM and whose claims were denied, in whole or in part, by the initial decision;

iii) Lawyers or other representatives

(a) who were properly authorized to represent the claimants in the first instance and who are still considered by the claimants to represent the claimants for appeals purposes; or

(b) who were properly authorized to represent the claimants in the first instance and who, in the event of death of the original claimants, are still considered by the eligible heirs to represent the eligible heirs for appeals purposes; or

(c) who have subsequently been properly authorized to represent the claimants or eligible heirs for appeals purposes.

**Article 5
Admissibility**

(A) Appeals may be made against the reason of the initial IOM decision or the initial determination of a category or categories of compensation under the eligibility criteria stipulated in Section 11 of the German Foundation Act.

(B) Appeals may be submitted only by the persons enumerated in Article 4.

(C) The appellant should indicate the part of the initial decision he seeks to reverse or amend, explain the reasons for the appeal and submit any new evidence to support the appeal as soon as it becomes available.

(D) Appeals must be submitted to IOM in writing at the address specified in Article 3 and mailed no later than one hundred days from the date of issuance of the initial decision to the claimant.

(E) If an appeal has been submitted within the period stipulated in paragraph D, and if within six months after the death of an appellant no eligible heir has notified IOM of such death, the appeals procedure will be terminated and the eligibility for an award shall expire, in accordance with Section 14, paragraph 3 of the German Foundation Act.

**Article 6
Costs and Expenses**

The appeals process shall be free of charge. Any expenses incurred by appellants, including costs for legal representation, shall not be reimbursed.

PART TWO

The Appeals Body

Article 7

Establishment of the Appeals Body

(A) The IOM Appeals Body is established as an independent appeals organ that is subject to no outside instruction, pursuant to Section 19 of the German Foundation Act.

(B) Meetings of the Appeals Body shall be held at IOM Headquarters, Geneva. They will be held at regular intervals, as deemed necessary by the Chairman.

Article 8

Appointment and Removal

The Members of the Appeals Body shall be appointed or removed by IOM in agreement with the German Foundation.

Article 9

Qualifications

The Members of the Appeals Body shall be persons of high moral character, impartiality and integrity. They shall not be Members of the German Foundation's Board of Directors or of IOM's Executive Committee, or be involved in the processing of claims.

Article 10

Procedure for Appointment in Case of Replacement

In the event that a Member of the Appeals Body wishes to resign or is no longer able to exercise his functions, he shall inform IOM accordingly. IOM will appoint a successor in agreement with the German Foundation.

Article 11

Requirements

(A) Members of the Appeals Body will act in their personal capacity. They shall not have financial interests in any of the claims submitted to them. They may not be associated with or have financial interests in representatives who have submitted claims that are before them.

(B) Members of the Appeals Body shall not represent or advise any party or claimant concerning the preparation or presentation of their appeal to the Appeals Body.

Article 12 Disclosure

(A) The Members of the Appeals Body shall file a statement that shall disclose to IOM any prior or actual relationship with Governments, corporations or other entities, or individuals, or any other circumstances, that are likely to give rise to justifiable doubts as to any Member's impartiality or independence with respect to the tasks of the Appeals Body. This information will be provided to the Foundation at the time the nomination of the Member is submitted by IOM.

(B) Once appointed, a Member shall disclose to IOM any new circumstances likely to give rise to justifiable doubts as to that Member's impartiality or independence.

(C) A Member may not participate in any appeals decision in which he has a personal interest or concerning which he has or has had any association which might give rise to justifiable doubts as to his impartiality or independence. In such case, the Member shall voluntarily withdraw and the remaining Members shall decide with unanimity, in accordance with Article 19 (A) of these Rules.

(D) IOM will inform the Foundation about circumstances brought to their attention or of which they learn that are likely to give rise to justifiable doubts as to the impartiality or independence of a Member of the Appeals Body, also transmitting a statement of the Member concerned.

(E) In any case in which such circumstances are disclosed, IOM, in coordination with the Foundation, may determine whether the Member concerned should cease to act, either generally or with respect to a particular appeals decision. Pending such determination, the Member concerned will continue to perform his tasks.

Article 13 Declaration

Every Member of the Appeals Body shall, before taking up his duties, declare that he will perform his duties and exercise his position as a Member of the IOM Appeals Body independently, impartially and conscientiously.

PART THREE

Work of the Appeals Body

Article 14
Membership

- (A) The Appeals Body will consist of three Members.
- (B) The three Members will elect one Member to be Chairman.

Article 15
Language

- (A) The working language of the Appeals Body is English.
- (B) An appellant should submit the appeal in English or in the language in which the claim was submitted.

Article 16
Organization of Work

- (A) The Chairman will organize the work of the Appeals Body.
- (B) The Secretariat will provide administrative, technical and legal support to the Appeals Body.
- (C) Members of the Secretariat may attend sessions of the Appeals Body and may provide information to Members of the Appeals Body, as required.
- (D) The Appeals Body shall determine appeals on the basis of written information and evidence available to it. There shall be no oral hearings of appellants or of third party representatives in relation to individual appeal decisions.

Article 17
Confidentiality

- (A) Unless otherwise provided in these Rules or decided by the Foundation, all records received or developed by the Appeals Body will be confidential.
- (B) The Appeals Body shall conduct its work in private.
- (C) Members of the Appeals Body shall not disclose, even after the termination of their functions, any information not in the public domain that has come to their knowledge by reason of their participation in the Appeals Body.

Article 18
Applicable Law

(A) In considering appeals, the Appeals Body will apply the Foundation Act, Decisions of the Foundation's Board of Trustees and other official Directives of the Foundation.

(B) The Appeals Body is also bound by the relevant provisions of IOM's contract with the Foundation and IOM's guidelines concerning subcategories and the application of the opening clause.

Article 19 Review of Appeals

(A) The Appeals Body shall normally take decisions by a majority of the three Members. Should a Member be unable to participate in a decision of the Appeals Body, decisions shall be taken by the remaining two Members with unanimity.

(B) In considering appeals, the Appeals Body will take into account

- i) the initial IOM decision and its rationale;
- ii) the statements and all material submitted by the appellant during the initial procedure;
- iii) the statements and all material submitted by the appellant during the appeals procedure;
- iv) information obtained from archives or other sources on the circumstances and facts relevant to the claim;
- v) historic background information available to the Appeals Body regarding the circumstances prevailing during the National Socialist period.

(C) The Appeals Body will group together appeals that present similar situations or circumstances for efficient consideration and decision.

Article 20 Additional Information

The Appeals Body may solicit additional information, evidence or clarification as it deems necessary for the appropriate and efficient consideration of and decision on appeals.

Article 21 Decisions

(A) With the decision of the Appeals Body, an appeal will either be denied or granted, in whole or in part. If an appeal is granted, the Appeals Body shall specify the category and amount of the award in its decision.

(B) The Appeals Body shall provide reasons for its decisions.

(C) Initial decisions on claims shall not be changed to the disadvantage of the appellant.

(D) Decisions of the Appeals Body shall be notified to the appellant and IOM in writing. In the event that the appellant has authorized a representative to act on his behalf, in accordance with IOM requirements as stipulated in Article 22, a copy of the appeals decision will be sent to the representative.

(E) Decisions of the Appeals Body are final.

(F) As a rule, a decision shall be communicated to the appellant in the language in which the appeal was submitted. In some instances, a decision may be communicated in English, together with a general information and a summary of the result of the decision in the language of the appeal submission.

Article 22 Representation

(A) Individual appellants may be represented by a lawyer or another representative of their choice.

(B) Representatives shall provide proper written authorization from the appellant or, in case the appellant is deceased, from the eligible heirs of the appellant.

(C) In the event that a proper authorization was already submitted for the purpose of the initial claims procedure, such authorization shall be presumed to remain effective for the purpose of the appeals procedure, unless otherwise indicated by the appellant.

PART FOUR

Final Provisions

Article 23 Additional Procedural Rulings

The Appeals Body may amend these Rules or make such additional procedural rulings as may be necessary for the performance of its tasks, in agreement with the German Foundation.

Article 24 Governing Language

The English text of these Rules shall govern, regardless of the existence of any translations of these Rules into other languages.

Article 25
Interpretation

These Rules shall be interpreted in accordance with the provisions of the German Foundation Act. In the event of a conflict between these Rules and the German Foundation Act, the provisions of the latter shall prevail.

Geneva, 7 February 2003

Matti Pellonpää
Chairman

Natasa Zupancic
Member

Les Kuczynski
Member



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

Holocaust
Victim Assets
Programme
SWISS BANKS

HVAP SLAVE LABOUR CLASS I ADDENDUM
TO
PRINCIPLES AND RULES OF APPEALS PROCEDURE
OF THE
IOM APPEALS BODY
FOR
FORCED LABOUR CLAIMS

The IOM Appeals Body for Forced Labour Claims and HVAP Slave Labour Class I Claims,

Recalling the Governing Principles in the Plan of Allocation and Distribution of Settlement Proceeds proposed by the Special Master on 11 September 2000 and adopted by the Court on 22 November 2000 in reference to the Settlement Agreement reached between Holocaust survivors and Swiss Banks in the United States District Court for the Eastern District of New York in the Holocaust Victim Assets Litigation (Swiss Banks) in 1999 that entered into force on 26 January 1999;

Recalling that the Law on the Creation of the German Foundation "Remembrance, Responsibility, and Future" of 2 August 2000, that entered into force on 12 August 2000, provided for the creation of a fund from which to compensate former slave and forced labourers who were victims of Nazi injustice and designated IOM as one of seven implementing partner organizations to process GFLCP claims;

Recognizing the Court's designation of IOM as an entity to determine claims and to administer payments to members of HVAP Slave Labour Class I because the available historical record and research before the Court support the presumption that all surviving slave and forced labourers under GFLCP who are members of specified non-Jewish target groups (Roma, Jehovah's Witness, homosexual or disabled persecutees) can show a sufficient link to Swiss Banks and are thus potentially eligible for compensation under HVAP Slave Labour Class I;

Noting that under Section 19 of the German law, the partner organizations of the German Foundation are to create appeals organs that are independent and subject to no outside instruction and that IOM has accordingly created an Appeals Body for Forced Labour Claims;

Headquarters:

17 route des Morillons • C.P. 71 • CH-1211 Geneva 19 • Switzerland
Tel: +41.22.717 91 11 • Fax: +41.22.798 61 50 • E-mail: hq@iom.int • Internet:
<http://www.swissbankclaims.iom.int>

O:\Compensation\CPUNHVAP\Slave Labour Class I\Appeals

Noting further that the Court has designated the independent IOM Appeals Body to determine appeals filed under HVAP Slave Labour Class I and to advise and respond to the Court accordingly;

Recalling the HVAP Principles of Law and Rules of Procedure governing the processing of HVAP claims filed with IOM;

For the purpose of establishing principles and rules concerning the appeals procedure for claimants in HVAP Slave Labour Class I;

Hereby incorporates by reference all Principles and Rules of Appeals Procedure adopted by the IOM Appeals Body for Forced Labour Claims to resolve appeals in GFLCP, with additional definitions and clarification as follows:

ADDENDUM TO PART ONE**General provisions****Article 1 Addendum
Definitions and Use of Terms**

In addition to the definitions that apply to GFLCP appeals in Article 1, the following definitions apply specifically to Slave Labour Class I appeals under HVAP for purposes of these Rules:

“Claims Conference” refers to the Conference on Jewish Material Claims Against Germany, Inc., designated by the Court to distribute compensation to Jewish Victims or Targets of Nazi Persecution under Slave Labour Class I;

“Court” refers to the United States District Court for the Eastern District of New York before which the Holocaust Victim Assets Litigation (Swiss Banks) cases were consolidated and settlement was reached;

“Distribution Plan” refers to the Plan of Allocation and Distribution of Settlement Proceeds proposed by the Special Master on 11 September 2000 and adopted by the Court on 22 November 2000.

“Holocaust Victim Assets Litigation (Swiss Banks)” refers to Case No. CV 96-4849 (ERK) (MDG) (Consolidated with CV 96-5161 and CV 97-461) before the United States District Court for the Eastern District of New York;

“HVAP” refers to the Holocaust Victim Assets Programme (Swiss Banks) administered by IOM to distribute payments to claimants who meet eligibility criteria for HVAP Slave Labour Class I;

“HVAP Direct Claims” refers to claims submitted to IOM on HVAP claim forms by non-Jewish Victims or Targets of Nazi Persecution and which may be evaluated for HVAP Slave Labour Class I eligibility by cross-referencing with prior approvals for payment of slave or forced labour claims submitted to IOM Partner Organizations under the German Foundation Act or by case-by-case credibility reviews;

“HVAP Overlap Claims” refers to claims submitted to IOM on GFLCP claim forms by persons who have indicated by their responses to Questions 7 or 107 that they are non-Jewish Victims or Targets of Nazi Persecution and which may be evaluated for HVAP Slave Labour Class I eligibility on the basis of prior approvals for payment under GFLCP or by case-by-case credibility reviews;

“Slave Labour” as used in HVAP Slave Labour Class I refers both to slave and forced labour as defined under Section 11, paragraph 1, clause 1 of the German Foundation Act;

“Slave Labour Class I” refers to all Victims or Targets of Nazi Persecution who actually or allegedly performed Slave Labour for private companies, entities that were owned or controlled by the State or by Nazi authorities or by the concentration camp or ghetto authorities that actually or allegedly deposited the revenues or proceeds of that labour with, or transacted such revenues or proceeds through Swiss Banks;

“Special Master” refers collectively to the person(s) designated by the Court whose plan provides for distribution of the proceeds of the settlement reached in the Holocaust Victim Assets Litigation (Swiss Banks) cases, who continue(s) to act as IOM’s interlocutor with the Court, who monitor(s) compliance with the Plan and who provide(s) for revisions or amendments to the Plan as required;

“Swiss Banks” refers to all parties to the Settlement Agreement reached in the Holocaust Victim Assets Litigation (Swiss Banks), and their heirs, executors, administrators and assigns;

“Victim or Target of Nazi Persecution” under the Settlement Agreement refers to any individual, corporation, partnership, sole proprietorship, unincorporated association, community, congregation, group, organization, or other entity persecuted or targeted for persecution by the Nazi Regime because they were or were believed to be Jewish, Romani, Jehovah’s Witness, homosexual, physically or mentally handicapped.

Article 2 Addendum Scope of the Rules

These Rules apply to appeals from initial IOM eligibility determinations on compensation claims under HVAP Slave Labour Class I that were submitted to IOM either as HVAP Direct Claims or HVAP Overlap Claims.

Article 3 Addendum Submission of HVAP Appeals

Appeals are to be submitted in writing to the Appeals Body at IOM’s Headquarters (IOM Appeals Body (SLC I), P.O. Box 174, CH-1211 Geneva 19, Switzerland).

Article 5 Addendum Admissibility of HVAP Appeals

Appeals may be made against initial IOM decisions on claims that are not recommended for payment under the HVAP Slave Labour Class I eligibility criteria.

ADDENDUM TO PART THREE

Work of the Appeals Body

Article 18 Addendum Applicable Law for HVAP Appeals

In addition to the German Foundation Act and official Directives of the German Foundation, the Appeals Body will apply the recommendations set out in the Special Master's Distribution Plan, the HVAP Principles of Law and Rules of Procedure governing Slave Labour Class I and determinations made by the Court as relevant to the administration of HVAP Slave Labour Class I.

ADDENDUM TO PART FOUR

Final Provisions

Article 23 Addendum Additional Procedural Rulings for HVAP appeals

The Appeals Body may amend these Rules or make such additional procedural rulings as may be necessary for the performance of its task, in consultation with and upon approval of the Court.

Article 25 Addendum Interpretation

These Rules shall be interpreted in accordance with the provisions of the German Foundation Act and the recommendations set out in the Special Master's Distribution Plan. In the event of a conflict of between these Rules and the German Foundation Act or the Special Master's Distribution Plan, the latter provisions shall prevail, subject to Court review and approval.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE:
HOLOCAUST VICTIM ASSETS
LITIGATION

Case No. CV 96-4849 (ERK)(MDG)
(Consolidated with CV 96-5161
and CV 97-461)

This Document Relates to: All Cases

~~PROPOSED~~ MEMORANDUM &
ORDER

KORMAN, C.J.:

In his recent letter to the Court, annexed hereto and incorporated herein, Special Master Judah Gribetz recommended certain modifications to the Refugee Class procedures outlined in the Distribution Plan.

As the Special Master's letter advises, the Court currently is charged with notifying the claimant that his or her claim has not been recommended for payment. The Court also is to provide the claimant with a copy of the recommendation. The claimant then may seek the Court's review within thirty (30) days of receipt of notice of the recommendation for denial. Special Master Gribetz proposes to streamline this process, suggesting that the Claims Conference or IOM, as appropriate, prepare on an ongoing basis written reports to be filed with the Court identifying the Refugee Class claims recommended for denial. These reports will include explanations detailing the reasons for each denial. Special Master Gribetz further recommends that following the filing of these recommendations, the Claims Conference or IOM is to notify the claimant of the

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decision denying the claim. This notification will include the reason for the decision, and also will inform the claimant of the review procedure.

In addition, the Special Master also recommends a change in the review process. He has proposed that the deadline for filing a "Request for Review" be extended from thirty (30) to ninety (90) days from the date of the notification letter; the Claims Conference and IOM are to maintain logs recording the notification letter mailing dates. In addition, the Special Master recommends that the claimant send his or her Request for Review, with any supporting materials, to the Claims Conference or IOM as appropriate, which will forward these materials and the refugee case file to the Court or to the Court's designee. The Claims Conference or IOM will provide the Court (or its designee) with translations of the material in the case file. The Court will review the file and issue a decision, which shall be final. The Court will convey the decision to the Claims Conference or IOM, which shall translate and transmit the decision to the claimant and, in the event that the Court has approved the claim, also will transmit to the claimant the appropriate payment.

These proposed modifications are procedural in nature and present only minor deviations from the Distribution Plan. The Special Master's suggestions are in the interest of the claimants, as they will expedite the adjudication of the Refugee Class claims. I concur with these recommendations. Accordingly, it is hereby

ORDERED that the Claims Conference and IOM, respectively, are to prepare written recommendations to be filed with the Court on an ongoing basis, specifying claims recommended for denial, with explanations detailing the reasons therefor. Upon the filing of such recommendations, the Claims Conference or IOM, as

appropriate, will notify each Refugee Class claimant of the decision denying his or her claim and the reason for such denial. The notification letter also will specify, among other things, the filing deadline, the address to which a Request for Review may be sent, and the types of supporting materials, if any, that the claimant may wish to submit with his or her Request. It is further

ORDERED that the deadline by which the claimant must seek review is extended to ninety (90) days from the date of the notification letter. The Claims Conference and IOM are to maintain logs recording the notification letter mailing dates. The claimant is to send his or her Request for Review and supporting documentation, if any, to the Claims Conference or IOM, which shall translate the refugee case file and forward these materials to the Court or its designee. The Court will review the file and issue a decision, which shall be final. The Court will convey the decision to the Claims Conference or IOM, which shall translate and transmit the decision to the claimant and, in the event that the Court has approved the claim, also will transmit to the claimant the appropriate payment.

Dated: Brooklyn, New York
May 16, 2003

SO ORDERED:


Edward R. Korman
United States District Judge

Judah Gribetz
Special Master
Holocaust Victim Assets Litigation
Case No. CV 96-4849
399 Park Avenue
New York, NY 10022
Phone: (212) 705-7221
Fax: (212) 750-9022

May 14, 2003

Hon. Edward R. Korman
Chief Judge
United States District Courthouse
225 Cadman Plaza East
Brooklyn, N.Y. 11201

Dear Judge Korman:

I am writing to suggest certain modifications to the Proposed Plan of Allocation and Distribution of Settlement Proceeds which I filed with the Court on September 11, 2000, as adopted by the Court on November 22, 2000 (the "Distribution Plan") and as subsequently implemented by the Court in several Orders. I believe that these proposed modifications will expedite the Refugee Class distribution process in an efficient manner while preserving the due process rights of the claimants. The proposed revisions would adjust (1) the notification procedure for Refugee Class claims that are not recommended for payment (see pp. 178-79 of the Distribution Plan) and (2) the Refugee Class review process for claims that may have been denied (see pp. 179 of the Distribution Plan).

1. Notification Procedure

According to the Distribution Plan, the Court currently is charged with notifying the Refugee Class claimant that his or her claim has not been recommended for payment. The Court also is to provide the claimant with a copy of the recommendation. The claimant then is entitled to seek review by the Court of that recommendation within thirty (30) days of receipt of the recommendation.

I propose to streamline and simplify this process. I suggest that the Conference on Jewish Material Claims Against Germany ("Claims Conference") or the International Organization for Migration ("IOM"), as appropriate to the claim, periodically prepare and file with the Court written recommendations identifying all denied claims. These recommendations also will detail the reasons for each denial.¹⁷ After the denied claims

¹⁷ This process would be analogous to the approval process for the Refugee Class and for Slave Labor Class I, in that the Claims Conference or IOM periodically submits to the Court a group of claims recommended for payment. For example, to date, the Claims Conference has submitted to the Court nine groups for payment under the Refugee Class.

are filed with the Court, I suggest that the Claims Conference or IOM notify the claimant of the decision denying the claim. This notification letter will advise the claimant of, among other things, the reason for the denial, the address at which a "Request for Review" may be filed, the filing deadline, and information concerning the materials the claimant may wish to file in connection with a Review (such as documentation that may not have been submitted previously as part of the initial claim).

2. Refugee Review Process

The Distribution Plan provides that if a claim has not been recommended for payment, claimants may seek review by the Court within thirty (30) days of the receipt of the recommendation. In keeping with one of the objectives of the Distribution Plan to ensure maximum convenience to class members, I suggest extending this deadline to ninety (90) from the date of the notification of the denial. The Claims Conference and IOM will maintain logs recording the mailing dates of such notification letters.

In addition, I suggest that the claimant send his or her Request for Review and accompanying materials, if any, to the Claims Conference or the IOM, which will forward these materials as well as the translated refugee case files to the Court (or, as appropriate, to the Court's designee). After the Court reviews the file and issues a written decision, which will be final, the Court then can convey the decision to the Claims Conference or IOM so that – as true for other elements involving implementation of the Distribution Plan – the administrative duties will remain with the appropriate agencies rather than unduly burdening the Court. The Claims Conference or IOM will translate and transmit the Court's decision to the claimant and, in the event that the Court has approved the claim, also will transmit to the claimant the appropriate payment. In accordance with the Court's prior directives, Deputy Special Master Shari Reig and I will continue to provide ongoing oversight and supervision of the agencies' activities in connection with distribution of the Settlement Fund, including the review process described above.

I suggest that these proposed modifications are procedural in nature and present only minor deviations from the Distribution Plan. These modifications are in the interest of the claimants, as they will expedite the adjudication of the Refugee Class claims while minimizing the Court's administrative burdens. For the Court's convenience, I attach a Proposed Memorandum & Order implementing the recommendations set forth herein.

Respectfully submitted,



Judah Gribetz

cc: See attached service list

**Swiss Banks Settlement: Slave Labour Class II
Administered by the International Organization for Migration
on behalf of the United States District Court**

**Geographic Distribution of Approved Claimants
by Country and Award
(as of September 25, 2003)**

Country	Approved Claimants	Amount Paid
Australia	3	\$3,000
Belarus	1	\$1,000
Belgium	1	\$1,000
Czech Republic	2	\$2,000
France	1	\$1,000
Netherlands	1	\$1,000
New Zealand	1	\$1,000
Slovenia	1	\$1,000
South Africa	1	\$1,000
Switzerland	2	\$2,000
Ukraine	1	\$1,000
TOTAL	15	\$15,000

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The American Jewish Joint Distribution Committee, Inc.

711 Third Avenue
New York, N.Y. 10017-4014

Tel: (212) 687-6200
Website: www.jdc.org

Fax: (212) 370-5467

PRESIDENT
Eugene J. Ribakoff

EXECUTIVE VICE-PRESIDENT
Steven Schwager

July 31, 2003

Hon. Edward R. Korman
Chief Judge
United States District Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

Dear Judge Korman,

On behalf of the American Jewish Joint Distribution Committee (JDC), I am pleased to submit the enclosed Report on the First Eighteen Months of Welfare Programs in the Former Soviet Union (FSU).

The report details the services provided to some of the Jewish victims of Nazi persecution in the FSU by the Hased programs, using Swiss Banks Settlement "looted assets" class funds during the period from June 28, 2001 to December 31, 2002. I am also transmitting the enclosed Audited Financial Report on the above programs that was issued by Ernst & Young on June 30, 2003.

As per the Court's orders adopting the Special Master's Proposed Plan of Allocation and Distribution of Settlement Proceeds, JDC has been responsible for the management and administration of the programs in the FSU, including monitoring and oversight of spending of Settlement funds by the Hased programs. The enclosed JDC report has been prepared in consultation with the Conference on Jewish Material Claims Against Germany, which has also reviewed the Audited Financial Report.

Sincerely,

Steven Schwager
Executive Vice President

SS:mr
Enclosures

cc: Judah Gribetz Burt Neuberne
Shari Reig
Gideon Taylor
Greg Schneider
Herbert Block
Asher Ostrin

The Joint Distribution Committee receives its funds primarily from American Jewry through the Jewish Federations of the United States and the United Jewish Communities. The JDC also receives funding from World Jewish Relief of Great Britain and UIA Federations Canada

**THE AMERICAN JEWISH JOINT
DISTRIBUTION COMMITTEE**

In Re Holocaust Victim Assets Litigation

“Looted Assets” Class

**REPORT ON THE FIRST EIGHTEEN MONTHS OF
WELFARE PROGRAMS IN THE FORMER SOVIET
UNION**

(June 28, 2001-December 31, 2002)

SUBMITTED TO

CHIEF JUDGE EDWARD R. KORMAN

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

July 31, 2003

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Accompanying – Ernst & Young Audited Financial Report

INTRODUCTION

The network of 177 Hesed welfare centers in the former Soviet Union (FSU) developed by the American Jewish Joint Distribution Committee (JDC) serve a quarter million destitute elderly Jews, among them 135,000 impoverished “double victims” of Nazism and Communism. Swiss Banks Settlement funds help provide critical services for some of these Jewish victims of Nazi persecution.

Given the large number of Nazi victims in the FSU and the magnitude of problems described below and in this report, it is the opinion of JDC that these are the poorest and neediest Jews and victims of the Holocaust in the world. For over forty years, from the end of Holocaust until the fall of the Iron Curtain, they:

- lived under repressive regimes
- worked and lived in poor conditions
- had virtually no access to quality health care services
- received no reparations or compensation
- were cut off from Judaism and Jewish communal services

After the fall of the Soviet Union, these Jewish Nazi victims continue to suffer due to:

- very low pensions, especially in comparison to high inflation
- a collapse of Soviet-era structures resulting in food shortages, the lack of decent health care and social services, and poor housing conditions

- almost no institutional care facilities for the elderly
- a very limited nascent Jewish community without its own resources to provide charitable services.

The Conference on Jewish Material Claims Against Germany (“Claims Conference”) is the largest partner of JDC in providing welfare services to Nazi victims in the FSU. JDC and its other partners, including local Jewish federations in the US and Canada, the Harry and Jeanette Weinberg Foundation, and World Jewish Relief in the UK make available the balance of funding for Hesed centers to serve those Nazi victims not benefiting from Swiss Banks Settlement and Claims Conference funds, and to also serve other poor elderly Jews who are not Nazi victims and therefore do not benefit from restitution funds.

JDC is pleased to submit this report to the Court documenting the welfare services provided to a portion of the 135,000 Jewish victims of Nazi persecution in the FSU from “looted assets” class funding of the Swiss Banks Settlement. These funds have enabled FSU Jewish welfare centers to accomplish a tremendous service to this neglected population. The JDC thanks the Court, Hon. Edward R. Korman, as well as Special Master Judah Gribetz and Deputy Special Master Shari Reig for their vital support of this life-saving humanitarian aid.

BACKGROUND

The Court has charged JDC with the management and administration of funds for Jewish victims of Nazi persecution in the FSU under the “looted assets” class of the Swiss Banks Settlement. On November 22, 2000 the Court adopted the *Special Master’s Proposed Plan of Allocation and Distribution of Settlement Proceeds* (“Distribution Plan”), under which funds are to “be allocated wholly to the network of social service programs known as the ‘Heseds’, created by JDC in 1992...”¹

This report covers the period between June 28, 2001 and December 31, 2002 and reports on the implementation of the JDC’s February 28, 2001 *Proposal for the First Year of Operations*, its April 4, 2001 budget plan for \$7.5 million as submitted to and approved by the Court through orders of April 13, 2001 and June 28, 2001, and the Court’s September 25, 2002 order, which provided an additional \$3,375,000 for welfare services in the FSU. These funds have been used for vital services for Nazi victims according to the allocation and budget section in the *JDC Proposal for the First Year of Operations*, approved by the Court on April 13, 2001.

For almost 60 years, the JDC has been the central agency providing relief to Jewish victims of Nazi persecution in Central and Eastern Europe and the FSU. As an indigenous Jewish voluntary sector develops in the area, the JDC has undertaken and implemented its more recent programs in consultation with local communities and with the aid of the Claims Conference.

¹ Distribution Plan, p. 122.

Over the past decade, all of the former socialist countries have seen a significant erosion of their respective social safety nets. However, as the Soviet successor states have transitioned into market economies, the levels of need and magnitude of destitution of Nazi victims have been the greatest. Not only have old age pensions not kept up with the cost of living, but also rampant corruption in the Soviet successor states has led to an erosion of their tax bases. The result has been a depletion of government revenues, and more often than not, old age pensions arrive late.²

The local Jewish communities of the FSU operate 177 welfare centers (generally known as “Hesed” centers) with support from the JDC in partnership with the Claims Conference.³ The “looted assets” class funds for the Hesed centers have allowed some of the approximately 135,000 destitute and elderly Jewish “double victims” of Nazism and Communism in the FSU to live their lives with a modicum of better health and greater dignity.⁴

² U.S. Social Security Administration [SSA], Office of Policy, “Social Security Programs Throughout the World, 1999” available at <http://www.ssa.gov/policy/docs/progdesc/ssptw/1999/> and “Social Security Programs Throughout the World: Europe, 2002” available at <http://www.ssa.gov/policy/docs/progdesc/ssptw/2002/europe/>.

³ These programs are described in great detail in pages 122-130 of the Distribution Plan.

⁴ As described in the Distribution Plan (p. 128), JDC has developed a comprehensive management information system (MIS) that records all Hesed client data. As part of the client intake process, each new recipient of Hesed welfare services must provide data about his or her economic condition as well as his or her family, housing and health situation. Clients are also asked about their status during World War II so as to be able to determine which clients were victims of the Nazis and eligible for funding from the Swiss Banks Settlement and other restitution sources. The Hesed intake questionnaire was included as Exhibit 6 of the Distribution Plan and an updated version of this questionnaire is included in this report in Appendix I. In 2001, all existing Hesed clients were resurveyed regarding their situation during World War II. A copy of this resurvey instrument is included as Appendix II.

As indicated below, the Hesed programs served 134,296 destitute Jewish Nazi victims over the eighteen month period funded by the Court. In the *Proposal for the First Year of Operations* submitted to the Court in February 2001 JDC indicated that the Hesed programs were then serving 119,100 Nazi victims. Swiss Banks Settlement funds have enabled the Hesed programs to provide services for some of the additional 15,000 needy Nazi victim clients who have come to the program for assistance in the past two years. Court funds have also helped meet the shortfall created by the previously scheduled termination of the International Nazi Persecutee Relief Fund (NPRF) and the resulting expiration of non-recurring United States and Dutch NPRF grants for the Hesed programs.⁵ Had the Court's funds not been available the Hesed programs would have had to cut back on services to their current Nazi victim clients.

The Hesed centers' services include hunger relief programs, homecare, winter relief and medical services. As described in the February 28, 2001 and April 4, 2001 JDC submissions to the Court, "looted assets" class funds have been used for the General Welfare Program (providing food packages, hot meals, homecare and winter relief), Medical Services, and the SOS Special Needs and Emergency Cases Program, all of which are described in greater detail below. In the FSU, on average, from the "looted assets" class funds 67% was allocated for General Welfare Programs, 17% was allocated for the Medical Assistance Program, and 16% was allocated for the SOS Emergency Aid Program. From the General Welfare allocation, on average, 79% went for hunger relief

⁵ As discussed in the Distribution Plan, page 129, the Nazi Persecutee Relief Fund was created as a result of the London Conference on Nazi Gold in December 1997. Seventeen nations contributed a total of \$58 million to the Fund.

programs (food packages and hot meals), 16% was spent on homecare, and 5% was spent on winter relief.

The program of services is “bare-bones.” Simply stated, Nazi victims in the FSU receive fewer welfare services than provided to their “double victim” counterparts in Central and Eastern Europe or to Nazi victims in other parts of the world.

The chart on page 9 indicates the Court-funded welfare services provided to Jewish victims of Nazi persecution in the FSU from the Swiss Banks Settlement. As the chart indicates, “looted assets” class funds have imparted some relief, but they accounted for about a quarter of services to the FSU’s Nazi victims in 2001 and 2002. For example, in the reporting period, the FSU Hesed network provided welfare services to a total of 134,296 destitute Jewish Nazi victims. While virtually all of them received food packages, “looted assets” funds only covered food packages for 40,352 Nazi victims, or 30 % of the total. (See further details below and in the chart on page 9.)

The JDC’s FSU Hesed programs are relatively inexpensive when compared to similar programs in other transitioning economies. For example, it costs on average \$20 for each JDC food package provided in Romania to a Jewish Nazi victim, while a food package in the FSU costs on average \$7. This difference is due largely to the fact that the Romanian Jewish community provides a more extensive range of foodstuffs in the package. Due to budget limitations in the FSU, a more modest food package is all that can be provided (see details below in the “Hunger Relief Programs” section).

(United States District Court for the Eastern District of New York, Case No. CV 96-4849)

PROGRAMMATIC STATISTICAL CHART
First Year Allocation (Including Additional Distribution)
For the Period June 28, 2001 through to December 31, 2002

Location	Total Jewish Nazi Victim Clients	Food Packages Provided from Settlement Funds		# of Nazi Victims Receiving Food Packages from Settlement Funds		Meals on Wheels or Hot Canteen Meals Provided from Settlement Funds		# of Nazi Victims Receiving Meals from Settlement Funds		Homecare Hours Provided from Settlement Funds		# of Nazi Victims Receiving Homecare Service from Settlement Funds		Winter Relief Kits Provided from Settlement Funds		# of Nazi Victims Receiving Winter Relief Kits from Settlement Funds		# of Nazi Victims Receiving Medical Services from Settlement Funds		SOS Grants from Settlement Funds
		Funds	Settlement	Funds	Settlement	Funds	Settlement	Funds	Settlement	Funds	Settlement	Funds	Settlement	Funds	Settlement	Funds	Settlement	Funds	Settlement	
Kiev and Western Ukraine	20,597	62,763	4,981	337,955	799	177,961	476	556	556	3,545	9,232	556	556	556	3,545	9,232	556	556	3,545	9,232
Kharkov, Ukraine	8,074	26,241	2,083	141,297	334	74,404	199	233	233	1,484	5,361	233	233	233	1,484	5,361	233	233	1,484	5,361
Odessa, Ukraine	12,348	32,140	2,551	173,060	409	91,130	244	285	285	1,814	4,771	244	285	285	1,814	4,771	285	285	1,814	4,771
Dniepropetrovsk, Ukraine	15,064	45,232	3,590	243,559	576	128,254	343	401	401	2,555	25,511	343	401	401	2,555	25,511	401	401	2,555	25,511
St. Petersburg, Russia	16,100	32,140	3,968	173,060	444	91,130	389	285	285	1,813	89	389	285	285	1,813	89	285	285	1,813	89
Minsk, Belarus	12,060	30,679	3,099	165,193	414	86,988	214	272	272	1,731	2,106	214	272	272	1,731	2,106	272	272	1,731	2,106
Kishinev, Moldova	2,325	10,187	596	54,853	114	28,884	60	90	90	573	5,714	60	90	90	573	5,714	90	90	573	5,714
Volga, Russia	11,274	26,240	3,239	141,291	362	74,401	318	233	233	1,484	1,716	318	233	233	1,484	1,716	233	233	1,484	1,716
Moscow, Russia	18,097	43,825	5,410	235,981	605	124,263	531	388	388	2,472	3,085	531	388	388	2,472	3,085	388	388	2,472	3,085
Urals, Russia	5,300	28,051	3,463	151,046	387	79,538	340	249	249	659	747	340	249	249	659	747	249	249	659	747
Siberia, Russia	1,772	18,124	1,648	97,592	250	51,390	220	161	161	169	703	220	161	161	169	703	161	161	169	703
Northern Caucasus	4,521	17,306	2,137	93,186	250	49,070	134	153	153	169	298	134	153	153	169	298	153	153	169	298
Georgia	181	589	43	3,170	9	1,669	14	5	5	16	167	9	5	5	16	167	5	5	16	167
Azerbaijan	189	3,202	178	23,399	63	12,321	101	39	39	82	6	63	39	39	82	6	39	39	82	6
Central Asia	2,462	17,785	988	102,604	276	54,029	442	169	169	247	490	442	169	169	247	490	169	169	247	490
Baltic States	3,572	19,271	2,379	103,767	266	54,642	234	171	171	312	363	234	171	171	312	363	171	171	312	363
Totals	134,296	413,774	40,352	2,241,010	5,558	1,180,076	4,258	3,688	3,688	19,118	60,359	4,258	3,688	3,688	19,118	60,359	3,688	3,688	19,118	60,359

PROGRAMMATIC REPORT

The chart on page 9 details Hesed program services for Jewish Nazi victims provided with Court funds from June 28, 2001 through December 31, 2002.

There were 177 Hesed programs located in 13 countries⁶ that provided aid and services to Jewish Nazi victims (listed in Appendix III). Together, they provided services in over 2,700 localities, across eleven time zones, in 15 countries⁷ ranging from Hesed centers in major cities and large towns to direct services to individuals living alone in rural areas.

In Ukraine, for example, 57 Hesed welfare centers provided services to 56,443 Nazi victims, representing 42 % of all FSU Nazi victim clients. For this reason, Ukraine will be referred to periodically throughout this report as an example of how “looted assets” class allocations have worked in practice. Hesed clients live in 1,407 different cities, towns and villages throughout Ukraine. Of the Nazi victim clients, 52 % are in major urban centers such as Kiev, Odessa, Kharkov and Dniepropetrovsk and 48 % are in smaller cities and rural towns (“shtetls”).

Hesed programs in Ukraine, which was under Nazi occupation, received 43 % of Swiss Banks Settlement funds under the “looted assets” class.

⁶ Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Ukraine, Uzbekistan

⁷ Hesed welfare services are provided in Tadjikistan, and Turkmenistan even though no welfare center is located there.

The collapse of the Soviet Union has had more impact on the elderly than any other age group in post-communist society. According to data from the JDC Hesed MIS system, the average pension of an elderly Jewish Hesed client in Russia is \$60 per month. In the other Soviet successor states, average pensions are even lower. The pensions of Hesed clients in Ukraine average \$25 per person per month. Moldova and Georgia, where Hesed client pensions average \$19 and \$7 per person per month, respectively—when paid—continue to be the poorest Soviet successor states. Moreover, throughout the FSU pensioners in remote areas receive smaller pensions than their urban counterparts. More than half (52%) of all elderly Jews find it difficult to live from one pension payment to the next, and 16 % have to sell belongings in order to live. The JDC has found that only one in five elderly Jews report that their pensions are sufficient.⁸

The case of Klavdia K. in Kiev, Ukraine illustrates this point. Klavdia was born in Kiev in 1928. When World War II began, she, her mother and her youngest sister were evacuated to the northern Caucasus town of Kluhori, which was subsequently occupied by the Nazis. Her mother was killed in a bombing raid and she and her sister spent six months in the ghetto. After the liberation of the town by the Soviets they returned to Kiev in 1946. Klavdia married in 1970 and supported her disabled husband by working in a paper factory and bookbinding workshop. As a pensioner, she now receives \$28 per month.⁹

While all older adults in the Soviet successor states have suffered, the JDC has documented that the elderly Jewish population, and most notably Jewish victims of Nazi persecution, has encountered hardships disproportionately greater than those facing the non-Jewish elderly population. They not only share with other pensioners limited financial resources

⁸ JDC (2002). *Yearbook 2002. JDC in the Former Soviet Union*. (New York: American Jewish Joint Distribution Committee), p. 47.

⁹ Full case profiles of the clients cited in the text appear in Appendix VII and were translated from material provided by Hesed centers.

but also have seen their family lives and other social networks deteriorate. Simply stated, the cumulative effects of the Nazi occupation and Stalin's purges have been greater on the Jewish population. Many fled to more remote areas of the country, such as Siberia, leaving behind their assets, in order to escape Nazism and, later, blatant Soviet anti-Semitism.

The JDC has found that 42.5 % of Jewish Nazi victims have no children. Klavdia K., for example, never had any children because of her husband's disability. Moreover, 65 % of those with children do not live in the same city or country. Taken together, more than half of the FSU's Jewish Nazi victims either have no children, no other close relatives living nearby or no living relatives at all. Most are women, owing to the premature deaths of many of their husbands either during the Second World War or from war injuries, along with greater life expectancy in general for women. Some Jewish women have never married. For example, Riva K. of Kiev was sent to a ghetto in 1941 when she was four-years-old. She worked as an engineer in the construction bureau of a plant. Now retired, with no other surviving family members, she has a monthly pension of \$32.

JDC field workers have found that approximately three-quarters of elderly Jews face varying degrees of need. Half of the elderly live alone, 11 % are homebound and 2 % are bedridden.¹⁰ A vast majority of (87%) reported having very few or no friends and half reported feeling lonely on a regular basis. Many have not been outside their apartments in years: Nearly three-fifths of older Jews live above the first floor in buildings without elevators, and they are unable to negotiate the stairs. Others have restricted mobility because the state social service

¹⁰ JDC (2000). *Snapshots 2000. JDC Activities in the Former Soviet Union*. (New York: American Jewish Joint Distribution Committee), p. 41.

system has failed to provide them with wheelchairs and walkers that would increase their independence, or with such basic necessities as bedpans that might restore their dignity.

In simplest terms, the combination of the magnitude of poverty experienced by the elderly Jewish population in general, with the large number of Nazi victims who are suffering, makes the Jewish Nazi victims in the FSU the most underserved in the world.

GENERAL WELFARE PROGRAMS

The JDC provides general welfare programs to help alleviate some portion of this suffering. There are three components to the general welfare programs: hunger relief programs, homecare and winter relief. Details concerning each follow.

I. HUNGER RELIEF PROGRAMS

In order to address the nutritional needs of elderly Jews and ease their living costs, the JDC has initiated hunger relief programs comprising food packages and hot prepared meals in congregate or domestic (meals-on-wheels) settings. As indicated in the audited financial report (see tables in Appendix V), \$7,375,475 of Court funds were used for General Welfare Programs in the FSU for the period June 28, 2001—December 31, 2002. A total of \$5,826,626 of Court funds was spent on Hunger Relief programs during the reporting period. They represent 79 % of the total General Welfare spending and 55 % of all “looted assets” class funds spent by the Hesed programs. This is a recognition that the relief of starvation and hunger is the core life sustaining program that Hesed programs must provide and remains the service needed by the most Nazi victims in the FSU.

A. Food Packages

“Looted assets” class funds provide for monthly or quarterly food packages as well as special food packages prepared four times per year for holidays. There are 134,296 Nazi victims served by the Hesed program. With “looted assets” class funds, the Hesed programs distributed 413,774 packages containing basic foodstuffs to 40,352 of these needy Jewish Nazi victims from June 28, 2001—December 31, 2002 (page 9).

A Hebrew University of Jerusalem nutritionist has made recommendations regarding the contents of the food packages, which have been developed and adjusted according to the availability of and request for local products. These packages contain non-perishable basic staples, including flour, pasta, rice, other grains, beans, sugar, oil and a protein source such as canned fish.

Food packages supplement the meager diets of the elderly Nazi victim population. When combined with other items that the elderly can obtain, they will stave off hunger and most effects of malnutrition.

In Russia, for example, according to data released by the State Statistics Committee at the end of 2002, the cost of the minimum set of foodstuffs in Russia during the third quarter of the year amounted to almost a full two-thirds of the average pension.¹¹

Hesed food packages are provided an average of eight times a year. While some clients get monthly food packages, due to budgetary constraints, others receive them only quarterly and some clients get food packages only before Passover and Rosh Hashanah.

Moisey Z. L. is typical of those who have received food packages. He was born in 1928 in Kolyshki, a small shtetl in Belarus, where his family lived under German occupation until 1942. He was separated from his parents during the war but was fortunate enough to be reunited with them afterwards. He worked in an Ekaterinburg factory until he retired in 1988. Today, Moisey is a widower. He suffers from diabetes and has a meager pension of about \$54 per month, with which he must pay for utilities, costly medicines and food. However, instead of being lonely, ill and hungry, he is surrounded by a caring Jewish community, where the Hesed provides him with a monthly food package and medicines.

One example of the vital – but limited – reach of the Swiss Banks Settlement funds is exemplified by the food program in Ukraine. As previously noted, 42% of all Nazi victims served by the Hesed program live in Ukraine. A total of 56,443 Nazi victims in Ukraine received food packages during this period. However, Swiss Banks Settlement funds covered the cost of the food packages for only 13,205 Nazi victims in Ukraine (representing 23% of the total Ukrainian Nazi victim clientele).

B. Meal Programs

The Hesed network provides two hot meal programs: congregate meals and meals-on-wheels. These meal programs are far more desirable than the mere provision of food packages every few months, as they provide Nazi victims with daily nutrition as well as the collateral benefit of socialization with others. With Settlement funds, the Hesed programs served 2,241,010 hot meals (congregate and meals-on-wheels) to 5,558 needy Jewish Nazi victims from June 28, 2001—December 31, 2002 (page 9). These funds provided meals to just 4% of the Nazi victims in the FSU served by the Hesed programs.

¹¹ 39 Million Russians Living in Poverty, Anton Mikhailov, gazeta.ru, November 11, 2002.

Due to limited funding meals are provided only once a day, on average of four times per week, and most clients who receive a hot meal are ineligible to receive monthly food packages as well.

1. **Congregate Meals**

There are communal dining rooms in the Hesed centers that serve congregate meals approximately four times per week.

Where there is no local Hesed building, Hesed clients eat at a local cafeteria during a special daily time that is rented specifically for their use. For most Hesed clients, this is the only hot meal they will receive during the course of a week, and their only source of protein. In many cases, these meals prevent malnutrition and starvation. A typical meal includes salad, chicken, fish or soy, a vegetable, pasta or cooked grain, and a baked dessert or fruit.

Hesed dining rooms have assumed other roles in addition to the provision of hot meals. In many areas, they also serve as the foci for communal and cultural events, including birthdays, lectures on Jewish traditions and holidays, and concerts. Hence, congregate meals meet not only people's nutritional needs, but also their emotional and social needs. They provide the lonely and isolated elderly with a social environment.

2. **Meals-On-Wheels**

Meals-on-wheels are ready-to-eat, cooked meals delivered to the homebound who are unable to prepare food for themselves. Many of the meals-on-wheels recipients have not gone outside in years. Hesed centers use reusable containers to package and deliver the meals. Some also use a special method of deep freeze cooking that keeps food sterile and fresh. In these

cases, the Hesed delivers several meals to the client's home at one time so they can last over the course of a week. Under this program, the Hesed employee or volunteer provides the client with his or her main contact with the outside world.

Rosa Z. is an 89-year-old bedridden widow who lives in Kiev. She and her husband fled Kiev in 1941 after the Nazi invasion, but were captured and sent to Kiev's Darnitsa concentration camp. Rosa escaped and was hidden by her husband's relatives but was captured again after local inhabitants informed on her. She was then sent to Oster prison and escaped again, this time hiding in the village of Bulohov. After the war, Rosa and her husband were homeless, as their apartment had been destroyed. Rosa currently lives on a monthly pension of \$30. She depends on the Hesed for assistance, including meals-on-wheels, monthly food packages, homecare, medications and winter relief.

The Hesed centers rely as much as possible on volunteers to prepare, serve and deliver food packages, congregate meals and meals-on-wheels. Many of the more than 14,000 volunteers throughout the FSU are themselves needy Nazi victims. Others are involved with the Jewish community or are Jewish university students. (These volunteers are involved with the full range of Hesed services, not just meals-on wheels.)

II. HEMOCARE

As discussed above, approximately one in ten Jewish Nazi victims in the FSU is homebound. A JDC study found that 40 % of the FSU's Jewish elderly need assistance with at least one activity of daily living (ADL)¹² and one instrumental activity of daily living (IADL). Nazi victims need personal care assistance with at least one routine ADL, defined as eating, bathing, dressing, walking, getting in or out of a bed or chair, using the toilet, and going outside. They also require housekeeping assistance with at least one IADL, defined as preparing meals,

¹² JDC (2002), p. 76.

managing medications, shopping, light housework, using the phone and getting to places outside of walking distance.

The Court-funded Hesed programs provided homecare to 4,258 Nazi victims, just 3% of the 134,296 the total FSU Nazi victims (see page 9). In Ukraine, for example, Court-funded homecare was provided to just 1,262 Jewish Nazi victims, representing only 2 % of the clientele in that country.

The Hesed centers develop an individual homecare plan that takes into account a client's personal circumstances, needs and preferences. Paid caregivers or volunteer members of the community provide personal care and housekeeping assistance for those who cannot perform these tasks for themselves.

In addition to providing ADL and IADL assistance, Hesed volunteers and professionals also perform minor household repairs and install prophylactic, or non-slip aids, such as handrails in bathrooms and toilets, to help prevent accidents at home. They also repair hearing aids and eyeglasses.

In more extreme cases, homecare involves pumping water from a nearby well and bringing it to the house in a pail, tending to gardens—perhaps a client's only source of vegetables—and chopping wood for heating and cooking. Services are rendered up to four times per week. Simply stated, all homecare clients benefit from the warmth and companionship of a home visitor, combating the numbing isolation, loneliness and depression that often confront the thousands whom history has left utterly alone.

Soviet successor state social welfare services, if they provide homecare at all, do not offer ADL assistance. State-funded IADL assistance is limited to occasional home delivery of groceries and prescriptions. Furthermore, government homecare services have been

retrenched: Russia has eliminated its constant attendant supplement to the old age pension,¹³ and only four Soviet successor states currently provide pensioners with constant attendant or caregiver allowances.

In Belarus, pensioners age 80 and over and disabled pensioners are entitled to a constant attendance supplement. Estonia offers a short-term caregiver allowance, but the state provides no assistance for long-term care. Kyrgyzstan's social security system includes a constant attendance supplement for the disabled equal to half of the monthly minimum pension. Finally, there is a constant attendance supplement for Moldavian pensioners age 80 and over that consists of approximately two-thirds of the minimum monthly pension.¹⁴

However, since none of these old age pensions have kept pace with the cost of living, these supplements do little to offset need. There is also a large gap between the services which are mandated by law and those which the state actually provides. In the FSU, state "entitlement" does not match reality for the elderly.

The institutional care situation is even more perilous. There is virtually no proper institutional care, whether in the form of nursing homes or assisted living facilities, in any of the Soviet successor states. Where it does exist, the poor conditions would likely dehumanize an elderly Jewish population that has already suffered more than its share of trauma and hardship over a lifetime.

On average, four Hesed-provided homecare hours per week are spent with each of the 4,258 Nazi victims the "looted assets" class allocation served, which is the difference

¹³ SSA, *op. cit.* The 1999 report mentions the Russian supplement; it is omitted from the 2002 report.

¹⁴ SSA, *op. cit.*

between having a measure of dignity and being soiled, dirty, malnourished or starving, dying in isolated, bereft and forgotten circumstances. Court funds have enabled the Hesed programs to end the abandonment of a portion of a population whose voices were stilled for decades by the Nazi occupation and Soviet rule.

III. WINTER RELIEF

The Hesed programs provide special winter relief to those clients most in need so they can cope with the FSU's legendary harsh winter conditions. Court funds provided 3,688 winter relief kits during the reporting period to Nazi victims (each eligible client received one kit per winter; see page 9). In Ukraine for example, these Court-funded kits went to 1,475 Nazi victims, representing only 2 % of the clientele.

It is not uncommon for an elderly Jewish Nazi victim to live in sub-standard housing with no heat or hot water for most of the winter. There are no government subsidies for heating in any FSU successor state, and sufficient heating can cost \$50 for a season—double the average monthly pension.

Winter relief packages are distributed once per winter. They may comprise heating and cooking fuel, including coal, wood and gas, as well as blankets, coats, sweaters and boots. This one "kit" has to last throughout a long harsh winter and, due to budgetary limitations, is only available to alleviate freezing conditions for the most needy of this very poor Nazi victim population. This is a service unique among the dozens of countries where JDC provides welfare services and shows the extreme conditions and needs in the FSU.

MEDICAL SERVICES

As indicated in the audited financial report (see tables in Appendix V), \$1,835,357 of Court funds was used for medical programs in the FSU for the period June 28, 2001—December 31, 2002. Medical services were provided to 19,118 Nazi victim clients.¹⁵ Each client assisted by Court funds received medicine and most also received medical consultations. In Ukraine, for example, medical services were provided to 9,389 Jewish Nazi victims, covering only 17 % of the needy Nazi victim clients there.

The erosion of the tax base and deteriorating economies of the Soviet successor states have prevented individual governments from providing their citizens with comprehensive health care, which has emerged as the primary social welfare problem.

The basics of medical care, such as adequate and regular supply of medications and surgical equipment and postgraduate training for doctors and nurses, are often nonexistent. State medical services have deteriorated dramatically since the collapse of the Soviet Union and they lack the funds to continue providing free health care, making it very difficult for the impoverished elderly to get appointments. Public clinics do not have diagnostic equipment and prescription drugs are either unavailable at state-run clinics or too prohibitive in cost for pensioners.

As a consequence, the health and welfare of the FSU Jewish elderly Nazi victim population remains at great risk, and virtually all health indicators in the FSU show evidence of continuing decline.

¹⁵ While each Hased keeps detailed records on medicine provided, there are differing methods of recording the frequency of distribution. Therefore, overall FSU medical data is recorded by number of clients served.

State-run hospitals are in crisis as well. They are antiquated, ill equipped and inefficient. Lack of basic supplies is common to the point that patients must bring their own, including medicine, bedding and food in order to receive care. Patients also endure a multitude of incidental costs, such as jackets for doctors or special food for themselves. The individual patient now bears the costs for previously government subsidized services, including treatment for many problems endemic among the elderly: cataract removal, treatment for hip fractures, dental treatments, surgeries and Alzheimer's Disease.

Hesed medical services include subsidies for prescription medicines and free medical consultations. They supplement existing state medical services, provide access to prohibitively expensive medications and diagnostic tests, and provide medical training to Hesed and community practitioners.

I. SUBSIDIES FOR PRESCRIPTION MEDICINES

Costs for prescription drugs frequently exceed pension allowances several-fold. The Hesed center subsidizes these costs by either making an arrangement with a local pharmacy to provide needed medications to its clients or obtaining *pro bono* pharmacist services at a Hesed dispensary.

Tanya and Yakov D. of Illichevsk, Ukraine are both 74-years-old. They met in the Obodovka concentration camp near Odessa and escaped together. They were hidden until the end of the war. Tanya worked as a nurse's assistant and Yakov was a shoemaker. They have live in a government-issued, third floor, one-room apartment for the past 40 years. The apartment is rent free, but the D. family must pay for utilities, which can cost over \$50 a season. Their income consists of Yakov's monthly pension of \$16, Tanya's of \$18 and an extra \$6 a month they receive for being ghetto survivors.

Before Tanya was hospitalized for high blood pressure, diabetes, heart disease and a rare form of backbone disease, she had not left her apartment for over five

years. A Hesed volunteer helps with household tasks and helps her husband with grocery shopping. They also receive monthly food packages. The volunteer has also ordered Tanya a hearing aid. Hesed also provides Yakov and Tanya with the prescription drugs they need and medical consultations, as well as warm blankets and sweaters in the winter. "Before Hesed all of our pension was spent on medicines. Now our pension is spent on food and utilities."

The lack of basic medicines is a leading cause of death amongst the Jewish elderly in the FSU, and the situation is even more serious in remote regions due to sporadic distribution and scant supply of medicines to provincial clinics.

Victor M., a 74-year-old, who is one of 200 Jews living on the island of Sakhalin, off the far eastern coast of Russian's mainland, benefits from the Court funded program. A survivor of Dachau and Naustaum concentration camps, he became a career officer in the Soviet navy. However, by the time he retired in 1990, his savings were virtually wiped out by rampant inflation and he had no other financial resources besides his monthly pension of \$35, of which \$27 a month was spent on medications for his heart condition. JDC fieldworkers from the Hesed center in Khabarovsk, 500 miles away, went to Sakhalin and contacted Victor. He currently receives food packages, prescription drugs and fuel.

Hence, "looted assets" class funding has enabled JDC to significantly increase its ability to respond to unmet needs for basic medication. It allows Hesed centers to purchase manufactured drugs, and provide clients with familiar medications. Given the prescription drug costs in the FSU, this service is highly significant.

II. MEDICAL CONSULTATIONS

The Hesed centers also provide medical consultations to Nazi victims. A physician examines ambulatory Nazi victims at the local center. Jewish Healthcare International

(JHI)¹⁶ has trained Hesed physicians, most often local Jewish doctors volunteering their time, to be aware of the particular medical problems of Jewish Nazi victims. Hesed physicians also receive the most up-to-date epidemiological information for the FSU from the *JDC Medical Newsletter*. In addition, Hesed-affiliated doctors and nurses visit the homebound, which have proven to be lifesaving to Nazi victims who cannot afford home visits.

Together, these medical services are essential for individuals who might otherwise not have their health problems diagnosed or treated.

SOS SPECIAL NEEDS AND EMERGENCY CASES PROGRAM

In 1999, JDC established the SOS Special Needs and Emergency Cases Program with private donations. At first, it was open to all members of the Jewish community, regardless of age or pension status. However, the need was so great that the program became a casualty of its own success. Were it not for Court funds, the program would no longer exist. It has been redesigned so that only Hesed clients who meet “looted assets” class criteria can receive SOS assistance.¹⁷

The charts in Appendix IV shows the 60,359 SOS Special Needs and Emergency Cases Program grants provided in 2001 and 2002 by region, type of service and number of services provided. As indicated in the audited financial report, \$1,291,676 of Court funds were

¹⁶ JHI is a partnership of JDC and the Atlanta Jewish Federation, the United Jewish Federation of Greater Pittsburgh, the Greensboro Jewish Federation and the United Jewish Federation of Tidewater that brings volunteer physicians from the U.S. and Israel to the FSU. See www.jewishhealthcareinternational.org for further details.

¹⁷ There is a very limited SOS program, made possible by private grants to JDC, for Hesed clients who are not Nazi victims and therefore not eligible for “looted assets” class funding.

used for SOS services in the FSU for the period June 28, 2001—December 31, 2002.¹⁸

Individual clients may have receive more than one Court funded SOS service if needed.¹⁹

The Court funded SOS program has brought direct relief to thousands of Jewish Nazi victims across the FSU. It enables the Hesed centers to help those whose personal needs are too expensive for the regular program budget. By answering the most pressing needs of destitute survivors, the program has extended and improved the lives of thousands.

Since the start of the SOS program in 1999, each Hesed established an Emergency Aid Committee to review SOS applications against specific criteria in order to determine eligibility for the funds. The average SOS grant is \$50.

The range of SOS goods and services includes:

1. Health services, including drugs, hearing aids and glasses, emergency dental care, hospitalization costs such as surgery, adult diapers, bedding, test-strips, medical tests and transportation, laundering of soiled clothes, as well as prostheses and the purchase of rehabilitative equipment and rehabilitative courses of treatment.
2. Food and utilities, including emergency food supplies and payment of utility debts.
3. Extra winter relief such as the purchase of heating fuels (wood, coal and gas) and heating appliances, clothing, boots, blankets.
4. Home repairs for houses and apartments, including roof repairs and other building materials.

¹⁸ An additional \$423,444 of the sum allocated for SOS remained unspent as of December 31, 2002. This was due to the need to first establish the SOS program in Heseds in some regions of the FSU which did not have this service prior to the availability of Court funds and the restructuring of the SOS program to serve only Nazi Victim clients. Many Hesed SOS committees also reported being hesitant to quickly spend all their SOS funds due to concerns about future SOS funding. These issues have now been resolved and the First Year SOS unspent funds have already been spent in 2003.

¹⁹ From July-December 2001 there were 38,582 SOS grants made, including over 30,000 grants for medication. Due to a lack of adequate funding in 2001 for the medication programs described earlier in the report, many Hesed programs used SOS grants to provide pharmaceuticals.

5. Purchase and repair of household goods and electrical appliances, including stoves, refrigerators, furniture, and telephones.
6. Other humanitarian aid, including, for example, the purchase of pots and pans, sinks, and toilets; dentures; bedpans; adaptation of bathrooms for the elderly; special medical equipment; provision of water jugs to enable a Nazi victim to bring water from a well to her home and outhouse; the purchase of a cow to provide milk for a client in a remote rural area; connection of a gas pipeline to heat a home; and, payment of rent to prevent eviction.

INVOLVEMENT OF LOCAL JEWISH COMMUNITIES

JDC has worked closely over the past years with the Heseds to ensure that programs and budgets recommended are consistent with local needs. As described in the Distribution Plan, each Hesed has a board that is representative of the local Jewish community. It normally includes representatives from Holocaust survivor organizations, religious leaders and prominent Jewish community leaders.

In March 2001, representatives of Heseds participated in two days of meetings with the JDC and the Claims Conference to discuss and review the Distribution Plan requirements and the First Year budget, which were submitted to the Court on April 4, 2001.

In August 2001, the JDC sent letters to each Hesed indicating funding for the First Year.²⁰ In March 2002 senior officials of the JDC and the Claims Conference met in Vilnius, Lithuania with the chairs of the Baltic Jewish communities and welfare service directors from Estonia, Latvia and Lithuania.

²⁰ Copies are on file with the Court.

The JDC also held discussions with the leadership of the Interregional Association of Hasadim of Russia, "Idud Hasadim," and the Coordinative Council "Hesed-Ukraine," the two major umbrella organizations of Hesed directors and lay leaders. Appendix VI contains letters from both organizations concerning their consideration and endorsement of the JDC's budget and plan submission to the Court.

AUDIT REPORT

The international accounting firm of Ernst & Young has prepared the accompanying audited financial report regarding the spending of \$10,502,508 in "looted assets" class funds from the Swiss Banks Settlement for Hesed welfare programs for Jewish Nazi victims in the FSU from June 28, 2001 through December 31, 2002. The financial tables are also included in Appendix V.²¹

²¹ While the total allocation from the Court was \$10,875,000, as indicated in footnote 18 above, a small portion of the SOS program allocation was unspent as of December 31, 2002. This sum has already been spent by the Hesed programs in 2003. There were also other minor unspent funds in certain regions, as well as small overexpenditures by some Hesed programs in expectation of future Court funding in accordance with the Distribution Plan.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE:
HOLOCAUST VICTIM ASSETS
LITIGATION

----- X
This Document Relates to: All Cases
----- X

Case No. CV 96-4849 (ERK)(MDG)
(Consolidated with CV 96-5161
and CV 97-461)

MEMORANDUM & ORDER

KORMAN, Chief Judge:

In accordance with my Order of December 8, 2000 and consistent with the terms of the Plan of Allocation and Distribution of Settlement Proceeds (the "Distribution Plan"), which I approved on November 22, 2000, and my Memorandum & Order dated September 25, 2002, the American Jewish Joint Distribution Committee ("JDC") has submitted its Request for Second Period Funding for Welfare Programs in the Former Soviet Union for January 1, 2003 to December 31, 2003" (the "JDC Second Proposal"). I am advised by JDC that the Hesed welfare services specified in the Proposal have been provided since the beginning of the year; the JDC seeks approval of and reimbursement for these programs in accordance with the reporting requirements set forth in the Distribution Plan.

The required funding for Hesed welfare program services for Jewish Nazi victims in the Former Soviet Union ("FSU") in 2003 is \$16,312,500, in accordance with the Distribution Plan as supplemented by the Court's Order of September 25, 2002, and as described in the JDC Second Proposal, attached hereto and incorporated by reference herein. In addition, as authorized by the Distribution Plan, the JDC and the Conference on Jewish Material Claims Against Germany ("Claims Conference") seek reimbursement for administrative expenses

incurred in connection with the oversight and management of these funds, in the amount of 2% of program fees, to be apportioned accordingly by the JDC between the JDC and the Claims Conference. The JDC advises that this sum totals \$326,250 for the period January 1, 2003 through December 31, 2003. The JDC and the Claims Conference also similarly seek reimbursement for administrative expenses incurred in connection with the oversight and management of the funds spent in the FSU during the first period of funding (June 28, 2001 to December 31, 2002), as described in the JDC's July 31, 2003 "Report on the First Eighteen Months of Welfare Programs in the Former Soviet Union" ("July 2003 JDC Report"). The JDC advises that this sum totals \$217,500. Furthermore, in accordance with the Distribution Plan, the JDC seeks reimbursement of \$128,000 for the cost of the Ernst & Young audit of the JDC's 2001 and 2002 disbursements in the FSU on behalf of the Looted Assets Class. The Ernst & Young audit report was filed with the Court as part of the July 2003 JDC Report.

Accordingly, it is hereby

ORDERED that the signatories to the Settlement Fund are hereby directed to transfer immediately the sum of \$16,984,250 to the JDC, which the JDC shall use for the following purposes:

- a) \$16,312,500 for the second period of funding for Hased welfare program services for Jewish victims of Nazi persecution in the FSU (January 1, 2003 through December 31, 2003), for reimbursement of sums already spent and to fund remaining expenses, in accordance with the JDC's Second Proposal. Pending the JDC's distribution of funds to the designated Hased welfare programs in the FSU, the JDC shall deposit the funds in escrow in an interest-bearing account. The principal as well as any interest that may accrue thereon shall be

solely for the benefit of the Settlement Fund. Upon the JDC's application, any such accrued interest shall be distributed by the JDC to the Hased welfare programs described above or to such other similar programs as the JDC may recommend and the Court may approve;

- b) \$543,750 for reimbursement and/or payment of administrative expenses incurred in connection with the oversight and management of the funds spent or to be spent in the FSU during the period June 28, 2001 to December 31, 2003, which shall be apportioned by the JDC between the JDC and the Claims Conference; and
- c) \$128,000 for the cost of the Ernst & Young audits described above and filed with the Court.

It is further ordered that in implementing these programs, the JDC shall adhere to the reporting requirements to the Court as set forth in the Distribution Plan and in the JDC's February 28, 2001 "Proposal for the First Year of Operations" and April 4, 2001 supplemental proposal, as approved by order dated April 13, 2001.

Brooklyn, New York
September 23, 2003

SO ORDERED:


Edward R. Korman
United States District Judge

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The American Jewish Joint Distribution Committee, Inc.

711 Third Avenue
New York, N.Y. 10017-4014

Tel: (212) 687-6200
Website: www.jdc.org

Fax: (212) 370-5467

PRESIDENT
Eugene J. Ribakoff

EXECUTIVE VICE-PRESIDENT
Steven Schwager

September 18, 2003

Hon. Edward R. Korman
Chief Judge
United States District Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

Dear Judge Korman,

On behalf of the American Jewish Joint Distribution Committee (JDC) I am pleased to submit the enclosed Request for Second Period Funding for Welfare Programs in the Former Soviet Union for January 1, 2003 to December 31, 2003.

As per the Court's orders adopting the Special Master's Proposed Plan of Allocation and Distribution of Settlement Funds, JDC has been responsible for the management and administration of the welfare services in the FSU for Jewish victims of Nazi persecution funded under the Looted Assets Class of the Swiss Banks Settlement. The enclosed document follows the Report on the First Eighteen Months of Welfare Programs in the Former Soviet Union and accompanying audit filed by JDC with the Court on July 31, 2003, and requests the Court's approval of continued funding of these programs in calendar year 2003. For the Court's convenience, a proposed order is submitted herewith.

JDC thanks the Court as well as Special Master Judah Gribetz and Deputy Special Master Shari Reig for their support of critical humanitarian aid in the FSU for the poorest and neediest Jewish Nazi victims in the world. As always, we have consulted with the Special Master and Deputy Special Master in preparing these documents.

Sincerely,

Steven Schwager
Executive Vice President

SS:mr

Enclosures

cc: Judah Gribetz
Shari Reig
Burt Neuborne
Gideon Taylor
Greg Schneider
Herbert Block
Asher Ostrin

The Joint Distribution Committee receives its funds primarily from American Jewry through the Jewish Federations of the United States and the United Jewish Communities. The JDC also receives funding from World Jewish Relief of Great Britain and UIA Federations Canada

**THE AMERICAN JEWISH JOINT
DISTRIBUTION COMMITTEE**

In Re Holocaust Victim Assets Litigation

“Looted Assets Class”

***REQUEST FOR SECOND PERIOD FUNDING
FOR WELFARE PROGRAMS
IN THE FORMER SOVIET UNION
FOR JANUARY 1, 2003 TO DECEMBER 31, 2003***

SUBMITTED TO

CHIEF JUDGE EDWARD R. KORMAN

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

September 17, 2003

INTRODUCTION

The network of 177 Hesed welfare centers in the former Soviet Union (FSU) developed by the American Jewish Joint Distribution Committee (JDC) serves a quarter million destitute elderly Jews, among them 135,000 impoverished "double victims" of Nazism and Communism. Swiss Banks Settlement funds help provide critical services for some of these Jewish victims of Nazi persecution.

On July 31, 2003 JDC submitted to the Court a *Report on the First Eighteen Months of Welfare Programs in the Former Soviet Union* ("July 2003 JDC Report"). In the submission herein, JDC is requesting continued Court funding for calendar year 2003 for the vital life-sustaining services of the Hesed programs. This request is in accordance with the ten-year schedule of allocations set forth in the *Special Master's Proposed Plan of Allocation and Distribution of Settlement Proceeds* ("Distribution Plan"), adopted by the Court on November 22, 2000, as well as the requirement that JDC submit periodic reports and budgets to the Court as a condition to receiving "looted assets class" funds.

FUNDING REQUEST

The Distribution Plan allocated "looted assets class" funds worldwide based on a ten-year schedule. On June 28, 2001 the Court approved the initial funding grant following the JDC's submission of its February 28, 2001 request for first period funding, as supplemented by its April 4, 2001 submission, and also following the resolution of certain legal proceedings impacting distribution of the Settlement Fund.

While "looted assets class" funding began in the middle of 2001, the Hesed programs in the FSU have for the past decade operated on a calendar year basis. Therefore it has proven cumbersome to the Heseds to maintain record keeping for "looted assets class" fiscal years that overlap calendar years.

In order to bring funding for the FSU to a calendar year system, in consultation with the Special Master, the JDC has operated its "looted assets class" programs in accordance with the following table, which takes into account the funds allocated to the Hesed program under the Distribution Plan. The following amounts were scheduled for the FSU through December 31, 2003:

June 28, 2001 to June 30, 2002	\$7,500,000
July 1, 2002 to June 30, 2003	\$7,500,000
July 1, 2003 to December 31, 2003	\$3,375,000
TOTAL	\$18,750,000

The Court's order of September 25, 2002 subsequently increased these amounts by 45%, equaling \$8,437,500. Therefore the amount scheduled for the FSU from June 28, 2001 to December 31, 2003, under the terms of the original Distribution Plan as supplemented by the Court's September 25, 2002 order, totals \$27,187,500.

To date, based on the Court's orders of June 28, 2001 and September 25, 2002, a total of \$10,875,000 actually has been disbursed to JDC for distribution to the Hesed centers for welfare programs in the FSU. This amount was spent through December 31, 2002, as described in the July 31, 2003 JDC Report and accompanying Ernst & Young audit filed with the Court.

JDC now requests the Court's transfer of \$16,312,500 for welfare services in the FSU to be spent from January 1, 2003 to December 31, 2003, the amount provided under the Distribution Plan as supplemented by the 45% increase ordered by the Court on September 25, 2002. This sum represents the remaining amount scheduled for the FSU program through the end of calendar year 2003 under the terms of the Distribution Plan, but not yet transferred to the JDC and instead held in escrow as part of the Settlement Fund, pending submission and the Court's approval of this JDC "Request for Second Period Funding for Welfare Programs in the Former Soviet Union for the Period January 1, 2003 through December 31, 2003."¹

Although this plan is being submitted after the start of 2003, there has been no interruption in Hesed services for needy Jewish Nazi victims as these services have been covered to date this year by funds advanced by the JDC.

As described herein as well as in the February 28, 2001 and April 4, 2001 JDC submissions to the Court, and the July 2003 JDC Report, "looted assets class" funds will be used for the General Welfare Program (providing food packages, hot meals, homecare and winter

¹ Under the Distribution Plan "audited financial reports for the specific programs must be provided to the Court annually." Based on the approval by the Court on April 13, 2001 of JDC's submitted Proposal for the First Year of Operations, JDC appointed the accounting firm of Ernst & Young to perform this audit function for the programs in the Former Soviet Union. On July 31, 2003 JDC submitted to the Court an Audited Financial Report prepared by Ernst & Young for the First Year Allocation (Including Additional Distribution) for the Period June 28, 2001 through December 31, 2002. JDC requests reimbursement for invoices received from Ernst & Young totaling \$128,000 for the cost of these audits performed in the FSU. This represents \$54,000 each for audits performed in 2002 and 2003, solely regarding the specific expenditures in the FSU in the previous year under funds from the "looted assets class" of the Settlement.

In addition, in accordance with the Distribution Plan (p. 137), JDC may request an amount not to exceed 2% of program funding to be used for monitoring and oversight of welfare programs in the FSU. To date JDC has not requested any such funds for the monitoring and oversight functions we have performed for the Court. We therefore request reimbursement of \$217,500 for oversight and monitoring expenses for the period from June 28, 2001 to December 31, 2002, to be shared by JDC and the Conference on Jewish Material Claims Against Germany ("Claims Conference"). In connection with the Court's approval of the 2003 budget request herein, we also request reimbursement of \$326,250 for monitoring and oversight expenses in the FSU for calendar year 2003.

relief), Medical Services, and the SOS Special Needs and Emergency Cases Program, all of which are discussed in greater detail below.

The chart attached in Appendix I includes the number of Nazi Victims per region and a request for funding of various programs in those regions. A list of all Hesed programs eligible for funding is also attached in Appendix II.

The funding for each region has been allocated based solely on its per capita share of Nazi victims in the FSU. There has been an almost 13% growth in Nazi victim clients in the Hesed programs since the proposal submitted by JDC in February 2001. This is attributable to several factors: as Nazi victims age and have greater health and welfare needs more come forward to request Hesed service; the availability of Court funds has enabled the expansion of Hesed services in several regions and has drawn in clients who previously had been unaware of the Hesed services or out of their reach; and a resurvey of all Hesed clients was conducted and some clients are now classified as Nazi victims based on disclosure of their circumstances during the Holocaust.

BACKGROUND

As has been described at length in the July 2003 JDC Report, given the large number of Nazi victims in the FSU and the magnitude of problems they face, it is the opinion of JDC that these are the poorest and neediest Jews and victims of the Holocaust in the world. For over forty years, from the end of Holocaust until the fall of the Iron Curtain, they:

- lived under repressive regimes
- worked and lived in poor conditions
- had virtually no access to quality health care services
- received no reparations or compensation
- were cut off from Judaism and Jewish communal services.

After the fall of the Soviet Union, these Jewish Nazi victims continue to suffer due to:

- very low pensions, especially in comparison to high inflation
- a collapse of Soviet-era structures resulting in food shortages, the lack of decent health care and social services, and poor housing conditions
- almost no institutional care facilities for the elderly
- a very limited nascent Jewish community without its own resources to provide charitable services.

The Claims Conference is the largest partner of JDC in providing welfare services to Nazi victims in the FSU. JDC and its other partners, including local Jewish federations in the US and Canada, the Harry and Jeanette Weinberg Foundation, and World Jewish Relief in the UK make available the balance of funding for Hesed centers to serve those Nazi victims not

benefiting from Swiss Banks Settlement and Claims Conference funds, and to also serve other poor elderly Jews who are not Nazi victims and therefore do not benefit from restitution funds.

The Court has charged JDC with the management and administration of funds for Jewish victims of Nazi persecution in the FSU under the "looted assets class" of the Swiss Banks Settlement. On November 22, 2000 the Court adopted the Distribution Plan, under which funds are to "be allocated wholly to the network of social service programs known as the 'Heseds', created by JDC in 1992..."²

As described in detail in the Distribution Plan and the July 2003 JDC Report, for almost 60 years, the JDC has been the central agency providing relief to Jewish victims of Nazi persecution in Central and Eastern Europe and the FSU. As an indigenous Jewish voluntary sector develops in the area, the JDC has undertaken and implemented its more recent programs in consultation with local communities and with the aid of the Claims Conference.

The local Jewish communities of the FSU operate 177 welfare centers (generally known as "Hesed" centers) with support from the JDC in partnership with the Claims Conference.³ The "looted assets class" funds for the Hesed centers have allowed some of the approximately 135,000 destitute and elderly Jewish "double victims" of Nazism and Communism in the FSU to live their lives with a modicum of better health and greater dignity.⁴

As indicated in the July 2003 JDC Report, the Hesed programs served 134,296 destitute Jewish Nazi victims over the first eighteen month period funded by the Court (June 28, 2001 to December 31, 2002). In the *Proposal for the First Year of Operations* submitted to the Court in February 2001 JDC indicated that the Hesed programs were then serving 119,100 Nazi victims. Swiss Banks Settlement funds thus have enabled the Hesed programs to provide services for some of the additional 15,000 needy Nazi victim clients who have come to the program for assistance in the past two years. Court funds have also helped meet the shortfall created by the previously scheduled termination of the International Nazi Persecutee Relief Fund (NPRF) and the resulting expiration of non-recurring United States and Dutch NPRF grants for

² Distribution Plan, p. 122.

³ These programs are described in great detail in pages 122-130 of the Distribution Plan.

⁴ As described in the Distribution Plan (p. 128), JDC has developed a comprehensive management information system (MIS) that records all Hesed client data. As part of the client intake process, each new recipient of Hesed welfare services must provide data about his or her economic condition as well as his or her family, housing and health situation. Clients are also asked about their status during World War II so as to be able to determine which clients were victims of the Nazis and eligible for funding from the Swiss Banks Settlement and other restitution sources. The Hesed intake questionnaire was included as Exhibit 6 of the Distribution Plan and an updated version of this questionnaire was included in the July 2003 JDC Report in Appendix I, on file with the Court. In 2001, all existing Hesed clients were resurveyed regarding their situation during World War II. A copy of this resurvey instrument was included as Appendix II in the July 2003 JDC Report.

the Hesed programs. Had the Court's funds not been available the Hesed programs would have had to cut back on services to their current Nazi victim clients.

The Hesed centers' services include hunger relief programs, homecare, winter relief and medical services. As noted above, "looted assets class" funds are used for the General Welfare Program (providing food packages, hot meals, homecare and winter relief), Medical Services, and the SOS Special Needs and Emergency Cases Program, all of which are described in greater detail below.

The program of services is "bare-bones." Simply stated, Nazi victims in the FSU receive fewer welfare services than provided to their "double victim" counterparts in Central and Eastern Europe or to Nazi victims in other parts of the world.

As indicated in the July 2003 JDC Report, "looted assets class" funds have imparted some relief, but they nevertheless accounted for only approximately one quarter of services to the FSU's Nazi victims in 2001 and 2002. For example, in the reporting period, the FSU Hesed network provided welfare services to a total of 134,296 destitute Jewish Nazi victims. While virtually all of them received food packages, "looted assets" funds only covered food packages for 40,352 Nazi victims, or 30 % of the total.

The FSU Hesed programs are relatively inexpensive when compared to similar programs in other transitioning economies. For example, it costs on average \$20 for each JDC food package provided in Romania to a Jewish Nazi victim, while a food package in the FSU costs on average \$7. This difference is due largely to the fact that the Romanian Jewish community provides a more extensive range of foodstuffs in the package. Due to budget limitations in the FSU, a more modest food package is all that can be provided (see details below in the "Hunger Relief Programs" section).

PROGRAM PROPOSAL

There are 177 Hesed programs located in 13 countries⁵ that provide aid and services to Jewish Nazi victims (listed in Appendix II). Together, they provide services in over 2,700 localities, across eleven time zones, in 15 countries⁶ ranging from Hesed centers in major cities and large towns to direct services to individuals living alone in rural areas.

While all older adults in the Soviet successor states have suffered, the JDC has documented that the elderly Jewish population, and most notably Jewish victims of Nazi

⁵ Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Ukraine, and Uzbekistan.

⁶ Hesed welfare services are provided in Tadjikistan and Turkmenistan even though no welfare center is located there.

persecution, has encountered hardships disproportionately greater than those facing the non-Jewish elderly population. These conditions are discussed in detail on pages 11-13 of the July 2003 JDC Report.

In simplest terms, the combination of the magnitude of poverty experienced by the elderly Jewish population in general, with the large number of Nazi victims who are suffering, makes the Jewish Nazi victims in the FSU the most underserved in the world.

GENERAL WELFARE PROGRAMS

The JDC provides general welfare programs to help alleviate some portion of this suffering. There are three components to the general welfare programs: hunger relief programs, homecare and winter relief. Details concerning each follow.⁷

I. HUNGER RELIEF PROGRAMS

In order to address the nutritional needs of elderly Jews and ease their living costs, the JDC has initiated hunger relief programs comprising food packages and hot prepared meals in congregate or domestic (meals-on-wheels) settings.

A. Food Packages

“Looted assets class” funds provide for monthly or quarterly food packages as well as special food packages prepared four times per year for holidays. A Hebrew University of Jerusalem nutritionist has made recommendations regarding the contents of the food packages, which have been developed and adjusted according to the availability of and request for local products. These packages contain non-perishable basic staples, including flour, pasta, rice, other grains, beans, sugar, oil and a protein source such as canned fish.

Food packages supplement the meager diets of the elderly Nazi victim population. When combined with other items that the elderly can obtain, they will stave off hunger and most effects of malnutrition.

In Russia, for example, according to data released by the State Statistics Committee at the end of 2002, the cost of the minimum set of foodstuffs in Russia during the third quarter of the year amounted to almost a full two-thirds of the average pension.⁸ Hased food packages are provided an average of eight times a year. While some clients get monthly food packages, due to budgetary constraints, others receive them only quarterly and some clients get food packages only before Passover and Rosh Hashanah.

⁷ Much of the material in this section was also discussed, in some greater detail, in the July 2003 JDC Report. For the Court’s convenience it is repeated below as well.

⁸ 39 Million Russians Living in Poverty, Anton Mikhailov, gazeta.ru, November 11, 2002.

B. Meal Programs

The Hesed network provides two hot meal programs: congregate meals and meals-on-wheels. These meal programs are far more desirable than the mere provision of food packages every few months, as they provide Nazi victims with daily nutrition as well as the collateral benefit of socialization with others.

Due to limited funding meals are provided only once a day, on average of four times per week, and most clients who receive a hot meal are ineligible to receive monthly food packages as well.

1. Congregate Meals

There are communal dining rooms in the Hesed centers that serve congregate meals approximately four times per week. Where there is no local Hesed building, Hesed clients eat at a local cafeteria during a special daily time that is rented specifically for their use. For most Hesed clients, this is the only hot meal they will receive during the course of a week, and their only source of protein. In many cases, these meals prevent malnutrition and starvation. A typical meal includes salad, chicken, fish or soy, a vegetable, pasta or cooked grain, and a baked dessert or fruit.

Hesed dining rooms have assumed other roles in addition to the provision of hot meals. In many areas, they also serve as the foci for communal and cultural events, including birthdays, lectures on Jewish traditions and holidays, and concerts. Hence, congregate meals meet not only people's nutritional needs, but also their emotional and social needs. They provide the lonely and isolated elderly with a social environment.

2. Meals-On-Wheels

Meals-on-wheels are ready-to-eat, cooked meals delivered to the homebound who are unable to prepare food for themselves. Many of the meals-on-wheels recipients have not gone outside in years. Hesed centers use reusable containers to package and deliver the meals. Some also use a special method of deep freeze cooking that keeps food sterile and fresh. In these cases, the Hesed delivers several meals to the client's home at one time so they can last over the course of a week. Under this program, the Hesed employee or volunteer provides the client with his or her main contact with the outside world.

The Hesed centers rely as much as possible on volunteers to prepare, serve and deliver food packages, congregate meals and meals-on-wheels. Many of the more than 14,000 volunteers throughout the FSU are themselves needy Nazi victims. Others are involved with the Jewish community or are Jewish university students. (These volunteers are involved with the full range of Hesed services, not just meals-on wheels.)

II. HEMOCARE

As discussed above and in the July 2003 JDC Report, approximately one in ten Jewish Nazi victims in the FSU is homebound. A JDC study found that 40 % of the FSU's Jewish elderly need assistance with at least one activity of daily living (ADL) and one instrumental activity of daily living (IADL). Nazi victims need personal care assistance with at least one routine ADL, defined as eating, bathing, dressing, walking, getting in or out of a bed or chair, using the toilet, and going outside. They also require housekeeping assistance with at least one IADL, defined as preparing meals, managing medications, shopping, light housework, using the phone and getting to places outside of walking distance.

The Hesed centers develop an individual homecare plan that takes into account a client's personal circumstances, needs and preferences. Paid caregivers or volunteer members of the community provide personal care and housekeeping assistance for those who cannot perform these tasks for themselves.

In addition to providing ADL and IADL assistance, Hesed volunteers and professionals also perform minor household repairs and install prophylactic, or non-slip aids, such as handrails in bathrooms and toilets, to help prevent accidents at home. They also repair hearing aids and eyeglasses.

In more extreme cases, homecare involves pumping water from a nearby well and bringing it to the house in a pail, tending to gardens—perhaps a client's only source of vegetables—and chopping wood for heating and cooking. Services are rendered up to four times per week. Simply stated, all homecare clients benefit from the warmth and companionship of a home visitor, combating the numbing isolation, loneliness and depression that often confront the thousands whom history has left utterly alone.

Soviet successor state social welfare services, if they provide homecare at all, do not offer ADL assistance. State-funded IADL assistance is limited to occasional home delivery of groceries and prescriptions. As described in detail in the July 2003 JDC Report, government homecare services have been retrenched. There is also a large gap between the services which are mandated by law and those which the state actually provides. In the FSU, state "entitlement" does not match reality for the elderly.

The institutional care situation is even more perilous. There is virtually no proper institutional care, whether in the form of nursing homes or assisted living facilities, in any of the Soviet successor states. Where it does exist, the poor conditions would likely dehumanize an elderly Jewish population that has already suffered more than its share of trauma and hardship over a lifetime.

On average, four Hesed-provided homecare hours per week are spent with each of the Nazi victims the "looted assets class" allocation serves, which is the difference between having a measure of dignity and being soiled, dirty, malnourished or starving, dying in isolated, bereft and forgotten circumstances. Court funds have enabled the Hesed programs to end the

abandonment of a portion of a population whose voices were stilled for decades by the Nazi occupation and Soviet rule.

III. WINTER RELIEF

The Hesed programs provide special winter relief to those clients most in need so they can cope with the FSU's legendary harsh winter conditions. It is not uncommon for an elderly Jewish Nazi victim to live in sub-standard housing with no heat or hot water for most of the winter. There are no government subsidies for heating in any FSU successor state, and sufficient heating can cost \$50 for a season—double the average monthly pension.

Winter relief packages are distributed once per winter. They may comprise heating and cooking fuel, including coal, wood and gas, as well as blankets, coats, sweaters and boots. This one "kit" has to last throughout a long harsh winter and, due to budgetary limitations, is only available to alleviate freezing conditions for the most needy of this very poor Nazi victim population. This is a service unique among the dozens of countries where JDC provides welfare services and shows the extreme conditions and needs in the FSU.

MEDICAL SERVICES

Hesed medical services include subsidies for prescription medicines and free medical consultations. They supplement existing state medical services, provide access to prohibitively expensive medications and diagnostic tests, and provide medical training to Hesed and community practitioners.

As discussed in the July 2003 JDC Report, the erosion of the tax base and deteriorating economies of the Soviet successor states have prevented individual governments from providing their citizens with comprehensive health care, which has emerged as the primary social welfare problem.

The basics of medical care, such as adequate and regular supply of medications and surgical equipment and postgraduate training for doctors and nurses, are often nonexistent. State medical services have deteriorated dramatically since the collapse of the Soviet Union and they lack the funds to continue providing free health care, making it very difficult for the impoverished elderly to get appointments. Public clinics do not have diagnostic equipment and prescription drugs are either unavailable at state-run clinics or too prohibitive in cost for pensioners.

As a consequence, the health and welfare of the FSU Jewish elderly Nazi victim population remains at great risk, and virtually all health indicators in the FSU show evidence of continuing decline.

State-run hospitals are in crisis as well. They are antiquated, ill equipped and inefficient. Lack of basic supplies is common to the point that patients must bring their own, including medicine, bedding and food in order to receive care. Patients also endure a multitude

of incidental costs, such as jackets for doctors or special food for themselves. The individual patient now bears the costs for previously government subsidized services, including treatment for many problems endemic among the elderly: cataract removal, treatment for hip fractures, dental treatments, surgeries and Alzheimer's Disease.

I. SUBSIDIES FOR PRESCRIPTION MEDICINES

Costs for prescription drugs frequently exceed pension allowances several-fold. The Hesed center subsidizes these costs by either making an arrangement with a local pharmacy to provide needed medications to its clients or obtaining *pro bono* pharmacist services at a Hesed dispensary.

The lack of basic medicines is a leading cause of death amongst the Jewish elderly in the FSU, and the situation is even more serious in remote regions due to sporadic distribution and scant supply of medicines to provincial clinics.

Hence, "looted assets class" funding has enabled JDC to significantly increase its ability to respond to unmet needs for basic medication. It allows Hesed centers to purchase manufactured drugs, and provide clients with familiar medications. Given the prescription drug costs in the FSU, this service is highly significant.

II. MEDICAL CONSULTATIONS

The Hesed centers also provide medical consultations to Nazi victims. A physician examines ambulatory Nazi victims at the local center. Jewish Healthcare International (JHI) has trained Hesed physicians, most often local Jewish doctors volunteering their time, to be aware of the particular medical problems of Jewish Nazi victims. Hesed physicians also receive the most up-to-date epidemiological information for the FSU from the *JDC Medical Newsletter*. In addition, Hesed-affiliated doctors and nurses visit the homebound, which has proven to be lifesaving to Nazi victims who cannot afford home visits.

Together, these medical services are essential for individuals who might otherwise not have their health problems diagnosed or treated.

SOS SPECIAL NEEDS AND EMERGENCY CASES PROGRAM

In 1999, JDC established the SOS Special Needs and Emergency Cases Program with private donations. At first, it was open to all members of the Jewish community, regardless of age or pension status. However, the need was so great that the program became a casualty of its own success. Were it not for Court funds, the program would no longer exist. It has been

redesigned so that only Hesed clients who meet "looted assets class" criteria can receive SOS assistance.⁹

The Court-funded SOS program has brought direct relief to thousands of Jewish Nazi victims across the FSU. It enables the Hesed centers to help those whose personal needs are too expensive for the regular program budget. By answering the most pressing needs of destitute survivors, the program has extended and improved the lives of thousands.

Since the start of the SOS program in 1999, each Hesed established an Emergency Aid Committee to review SOS applications against specific criteria in order to determine eligibility for the funds. The average SOS grant is \$50.

The range of SOS goods and services includes:

1. Health services, including drugs, hearing aids and glasses, emergency dental care, hospitalization costs such as surgery, adult diapers, bedding, test-strips, medical tests and transportation, laundering of soiled clothes, as well as prostheses and the purchase of rehabilitative equipment and rehabilitative courses of treatment.
2. Food and utilities, including emergency food supplies and payment of utility debts.
3. Extra winter relief such as the purchase of heating fuels (wood, coal and gas) and heating appliances, clothing, boots, blankets.
4. Home repairs for houses and apartments, including roof repairs and other building materials.
5. Purchase and repair of household goods and electrical appliances, including stoves, refrigerators, furniture, and telephones.
6. Other humanitarian aid, including, for example, the purchase of pots and pans, sinks, and toilets; dentures; bedpans; adaptation of bathrooms for the elderly; special medical equipment; provision of water jugs to enable a Nazi victim to bring water from a well to her home and outhouse; the purchase of a cow to provide milk for a client in a remote rural area; connection of a gas pipeline to heat a home; and, payment of rent to prevent eviction.

⁹ There is a very limited SOS program, made possible by private grants to JDC, for Hesed clients who are not Nazi victims and therefore not eligible for "looted assets class" funding.

CONCLUSION

For the reasons set forth above, JDC respectfully submits this proposal to the Court and requests that it be approved for calendar year 2003. This will enable the Hesed programs in the FSU to continue to provide vital and life-sustaining welfare services to the poorest Jewish victims of Nazi persecution in the world.

APPENDIX I

**SWISS BANKS SETTLEMENT "LOOTED ASSETS CLASS"
JDC PROPOSED 2003 FSU BUDGET FOR HESED WELFARE SERVICES**

	Total Jewish Nazi Victim Clients	General Welfare	Medical Program	SOS	Total Budget	% of Total FSU Jewish Nazi Victims Clients
Kiev & West Ukraine	20,957 \$	1,736,299 \$	565,207 \$	244,528 \$	2,546,034 \$	15.6%
Kharkov, Ukraine	8,074 \$	639,868 \$	239,822 \$	101,208 \$	980,898 \$	6.0%
Odessa	12,348 \$	978,860 \$	376,000 \$	145,280 \$	1,500,140 \$	9.2%
Dniepropetrovsk, Ukraine	15,064 \$	1,258,125 \$	395,403 \$	176,574 \$	1,830,102 \$	11.2%
St. Petersburg, Russia	16,100 \$	1,329,358 \$	438,749 \$	187,857 \$	1,955,964 \$	12.0%
Minsk, Belarus	12,060 \$	1,006,040 \$	316,394 \$	142,717 \$	1,465,151 \$	9.0%
Kishinev, Moldova	2,325 \$	194,337 \$	60,996 \$	27,128 \$	282,461 \$	1.7%
Volga, Russia	11,274 \$	924,223 \$	313,892 \$	131,546 \$	1,369,661 \$	8.4%
Moscow, Russia	18,097 \$	1,512,696 \$	474,737 \$	211,144 \$	2,198,577 \$	13.5%
Urals, Russia	5,300 \$	429,308 \$	139,045 \$	75,536 \$	643,889 \$	3.9%
Siberia, Russia	1,772 \$	143,143 \$	51,459 \$	20,676 \$	215,278 \$	1.3%
Northern Caucasus	4,521 \$	366,166 \$	115,742 \$	67,341 \$	549,249 \$	3.4%
Georgia	181 \$	15,129 \$	4,748 \$	2,112 \$	21,989 \$	0.1%
Azerbaijan	189 \$	12,700 \$	5,421 \$	1,925 \$	20,046 \$	0.1%
Central Asia	2,462 \$	192,962 \$	72,916 \$	33,227 \$	299,105 \$	1.8%
Baltic States	3,572 \$	282,072 \$	86,790 \$	65,094 \$	433,956 \$	2.7%
Total Allocation	134,296 \$	11,021,286 \$	3,657,321 \$	1,633,893 \$	16,312,500 \$	100.0%

APPENDIX II

Hesed Centers/Jewish Welfare Programs in the FSU

7/1/2003 (note: Shaded lines indicate the main center in the region/country)

#	Name of Hesed/Welfare Program	City	Region
	b) "Tikva" Welfare Fund (Production Center)	<i>St. Petersburg</i>	Russia
	c) Central Warehouse	<i>St. Petersburg</i>	Russia
2	Hesed Agamim	<i>Petrozavodsk</i>	Russia
3	Community CultUrals Center "Shalom"	<i>Vologda</i>	Russia
4	Hesed Akhim	<i>Arkhangelsk</i>	Russia
5	Hesed Itzhak	<i>Pskov</i>	Russia
6	Hesed Magen	<i>Velikie Luki</i>	Russia
7	Hesed Yakov	<i>Veliki Novgorod</i>	Russia
8	Zahota-Siyanie (Zohar) Hesed	<i>Murmansk</i>	Russia
9	ENKA community	<i>Syktvkar</i>	Russia
10	Hesed Menachem	<i>Moscow</i>	Russia
11	Hesed Chama	<i>Moscow</i>	Russia
12	Hesed Avraham	<i>Moscow</i>	Russia
13	Yad Ezra	<i>Moscow</i>	Russia

Hesed Centers/Jewish Welfare Programs in the FSU

7/1/2003 (note: Shaded lines indicate the main center in the region/country)

#	Name of Hesed/Welfare Program	City	Region
14	Ethel Fund	<i>Moscow</i>	Russia
15	Religious Community "Shamir"	<i>Moscow</i>	Russia
16	Gincini	<i>Reutov</i>	Russia
17	Jewish Religious Community	<i>Saltykovka</i>	Russia
18	Community	<i>Malakhovka</i>	Russia
19	Hesed Sara		
20	Hesed Rachel	<i>Yaroslavl</i>	Central Russia Volga
21	Welfare org. "Atikva"	<i>Penza</i>	Central Russia Volga
22	Hesed Ester	<i>Samara</i>	Central Russia Volga
23	Hasdei Yerushalaim	<i>Saratov</i>	Central Russia Volga
24	Hesed Tikva	<i>Bryansk</i>	Central Russia Volga
25	Hesed Zion	<i>Kostroma</i>	Central Russia Volga
26	Inform. and CultUrals Center "Jewish Home"	<i>Kursk</i>	Central Russia Volga
27	Welfare org. "Nash Dom"	<i>Tambov</i>	Central Russia Volga
28	Hesed Neshama	<i>Tula</i>	Central Russia Volga
29	Hesed Akiva	<i>Smolensk</i>	Central Russia Volga
30	Hesed Moshe	<i>Kazan</i>	Central Russia Volga
31	Hesed Nehama	<i>Voronezh</i>	Central Russia Volga
32	Hesed Lev	<i>Vladimir</i>	Central Russia Volga
33	Hesed Zabota	<i>Tver</i>	Central Russia Volga

Hesed Centers/Jewish Welfare Programs in the FSU

7/1/2003 (note: Shaded lines indicate the main center in the region/country)

#	Name of Hesed/Welfare Program	City	Region
34	Hesed Makor	<i>Yoshkar-Ola</i>	Central Russia Volga
35	Hesed Iona	<i>Lipetsk</i>	Central Russia Volga
36	Community Charitable Center "Nesher"	<i>Oryol</i>	Central Russia Volga
37	Hesed Tshuva	<i>Ryazan</i>	Central Russia Volga
38	CultUrals and Educational Org. "Shalom"	<i>Ulyanovsk</i>	Central Russia Volga
39	National Jewish Autonomy	<i>Cheboksary</i>	Central Russia Volga
40	Hesed Atikva (Naderzhda)	<i>Kirov</i>	Central Russia Volga
41	Hesed Meiorah	<i>Yekaterinburg</i>	Russia Urals
42	Hesed Nehama	<i>Chelyabinsk</i>	Russia Urals
43	Hesed Aviv	<i>Orenburg</i>	Russia Urals
44	Hesed Kochav	<i>Perm</i>	Russia Urals
45	Hesed Ariel	<i>Izhevsk</i>	Russia Urals
46	Hesed Gedalia	<i>Orsk</i>	Russia Urals
47	Hesed Alef	<i>Nijni Tagil</i>	Russia Urals
48	Hesed Ezra	<i>Magnitogorsk</i>	Russia Urals
49	Hesed Daniel	<i>Tyumen</i>	Russia
50	Hesed Lea	<i>Ufa</i>	Russia
51	Hesed Ester	<i>Krasnoyarsk</i>	Russia Siberia
52	Hesed Israel	<i>Khabarovsk</i>	Russia Siberia
53	Hesed Tikva	<i>Novosibirsk</i>	Russia Siberia

Hesed Centers/Jewish Welfare Programs in the FSU

7/1/2003 (note: Shaded lines indicate the main center in the region/country)

#	Name of Hesed/Welfare Program	City	Region
54	Hesed Ha-Yad	<i>Irkutsk</i>	Russia Siberia
55	Hesed Rachel	<i>Omsk</i>	Russia Siberia
56	Hesed Sara	<i>Vladivostok</i>	Russia Siberia
57	Jewish Religious Community Freid	<i>Birobijan</i>	Russia Siberia
58	Hesed Shalom Ber	<i>Rostov-on-Don</i>	
59	Hesed Tagan Shofar (branch of Rostov Hesed)	<i>Taganrog</i>	Russia Northern Caucasus
60	Hesed Yahad	<i>Sochi</i>	Russia Northern Caucasus
61	Welfare Org. Thiya	<i>Astrakhan</i>	Russia Northern Caucasus
62	Hesed (branch of Rostov Hesed)	<i>Novorosijsk</i>	Russia Northern Caucasus
63	Hesed Bencion	<i>Pyatigorsk</i>	Russia Northern Caucasus
64	Hesed Tikva	<i>Krasnodar</i>	Russia Northern Caucasus
65	Hesed Imid	<i>Nalchik</i>	Russia Northern Caucasus
66	Jewish Ruplic CultUrals Organization "Shlomo"	<i>Vladikavkaz</i>	Russia Northern Caucasus
67	Hesed (branch of Rostov Hesed)	<i>Novocherkassk</i>	Russia Northern Caucasus
68	Hesed Mesachem	<i>Chernopozhnyy</i>	
69	Hesed Rachel	<i>Pavlograd</i>	Eastern Ukraine
70	Hesed Zelda	<i>Zheltye Vody</i>	Eastern Ukraine
71	Hesed Tsdaka	<i>Donetsk</i>	Eastern Ukraine
72	Hesed Moriah	<i>Kramatorsk</i>	Eastern Ukraine
73	Hesed Mikol Aneshama	<i>Mariupol</i>	Eastern Ukraine

Hesed Centers/Jewish Welfare Programs in the FSU

7/1/2003 (note: Shaded lines indicate the main center in the region/country)

#	Name of Hesed/Welfare Program	City	Region
74	Hesed Velvele	<i>Melitopol</i>	Eastern Ukraine
75	Hesed Golda	<i>Konstantinovka</i>	Eastern Ukraine
76	Hesed Shofar	<i>Gorlovka</i>	Eastern Ukraine
77	Hesed Iosif	<i>Slavyansk</i>	Eastern Ukraine
78	Hesed Zicharon	<i>Artyomovsk</i>	Eastern Ukraine
79	Hesed Hana	<i>Krivoi Rog</i>	Eastern Ukraine
80	Hesed Michael	<i>Zaporozhye</i>	Eastern Ukraine
81	Maayan Hesed	<i>Dnepro-dzerzhynsk</i>	Eastern Ukraine
82	Hesed Haim	<i>Kremenchug</i>	Eastern Ukraine
83	Ner HaHesed	<i>Lugansk</i>	Eastern Ukraine
84	Hesed Eliyahu	<i>Nikopol</i>	Eastern Ukraine
85	Hesed Debora	<i>Berdiansk</i>	Eastern Ukraine
86	Hesed Or	<i>Novomoskovsk</i>	Eastern Ukraine
87	Shaare Tikva	<i>Kharkov</i>	Eastern Ukraine
88	Cherity group, the branch of Sumy Hesed	<i>Gluhov</i>	Eastern Ukraine
89	Hesed Nefesh	<i>Poltava</i>	Eastern Ukraine
90	Hesed Chaim	<i>Sumy</i>	Eastern Ukraine
91	Hesed Sholom	<i>Shostka</i>	Eastern Ukraine

Hesed Centers/Jewish Welfare Programs in the FSU

7/1/2003 (note: Shaded lines indicate the main center in the region/country)

#	Name of Hesed/Welfare Program	City	Region
92	Hesed Ester	<i>Konotop</i>	Eastern Ukraine
93	Hesed Shahar	<i>Mirgorod</i>	Eastern Ukraine
94	Hesed Shofar	<i>Lubny</i>	Eastern Ukraine
95			
96	Hesed Sade-Lavan, the branch of Hesed Avot	<i>Belaya Tserkov</i>	Central Ukraine
97	Hesed Shlomo	<i>Zhitomir</i>	Central Ukraine
98	Hesed Itskhak, the branch of Hesed Shlomo	<i>Berdichev</i>	Central Ukraine
99	Hesed Emuna	<i>Vinnitza</i>	Central Ukraine
100	Hesed Ester	<i>Chernigov</i>	Central Ukraine
101	Hesed Dorot	<i>Cherkassy</i>	Central Ukraine
102	Hesed Nakhman, the branch of Hesed Dorot	<i>Uman</i>	Central Ukraine
103	Hesed Arich	<i>Lvov</i>	Western Ukraine
104	Hesed Gur Arich, the branch of Hesed Arich	<i>Drogobych</i>	Western Ukraine
105	Hesed Shushana	<i>Chernovtsy</i>	Western Ukraine
106	Hesed Besht	<i>Khmelnytskyi</i>	Western Ukraine
107	Hesed Fridlander, the branch of Hesed Besht	<i>Ternopol</i>	Western Ukraine

Hesed Centers/Jewish Welfare Programs in the FSU

7/1/2003 (note: Shaded lines indicate the main center in the region/country)

#	Name of Hesed/Welfare Program	City	Region
108	Hesed Shpira	<i>Uzhgorod</i>	Western Ukraine
109	Hesed Osher	<i>Rovno</i>	Western Ukraine
110	Hesed Gotlib, the branch of Hesed Osher	<i>Lutsk</i>	Western Ukraine
111	Hesed Leib	<i>Ivano-Frankovsk</i>	Western Ukraine
112	Gmilus Hesed		
113	Hesed Shlomo	<i>Kirovograd</i>	Southern Ukraine
114	Hesed Shahaar	<i>Sevastopol</i>	Southern Ukraine
115	Hesed Menachem	<i>Nikolaev</i>	Southern Ukraine
116	Charity Department, Iudaic Religious Community "Khabad"	<i>Kherson</i>	Southern Ukraine
117	Hesed Shimon	<i>Simferopol</i>	Southern Ukraine
118	Charity Department, Regional Cult. & Enlightenment Jewish Community	<i>Feodosia</i>	Southern Ukraine
119	Hesed Shalom	<i>Evpatoria</i>	Southern Ukraine
120	Jewish organization "Menora"	<i>Ismail</i>	Southern Ukraine

Hesed Centers/Jewish Welfare Programs in the FSU

7/1/2003 (note: Shaded lines indicate the main center in the region/country)

#	Name of Hesed/Welfare Program	City	Region
121	Charity Department, Jewish Community "Gesher"	<i>Kerch</i>	Southern Ukraine
122	Charity Department, Jewish Community	<i>Yalta</i>	Southern Ukraine
123	Jewish Cultural Society "Mitsva", the branch of Kirovograd Hesed	<i>Svetlovodsk</i>	Southern Ukraine
124	Jewish Community, Association of Ghetto and Concentration Camp Survivors, the branch of Odessa Hesed	<i>Balta</i>	Southern Ukraine
125	Hesed Yehuda	<i>Tiraspol</i>	Moldova
126	Hesed Yaakov	<i>Beltsy</i>	Moldova
127	Hesed Rachel	<i>Rybnitsa</i>	Moldova
128	Hesed Chara	<i>Tiraspol</i>	Moldova
129	Hesed Yosef	<i>Bendery</i>	Moldova
130	Hesed Rachamim	<i>Mogilev</i>	Belarus
131	Hesed Baruch	<i>Mogilev</i>	Belarus
132	Hesed Batya	<i>Gomel</i>	Belarus
133	Hesed David	<i>Vitebsk</i>	Belarus
134	Hesed Nachum	<i>Grodno</i>	Belarus
135	Hesed Efraim	<i>Polozk</i>	Belarus
136	Hesed Emuna	<i>Borisov</i>	Belarus
137	Hesed Shmuel	<i>Bobruisk</i>	Belarus
138	Hesed David	<i>Brest</i>	Belarus

Hesed Centers/Jewish Welfare Programs in the FSU

7/1/2003 (note: Shaded lines indicate the main center in the region/country)

#	Name of Hesed/Welfare Program	City	Region
139	Hesed Ezra	<i>Baranovich</i>	Belarus
140	Jewish CultUrals Club "Ami"	<i>Rechitsa</i>	Belarus
141	Hesed	<i>Lida</i>	Belarus
142	Hesed Aron	<i>Pinsk</i>	Belarus
143	Welfare center "Rachamim"	<i>Svetlogorsk</i>	Belarus
144	Judaic Religious Community "Beit-Israel"	<i>Kalinkovichi</i>	Belarus
145	Hesed Emanuil	<i>Mozyr</i>	Belarus
146	Hesed Shalom	<i>Orsha</i>	Belarus
147	Jewish culture club	<i>Slutsk</i>	Belarus
148	Hesed Polina	<i>Almalyk</i>	Kazakhstan
149	Hesed Shimon	<i>Shymkent</i>	Kazakhstan
150	Hesed	<i>Astana</i>	Kazakhstan
151	Hesed Miriam	<i>Karaganda</i>	Kazakhstan
152	Hesed Sara	<i>Aktobe</i>	Kazakhstan
153	Hesed Rachel	<i>Pavlodar</i>	Kazakhstan
154	Hesed Efraim	<i>Petropavlovsk</i>	Kazakhstan
155	Hesed	<i>Taraz</i>	Kazakhstan
156	Hesed	<i>Uralssk</i>	Kazakhstan
157	Hesed Faina	<i>Ust-Kamenogorsk</i>	Kazakhstan

Hesed Centers/Jewish Welfare Programs in the FSU

7/1/2003 (note: Shaded lines indicate the main center in the region/country)

#	Name of Hesed/Welfare Program	City	Region
158	Hesed Natan	<i>Kokshetau</i>	Kazakhstan
159	Hesed	<i>Kostanau</i>	Kazakhstan
160	Hesed Eliezer	<i>Tbilisi</i>	Georgia
161	Hesed Eliyahu	<i>Tbilisi</i>	Georgia
162	Hesed Abuli	<i>Kutaisi</i>	Georgia
163	Hesed Shalom	<i>Gori</i>	Georgia
164	Hesed Moshe	<i>Oni</i>	Georgia
165	Hesed Tzvi	<i>Batumi</i>	Georgia
166	Hesed Aviv	<i>Rustavi</i>	Georgia
167	Hesed Gershon	<i>Baku</i>	Azerbaijan
168	Branch of Hesed Gershon in Sumgait	<i>Sumgait</i>	Azerbaijan
169	Branch of Hesed Gershon in Gandja	<i>Gandja</i>	Azerbaijan
170	Branch of Hesed Gershon in Oguz	<i>Oguz</i>	Azerbaijan
171	Branch of Hesed Gershon in Privolnoe	<i>Privolnoe, Jalilobod distr.</i>	Azerbaijan
172	Hesed Gorskiy Dorn	<i>Makhachkala</i>	Dagestan - Russia
173	Orot Hesed	<i>Yerevan</i>	Armenia
174	Hesed Yeoshua	<i>Tashkent</i>	Uzbekistan
175	Jewish Community Welfare Program	<i>Tallinn</i>	Estonia
176	WIZO/Rahamim Welfare Program/Jewish Community	<i>Riga</i>	Latvia
177	Jewish Community Welfare Program	<i>Vilnius</i>	Lithuania

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE:
HOLOCAUST VICTIM ASSETS
LITIGATION

Case No. CV 96-4849 (ERK)(MDG)
(Consolidated with CV 96-5161
and CV 97-461)

MEMORANDUM & ORDER

This Document Relates to: All Cases

KORMAN, Chief Judge:

In accordance with my Order of December 8, 2000 and consistent with the terms of the plan of Allocation and Distribution of the Settlement Fund (the "Distribution Plan"), which I approved on November 22, 2000, and my Memorandum & Order dated September 25, 2002, the Conference on Jewish Material Claims Against Germany, Inc. ("Claims Conference") is prepared to begin funding the third phase of emergency assistance programs for direct assistance for Jewish Nazi victims.

I am in receipt of the April 2003 proposal of the Claims Conference for the third phase of emergency assistance programs for Jewish Nazi victims for calendar year 2003 (the "Proposal"). This proposal provides assistance to survivors in Argentina, Australia, Austria, Belgium, Bosnia, Bulgaria, Canada, Croatia, Czech Republic, England, France, Germany, Greece, Hungary, Israel, Italy, Netherlands, Poland, Romania, Slovakia, Sweden, the United States and Yugoslavia.

The required funding to implement the emergency assistance programs in these twenty three above-mentioned nations is \$3,580,000. As described in the Proposal, there is an

additional \$45,000 in the requested allocation for which the recipients have yet to be determined. The Claims Conference has advised the Court that it will submit a proposal describing the distribution of these funds at a later date in the near future. Thus, the required funding for the emergency assistance programs for the calendar year 2003 is \$3,625,000, as specified in the Distribution Plan. I am advised by the Claims Conference that many of the programs specified in the Third Claims Conference Looted Assets Class Proposal have been operating since the beginning of the year. In addition, as outlined in the Distribution Plan, the Claims Conference is to be reimbursed for the oversight and management of these funds in the amount of 2% of program fees, which for the period of January 1, 2003 through December 31, 2003 totals \$72,500.

Accordingly, it is hereby


ORDERED that the Escrow Agents are hereby directed to transfer immediately \$3,697,500 to the Claims Conference for the third phase of the emergency assistance programs for Jewish Nazi victims. Pending the distribution of these amounts to the designated survivor assistance programs and organizations, the Claims Conference shall deposit the funds in escrow in an interest-bearing account. The principal as well as any interest that may accrue thereon shall be solely for the benefit of the Settlement Fund. Upon application, any such accrued interest shall be distributed by the Claims Conference to the survivor assistance programs described above or to such other survivor assistance programs as the Claims Conference may recommend and the Court may approve.

It is further ordered that in implementing these programs, the Claims Conference shall adhere to the reporting requirements to the Court as set forth in the Distribution Plan and in

the Claims Conference Emergency Assistance Program for Jewish Victims of Nazi Persecution
Proposal that I approved in my Memorandum & Order of June 28, 2001.

Brooklyn, New York
April 6, 2003

SO ORDERED:


Edward R. Korman
United States District Judge



CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, INC. ועידת החבירות

15 East 26th Street • Room 906 • New York, NY 10010 • Tel: (212) 696-4944 • Fax: (212) 679-2126 • Email: info@chimscon.org

April 7, 2003

The Honorable Edward R. Korman
United States District Court
The Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York, 11201

Dear Judge Korman,

1. The enclosed proposal contains the request for adoption of the calendar year 2003 Emergency Assistance Programs for Jewish victims of Nazi persecution (the "Proposal"), managed on behalf of the Court by the Conference on Jewish Material Claims Against Germany ("Claims Conference") under the Looted Assets Class of the Swiss Banks Settlement. This Third Claims Conference proposal contains a request for a year of emergency assistance programs in Argentina, Australia, Austria, Belgium, Bosnia, Bulgaria, Canada, Croatia, Czech Republic, England, France, Germany, Greece, Hungary, Israel, Italy, Netherlands, Poland, Romania, Slovakia, Sweden, the United States and Yugoslavia.¹

2. As the Court is aware, in accordance with the Special Master's Proposed Plan of Allocation and Distribution of Settlement Proceeds ("Distribution Plan") approved by the Court on November 22, 2000, the Claims Conference is charged with overseeing distribution of funds for the benefit of Jewish class members of the Looted Assets Class under the Swiss Banks Settlement. Funds are designated for programs in Israel, North America, Europe, and other parts of the world which likewise serve the neediest Holocaust victims.² The majority of the funds for programs in the Former Soviet Union are to be distributed by the American Jewish Joint Distribution Committee.

¹ See Memorandum and Order, June 28, 2001, approving the Conference on Jewish Material Claims Against Germany, Inc. Proposal for the First Six Months of Operations of Emergency Assistance Programs for Nazi Victims in In re Holocaust Victims Assets Litigation (Swiss Banks)- Looted Assets Class ("First Claims Conference Looted Assets Proposal"), and Memorandum and Order, July 22, 2002, approving the Conference on Jewish Material Claims Against Germany, Inc. Proposal for the Calendar Year 2002 of Emergency Assistance Programs for Nazi Victims in In re Holocaust Victims Assets Litigation (Swiss Banks)- Looted Assets Class ("Second Claims Conference Looted Assets Proposal").

² Distribution Plan, Volume I, p. 120.

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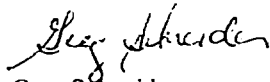
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3. The attached proposal details the intended uses of the funds as well as the organizations best suited to carry out the work for the benefit of Jewish victims of Nazi persecution and with the ability to properly document and account for expenditures. The required funding for these programs, as dictated by the Distribution Plan amounts to \$3,625,000³ for the year 2003. As outlined in the Distribution Plan, the Claims Conference is to receive 2% of the distribution for administrative costs. For the period of January 1 - December 31, 2003 the administrative expense totals \$72,500 (2% of \$3,625,000).

4. The Claims Conference is now prepared to receive a transfer of \$3,697,500, which represents the full amount designated by the Court for the emergency assistance programs and their management and oversight in 2003. The required funding to emergency assistance programs in the 23 above-mentioned nations is \$3,580,000. Please be advised that many of the programs specified in the Third Claims Conference Looted Assets Class Proposal have been operating since the beginning of the year. As described in the Proposal, there is an additional \$45,000 in the requested allocation for which the recipients have yet to be determined. The Claims Conference has advised the Court that it will submit a proposal describing the distribution of these funds at a later date within the near future.

5. Accordingly, the Claims Conference now respectfully requests a total of \$3,697,500 to fund emergency assistance programs for Jewish victims of Nazi persecution under the Looted Assets Class of the Swiss Banks Settlement in accordance with the guidelines set forth under the Distribution Plan and the Court's orders in implementation of the Plan.

Respectfully submitted,



Greg Schneider
Chief Operating Officer
Conference on Jewish Material Claims Against Germany

GS/m
Enc.

Cc: Special Master Judah Gribetz w/attachment
Gideon Taylor

³ The original plan provided for an allocation of \$2.5 million. This amount was increased by 45% in accordance with the Distribution Plan and the September 25, 2002 Order adopting the Special Master's recommendations for distribution of supplemental funds accruing to the Settlement Fund, as a result of, among other things, unanticipated interest income.



CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, INC. ועידת התביעות
15 East 26th Street • Room 906 • New York, NY 10010 • Tel: (212) 696-4944 • Fax (212) 679-2126 • Email: info@claimscon.org

***THIRD CLAIMS CONFERENCE LOOTED ASSETS CLASS
PROPOSAL:
EMERGENCY ASSISTANCE PROGRAMS
FOR JEWISH NAZI VICTIMS***

PROPOSAL FOR THE CALENDAR YEAR 2003

SUBMITTED TO
THE HONORABLE EDWARD R. KORMAN

CHIEF JUDGE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

April 2003

**EMERGENCY ASSISTANCE PROGRAM FOR NAZI VICTIMS
PROPOSAL FOR CALENDAR YEAR 2003**

I. BACKGROUND

As is already known to the Court, hundreds of thousands of Nazi victims around the world live in difficult economic, physical, and psychological circumstances. Unfortunately, as Nazi victims age, their behavioral and cognitive functions are affected in more acute ways than that of the overall aged population who did not undergo similar traumatic experiences. In particular, the retirement process often intensifies problems of depression, anxiety, sleep disturbance, and intellectual functioning. This makes activities of daily living more difficult for Nazi victims, especially since many of them live alone and are isolated and lack the support of family members to assist them. As a result, small problems can quickly become life-threatening predicaments. This is particularly the case for the 230,000 survivors who live well below the poverty line and for the additional 340,000 survivors who live at the near-poor level, as defined by the poverty standard guidelines for each respective country.

This past year and a half has been very difficult as repeated acts of violence have plagued our nation and the world at large. We have suffered through the terrorist attacks of September 11th on the World Trade Centers and the Pentagon; continue to live through the rampant suicide bombings in Israel; and witness rising anti-Semitism in Europe. Furthermore, the war with Iraq has instilled an impending fear and sense of doom, of which none can escape. Holocaust survivors, in particular, are suffering from increased anxiety and fear during these times. Social service agencies providing assistance to Nazi victims are in need of additional financial support to increase services to this vulnerable population. Hotlines, originally established to prevent loneliness and isolation, are flooded daily with calls from survivors who are afraid to leave their homes.

II. NEEDS

Throughout the world, hundreds of thousands of elderly Nazi victims live in their own homes and communities. Medical technology, healthier lifestyles, and a cleaner environment have extended their life expectancies, but have not changed their ability to manage everyday activities, which diminishes with age. The demand for long-term care among the elderly will more than double in the next thirty years, and many Nazi victims are left without needed services.

Regardless of their financial and health circumstances, most people prefer care at home. Familiar physical and social environments play a major factor in delaying functional disabilities. Institutionalization is the least desirable option for elderly Nazi victims for it evokes a loss of independence that can trigger traumatic wartime experiences. Aging survivors therefore become extremely reliant on in-home care services provided by local Jewish social service agencies. In addition, an array of auxiliary services is necessary to maintain survivors at home. These services include assistance with medical and dental treatment, food, transportation, home repairs, and

medications. Emergency assistance programs, which offer short-term cash grants, can be extremely valuable in helping to fill these gaps.

The Claims Conference Emergency Assistance Program, adopted by the Court on November 22, 2000, as a means for distribution of funds to benefit Jewish victims of Nazi persecution under the looted assets class, is designed to help prevent or alleviate crises. Through the provision of short-term financial assistance, the program enables Nazi victims to obtain basic necessities and is designed to provide survivors with essential needs in order to continue to live at home with dignity. The program is implemented by central Jewish social service agencies in communities across the world. Thus, the program benefits Nazi victims not only by providing cash assistance to cope with emergency situations but also by assuring the involvement of social welfare professionals in their lives.

In the last eighteen months, the Claims Conference has established or expanded Emergency Assistance Programs in the following countries: Argentina, Australia, Austria, Belgium, Bosnia, Bulgaria, Canada, Croatia, Czech Republic, England, France, Germany, Hungary, Israel, Poland, Romania, Slovakia, Sweden, the United States and Yugoslavia.

For the calendar year 2003, the Claims Conference requests continued support for those existing programs, and seeks to extend the programs into three additional countries – Greece, Italy and the Netherlands - for a total of 23 countries. Please be advised that many of the programs specified in the Third Claims Conference Looted Assets Class Proposal have been operating since the beginning of the year. At this time, the Claims Conference is seeking, in accordance with the Distribution Plan, and the September 25, 2002 Court Order regarding supplemental distribution of funds due to unanticipated interest income, a total of \$3,625,000 for Emergency Assistance Programs for 2003.

III. IMPLEMENTATION AND OUTREACH

As stated above, the Emergency Assistance Program is administered in various cities around the world via a central Jewish social service agency. These agencies have established credentials and reputations, and have been working with Nazi victims for many years, providing both comprehensive and consistent social service programs largely in part through funding from the Claims Conference. All funding provided by the Claims Conference for the Emergency Assistance Programs is used for direct assistance for Nazi victims.

Grants from the Emergency Assistance Program are used for:

- Rent to prevent eviction
- Medical/dental care not paid for by government funded programs
- Purchase of medical equipment including wheel chairs, beds, hearing aids
- Heavy-duty house cleaning
- Winter relief
- Food assistance
- Prescription drugs
- Dentures
- Home care
- Emergency utility payment (heat, hot water, electricity)
- Home equipment/repair

- Transportation

A critical element in the implementation and success of the program is the creation of advisory committees of Nazi victims to assist in the oversight and outreach for the program. These committees provide for the involvement of Nazi victims in the development of general criteria that are appropriate given local conditions and the unique needs of Nazi victims. In addition, the committees review each individual request for assistance and help publicize the availability of the funds in the Nazi victim communities. Outreach is also conducted by the social welfare agencies through the publication of ads in their newsletters, articles in the local media and through survivor organizations in the community. For the existing programs, these committees will remain the same. For those newly identified countries, committees have been or are in the process of being established.

Nazi victims in need of assistance are assessed by a social work professional. The assessment includes medical condition, housing situation, mental health status, financial status, current services being received, and availability of family support. In this way the social worker can identify other services that the individual may be in need of or other benefits for which the individual may be eligible. Once the assessment has been completed, the case is presented to the members of the advisory committee for their review. Wherever possible, the cash grants are paid directly to the vendor in order to assure the proper use of the funds and to maintain the involvement of the social work professional in dealing with the problem.

Eligibility criteria for the emergency assistance program varies between countries and is based on several factors, including the economic situation, the availability of government funded benefits, and the specific needs of the community as identified by the advisory committees. The specific criteria and the administering agencies are listed below.

The distribution of funds by country is based on a review of a series of factors including the number of Nazi victims¹, the current economic situation, the level of need, and the availability of other resources, both governmental and private, to provide assistance.

¹ See Annex C of the Distribution Plan – Demographics of “Victim or Target” Groups

IV. DISTRIBUTION OF FUNDS

A: Ongoing Programs²

ARGENTINA

The following organizations will continue to administer the Emergency Assistance Program in Argentina:

Delegacion de Asociaciones Israelitas Argentinas/Tzedaka Foundation
Pasteur 633 Piso 7
Buenos Aires, Argentina 1028

Eligibility factors include:

- Income less than \$3,792 USD per year for an individual; \$6,432 USD per year for a couple.

\$67,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Argentina.

AUSTRALIA

The following organizations will continue to administer the Emergency Assistance Program in Australia:

In Melbourne:
Jewish Care (Victoria) Inc.
Smorgon Family Building
25-27 Alma Road
St. Kilda, Victoria Australia 03182

In Sydney:
Jewish Care
P.O.B 647
Bondi Junction, Australia NSW 1355

Eligibility factors include:

- Income less than \$13,100 USD for an individual and \$20,460 USD per year for a couple.

² These programs were submitted by the Claims Conference to the Court in the proposal dated July 11, 2002 and were approved for funding July 22, 2002. Many of these programs were initiated in 2001 after the Court approved the First Claims Conference proposal dated February 28, 2001. The following request is to continue support for these programs in 2003.

\$74,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Australia.

AUSTRIA

The following organization will continue to administer the Emergency Assistance Program in Austria:

Israelitische Kultusgemeinde Sozialabteilung
z.Hd. Frau Michaela Mathae
Seitenstettengasse 4
A-1010 Vienna

Eligibility factors include:

- Income less than \$5,057 USD per year for an individual and \$7,463 USD per year for a couple.

\$23,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Austria.

BELGIUM

The following organization will continue to administer the Emergency Assistance Program in Belgium:

Service Social Juif
Av. Dupetiaux 68
B-1060 Bruxelles

Eligibility factors include:

- Income less than \$10,440 USD per year for an individual and \$17,000 USD per year for a couple.

\$44,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Belgium.

BOSNIA

The following organization will continue to administer the Emergency Assistance Program in Bosnia:

Federation of Jewish Communities in Bosnia- Herzegovina
Hamdije Kresevljakovica 59
71000 Sarajevo- Bosnia-Herzegovina

Eligibility factors include:

- Income less than \$1,200 USD per year for an individual and \$2,160 USD per year for a couple.

\$9,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Bosnia.

BULGARIA

The following organization will administer the Emergency Assistance Program in Bulgaria:

Shalom
50, Al Stambilijski Blvd
1303 Sofia, Bulgaria

Eligibility factors include:

- Income less than \$486 USD per year for an individual; \$886 USD per year for a couple.

\$40,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Bulgaria.

CROATIA

The following organization will continue to administer the Emergency Assistance Program in Croatia:

The Jewish Community of Zagreb
Palmoticeva 16
10000 Zagreb- Croatia

Eligibility factors include:

- Income less than \$2,888 USD per year for an individual; and \$5,408 USD per year for a couple.

\$9,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Croatia.

CZECH REPUBLIC

The following organization will continue to administer the Emergency Assistance Program in the Czech Republic:

Terezin Initiative
Maiselova 18
Praga 1, Czech Republic 11000

Eligibility factors include:

- Income less than \$3,360 USD per year for an individual; \$6,500 USD per year for a couple.

\$40,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in the Czech Republic.

FRANCE

The following organization will continue to administer the Emergency Assistance Program in France:

Fonds Social Juif Unifie (FSJU) – Umbrella Group
Espace Rachi 39 rue Broca
Paris, France 75005

Eligibility factors include:

- Income less than \$8,020 USD per year for an individual, \$12,020 USD per year for a couple.

\$190,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in France.

GERMANY

The following organization will continue to administer the Emergency Assistance Program in Germany:

Zentralwohlfahrtsstelle der Juden in Deutschland e.V.
Hebelstraße 6
D-60318 Frankfurt am Main

Eligibility factors include:

- Income less than \$8,305 USD per year for an individual; \$13,099 USD per year for a couple.

\$90,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Germany.

HUNGARY

The following organization will continue to administer the Emergency Assistance Program in Hungary:

Hungarian Jewish Social Support Foundation
Sip Utca 12,
Budapest VII, Hungary 1075

Eligibility factors include:

- Income less than \$4,064 USD for an individual and \$6,096 USD for a couple.

\$210,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Hungary.

ISRAEL

The following organization will continue to administer the Emergency Assistance Program/Individual Grants Program in Israel:

Foundation for the Benefit of Holocaust Victims in Israel
P.O.B 7197
Tel-Aviv, Israel 64734

Eligibility factors considered include:

- Income less than \$16,000 USD per year for an individual and \$26,000 USD per year for a couple.

\$1,812,500 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Israel.

POLAND

The following organization will continue to administer the Emergency Assistance Program in Poland:

Central Jewish Welfare Commission
c/o Union of Jewish Religious Communities of Poland
Ul. Twarda 6
Warsaw, Poland 00-950

Eligibility factors include:

- Income less than \$2,916 USD for an individual and \$3,456 USD for a couple.

\$74,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Poland.

ROMANIA

The following organization will continue to administer the Emergency Assistance Program in Romania:

Federation of Jewish Communities of Romania
Strada SF
Vineri 9-11, Sector 4
Bucharest, Romania

Eligibility factors include:

- Income less than \$420 USD per year for an individual; \$560 USD per year for a couple.

\$100,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Romania.

SLOVAKIA

The following organization will continue to administer the Emergency Assistance Program in Slovakia:

Central Union Of Jewish Religious Communities in the Slovak Republic
Kozia ul. 21
Bratislava, Slovakia 814 47

Eligibility factors include:

- Income less than \$2,371 USD per year for an individual; \$3,793 USD per year for a couple.³

\$40,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Slovakia.

³ The Slovakian eligibility criteria have changed due to the following factors: further cancellation of services in the health sector; rapidly rising cost of utilities by 40%; and the rising cost of living. The Claims Conference is requesting Court approval for the above change and permission, to use these criteria in the utilization of the 2002 funds not yet expended.

SWEDEN

The following organization will continue to administer the Emergency Assistance Program in Sweden:

The Jewish Community of Stockholm
Wahrendorffsgatan 3 B
PO Box 7427
SE-103 91 Stockholm

Eligibility factors include:

- Income less than \$4,300 USD per year for an individual and \$7,200 USD per year for a couple.

\$13,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Sweden.

UNITED KINGDOM

The following organization will continue to administer the Emergency Assistance Program in the United Kingdom:

Association of Jewish Refugees in Great Britain- umbrella organization for the UK
1 Hampstead Gate 1a Frognal
London, NW3 6AL United Kingdom

Eligibility factors include:

- Income less than \$13,000 USD per year for an individual and \$17,300 USD per year for a couple.

\$31,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in the United Kingdom.

UNITED STATES and CANADA

The emergency assistance program was established by the Claims Conference in North America in 1996. The program currently operates in over forty agencies in more than twenty states throughout the United States and throughout Canada.

Eligibility factors considered include:

- Income less than \$17,720 per year for an individual and \$23,880 per year for a couple.

Please refer to Appendix A for the breakdown of the emergency assistance program by individual cities in the United States and Canada. These agencies will continue to administer the Emergency Assistance Programs in the respective cities.

\$613,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in North America.

YUGOSLAVIA

The following organization will continue to administer the Emergency Assistance Program in Yugoslavia:

SAVEZ, Federation of Jewish Communities of Yugoslavia
Ulica Kralja Petra 71 a/III
P.O.B. 841
Belgrade, Yugoslavia 11001

Eligibility factors include:

- Income less than \$1,500 USD per year for an individual, \$2,600 USD per year for a couple.

\$16,000 will be allocated for the calendar year 2003 toward the expansion of the emergency assistance program for Nazi victims in Yugoslavia.

B. New Programs to be added for the calendar year 2003

The following countries will implement an Emergency Assistance Program through the identified organization. Each organization will have an advisory committee that will monitor and implement the program. As is the case with the ongoing agencies, the following organizations have solid reputations and have already been providing social services to Nazi victims.

GREECE

The following organization will administer the Emergency Assistance Program in Greece

Central Board of Jewish Communities in Greece
36, Voulis Str. GR
105 57 Athens

Eligibility factors include:

- Income less than \$4,646 USD per year for an individual, \$5,004 USD per year for a couple.

\$14,500 will be allocated for the calendar year 2003 toward the establishment of the emergency assistance program for Nazi victims in Greece.

ITALY

The following organization will administer the Emergency Assistance Program in Italy

Unione delle Comunita Ebraice Italiane
Lungo Tevere Sanzio 9
00153 Rome

Eligibility factors include:

- Income less than \$6,359 USD per year for an individual, \$10,056 USD per year for a couple.

\$35,000 will be allocated for the calendar year 2003 toward the establishment of the emergency assistance program for Nazi victims in Italy.

NETHERLANDS

The following organization will administer the Emergency Assistance Program in the Netherlands

JMW/Stichting Joods Maatschappelijk
De Lairessesraat 145-147
1075 HJ Amsterdam
Holland

Eligibility factors include:

- Income less than \$10,163 USD per year for an individual, \$14,333 USD per year for a couple.

\$35,000 will be allocated for the calendar year 2003 toward the establishment of the emergency assistance program for Nazi victims in the Netherlands.

SUMMARY OF RECOMMENDATIONS FOR ALLOCATIONS BY COUNTRY

COUNTRY	REQUEST FOR 2003
Argentina	\$ 67,000
Australia	\$ 74,000
Austria	\$ 23,000
Belgium	\$ 44,000
Bosnia	\$ 9,000
Bulgaria	\$ 40,000
Croatia	\$ 9,000
Czech Republic	\$ 40,000
France	\$ 190,000
Germany	\$ 90,000
Greece	\$ 14,500
Hungary	\$ 210,000
Israel	\$1,812,500
Italy	\$ 35,000
Netherlands	\$ 35,000
Poland	\$ 74,000
Romania	\$ 100,000
Slovakia	\$ 40,000
Sweden	\$ 13,000
United Kingdom	\$ 31,000
United States and Canada (North America)	\$ 613,000
Yugoslavia	\$ 16,000
To be determined ⁴	\$ 45,000
TOTAL	\$3,625,000

IV. REPORTING AND AUDITING

For allocations of less than \$30,000, the institution will submit a year-end report which includes documentation of the financial activity on the program. In addition, a statistical report must be provided which includes number of clients served for each category and amount of funds disbursed for each category of service (i.e. dentures, medical equipment, rent). Furthermore, the institution should be prepared to present documentation confirming that a recipient of funds distributed through the emergency cash grants program was a victim of Nazi persecution and meets the eligibility criteria for the program.

⁴ These funds are intended for emergency assistance programs currently being developed for a few small communities of Nazi victims residing in South America, North Africa and Eastern Europe. The Claims Conference will submit to the Court at a later date a proposal describing the detailed distribution of these funds.

Allocations in excess of \$30,000 and less than \$75,000 will be reviewed by the Claims Conference which will analyze the financial documents associated with the emergency cash grants program and a random sample of test cases to confirm the recipients' eligibility for the program. In addition, a full audit may be requested of the program, upon the recommendation of the Claims Conference or the Court.

An allocation in excess of \$75,000 must be audited by an accredited accounting company in accordance with international standards on auditing as issued by the International Federation of Accountants. The audit must examine, on a test basis, evidence supporting the amounts and disclosures.

The organizations shall submit quarterly reports on the emergency assistance program to the Claims conference, which will include financial and statistical information. All recipients of funds for the emergency assistance program shall submit an annual report on the utilization of funds, which will include:

- The number of Nazi victims who have received grants
- Number of grants awarded by type (i.e. rent, food, dentures)
- A list of the current criteria for the emergency assistance program

Furthermore, the Claims Conference will annually submit two reports to the Court. They are as follows:

- 1) An annual financial report, which details the utilization of allocated funds per country. The Claims Conference will provide an external auditor's report where appropriate.
- 2) An annual programmatic report, which describes the emergency assistance program by country for the calendar year. The report will include statistical information on the number of Nazi victims served and the number of clients served for each category (e.g. dentures, rent).

V. CONCLUSION

For the reasons set forth above, the Claims Conference respectfully submits this proposal to the Court and requests that this proposal be adopted for the calendar year 2003, for the continuation and implementation of the Emergency Assistance Program to benefit the most vulnerable Jewish victims of Nazi persecution.

Swiss Banks Settlement: Looted Assets Class Emergency Assistance Program
 Administered by the Conference on Jewish Material Claims Against Germany (Claims Conference)
 on behalf of the United States District Court
 Allocations by Institution and Amount
 (June 28, 2001 - December 31, 2003)

Argentina	Buenos Aires	Delegacion de Asociaciones Israelitas Argentinas	\$163,426
Australia	Melbourne	Jewish Care (Victoria) Inc.	\$93,188
Australia	Sydney	Jewish Care-New South Wales	\$93,188
Austria	Vienna	ESRA	\$47,650
Belgium	Brussels	Service Social Juif	\$91,850
Bosnia	Sarajevo	La Benevolencia	\$18,426
Bulgaria	Sofia	Organization of Jews in Bulgaria- Shalom	\$83,500
Canada	Montreal	Cummings Jewish Centre for Seniors	\$72,400
Canada	Winnipeg	Jewish Child and Family Service	\$9,382
Canada	Toronto	Jewish Family & Child Service	\$72,400
Canada	Calgary, Alberta	Jewish Family Service Calgary	\$2,502
Canada	Toronto	**UJA Federations Canada	\$8,265
Canada	Vancouver	Vancouver Holocaust Education Centre/ Jewish Family Service Agency	\$9,382
**Note: This agency provides funding to small rural communities nationwide.			
Croatia	Zagreb	Jewish Community Zagreb	\$18,426
Czech Republic	Prague	Terezin Initiative - International Terezin Association	\$101,625

Swiss Banks Settlement: Looted Assets Class Emergency Assistance Program
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 on behalf of the United States District Court
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 (June 28, 2001 - December 31, 2003)

France	Paris	Fonds Social Juif Unifié (FSJU) (Umbrella group for France)	\$490,875
Germany	Frankfurt	Zentralwohlfahrtsstelle der Juden in Deutschland e.V.	\$191,500
Greece	Athens	Central Board of Jewish Communities in Greece	\$14,500
Hungary	Budapest	Hungarian Jewish Social Support Foundation	\$547,850
Israel	Tel-Aviv	Foundation for the Benefit of Holocaust Victims in Israel	\$4,549,375
Italy	Rome	Unione delle Comunità Ebraiche Italiane	\$35,000
Netherlands	Amsterdam	Stichting Joods Maatschappelijk Werk	\$35,000
Poland	Warsaw	Central Jewish Welfare Commission	\$190,000
Romania	Bucharest	Federation of Jewish Communities of Romania	\$208,750
Slovakia	Bratislava	Central Union of Jewish Religious Communities in the Slovak Republic	\$83,500
Sweden	Stockholm	Jewish Community of Stockholm	\$27,500
United Kingdom	London	Association of Jewish Refugees in Great Britain (Umbrella group for the UK)	\$79,575

September 10, 2003

Swiss Banks Settlement: Looted Assets Class Emergency Assistance Program
 Administered by the Conference on Jewish Material Claims Against Germany (Claims Conference)
 on behalf of the United States District Court
 Allocations by Institution and Amount
 (June 28, 2001 - December 31, 2003)

United States	Tucson	AZ	Jewish Family & Children's Service of Southern Arizona	\$9,382
United States	Long Beach	CA	Jewish Family and Children's Service - Long Beach	\$9,382
United States	San Francisco	CA	Jewish Family and Children's Service - San Francisco	\$25,502
United States	Berkeley	CA	Jewish Family and Children's Services of the East Bay	\$12,026
United States	San Diego	CA	Jewish Family Service - San Diego	\$22,856
United States	Los Angeles	CA	Jewish Family Service of Los Angeles	\$162,850
United States	Costa Mesa	CA	Jewish Family Service of Orange County	\$6,736
United States	Palm Springs	CA	Jewish Family Service of Palm Spring and Desert area	\$3,952
United States	San Jose	CA	Jewish Family Service of Silicon Valley	\$9,355
United States	Denver	CO	Jewish Family Service of Colorado	\$9,382
United States	West Hartford	CT	Jewish Family Services of Greater Hartford (Greater Hartford area-4 agencies)	\$21,406
United States	West Palm Beach	FL	Ferd & Gladys Alpert Jewish Family & Children's Service	\$56,348
United States	Clearwater	FL	Gulf Coast Jewish Family Services	\$24,850
United States	North Miami	FL	Jewish Community Services of South Florida	\$53,822
United States	Plantation	FL	Jewish Family Service of Broward County Inc.	\$32,641
United States	Boca Raton	FL	Ruth Rales Jewish Family Service of South Palm Beach County	\$12,534

September 10, 2003

Swiss Banks Settlement: Looted Assets Class Emergency Assistance Program
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 on behalf of the United States District Court
 Allocations by Institution and Amount
 (June 28, 2001 - December 31, 2003)

United States	Atlanta	GA	Jewish Family and Career Services	\$18,784
United States	Chicago	IL	Jewish Federation of Metropolitan Chicago	\$86,070
United States	Boston	MA	Jewish Family and Children's Services (Greater Boston area - 4 agencies)	\$42,383
United States	Rockville	MD	Jewish Social Service Agency - Rockville	\$18,784
United States	Baltimore	MD	Jewish Family Services - Baltimore	\$38,978
United States	Columbia	MD	Jewish Federation of Howard County	\$6,738
United States	Detroit	MI	Jewish Family Service for Southeast Michigan	\$53,978
United States	Minneapolis	MN	Jewish Family and Children's Service - Minneapolis	\$16,120
United States	Elizabeth	NJ	Association of Jewish Family Service Agencies - Elizabeth	\$42,550
United States	Albuquerque	NM	Jewish Family Services - Albuquerque	\$4,333
United States	Las Vegas	NV	Jewish Family Service Agency of Las Vegas	\$7,800
United States	Monsey	NY	Bikur Cholim of Rockland County	\$12,510
United States	New York	NY	**Blue Card	\$32,240
United States	Brooklyn	NY	Guardians of the Sick Alliance (5 Bikur Cholim agencies)	\$178,382

September 10, 2003

Swiss Banks Settlement: Looted Assets Class Emergency Assistance Program
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 on behalf of the United States District Court
 Allocations by Institution and Amount
 (June 28, 2001 - December 31, 2003)

United States	Buffalo	NY	Jewish Family Service of Buffalo and Erie County	\$6,738
United States	Rochester	NY	Jewish Family Service of Rochester	\$8,060
United States	New York	NY	Metropolitan New York Coordinating Council on Jewish Poverty	\$84,480
United States	Brooklyn	NY	Pesach Tikvah/Door of Hope	\$8,757
United States	New York	NY	Selfhelp Community Services	\$176,382
**Note: this agency provides funding to small and rural communities nationwide.				
United States	Cincinnati	OH	Jewish Family Service - Cincinnati	\$9,382
United States	Cleveland	OH	Jewish Family Service Association of Cleveland	\$22,868
United States	Columbus	OH	Jewish Family Services - Columbus	\$5,800
United States	Portland	OR	Jewish Family and Children's Service - Portland	\$9,382
United States	Harrisburg	PA	Jewish Family Service of Greater Harrisburg	\$9,382
United States	Philadelphia	PA	Jewish Family Service of Philadelphia	\$45,716
United States	Pittsburgh	PA	Jewish Family Service of Pittsburgh	\$14,798
United States	Scranton	PA	Jewish Family Service of Lackawana Country	\$9,382
United States	El Paso	TX	Jewish Family and Children's Service Agency - El Paso	\$950
United States	Dallas	TX	Jewish Family Service of Greater Dallas	\$9,382
United States	Houston	TX	Jewish Family Service of Houston	\$9,382

September 10, 2003

Swiss Banks Settlement: Looted Assets Class Emergency Assistance Program
 Administered by the Conference on Jewish Material Claims Against Germany (Claims Conference)
 on behalf of the United States District Court
 Allocations by Institution and Amount
 (June 28, 2001 - December 31, 2003)

United States	Salt Lake City	UT	Jewish Family Services - Salt Lake City	\$9,233
United States	Norfolk	VA	Jewish Family Service of Tidewater	\$6,738
United States	Richmond	VA	Jewish Family Services - Richmond	\$2,502
United States	Seattle	WA	Jewish Family Service - Seattle	\$9,362
United States	Milwaukee	WI	Jewish Family Service - Milwaukee	\$9,362
Yugoslavia	Belgrade		Federation of Jewish Communities in Serbia Montenegro	\$33,400
To Be Designated*				\$172,000
TOTAL				\$8,971,847

*These funds are earmarked for programs in development in countries where very small populations of Nazi victims reside. Predominantly, these programs will be in South America and North Africa.

September 10, 2003

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
IN RE: :
HOLOCAUST VICTIM ASSETS :
LITIGATION :
----- :
This Document Relates to: All Cases :
----- X

Case No. CV 96-4849 (ERK)(MDG)
(Consolidated with CV 96-5161
and CV 97-461)

MEMORANDUM & ORDER

KORMAN, Chief Judge:

By Memorandum & Order of June 24, 2002, I approved the June 10, 2002
"Supplemental Proposal" submitted by the International Organization for Migration ("IOM") for
humanitarian assistance to needy Nazi victims, pursuant to the "Looted Assets Class"
distribution mechanisms outlined in the Plan of Allocation and Distribution of Settlement
Proceeds ("Distribution Plan").


In furtherance of the above-mentioned Supplemental Proposal, IOM has
submitted its "Humanitarian and Social Programmes (HSP) Funds Request for the Period July –
September 2003." This Funds Request provides detailed information concerning the
implementation of new humanitarian projects and the continuation of existing projects. I am
advised that the German Foundation is expected to approve a proportionate funding request from
the IOM for like programs in the near future.

Upon consideration of IOM's Humanitarian and Social Programmes (HSP) Funds
Request for the Period July – September 2003, it is hereby

ORDERED that the signatories to the Settlement Fund are hereby directed to transfer US\$ 2,241,354 from the Settlement Fund to the IOM account to meet project implementation expenses as described herein.

Brooklyn, New York
July 30 2003

SO ORDERED:


Edward R. Korman
United States District Judge



IOM International Organization for Migration
OIM Organización Internacional para las Migraciones
OIM Organización Internacional para las Migraciones

Holocaust
Victim Assets
Programme
SWISS BANKS

20 July 2003

Dear Judge Korman

IOM request for humanitarian programme funding for the third quarter of 2003

I am pleased to refer to my letter to you of 9 May 2003 and to IOM's recent meeting with you and the Office of the Special Master in New York in June this year.

Please find attached IOM's funding request for project activities for July to September 2003. IOM's humanitarian and social programme's summary activity report (April - June) is also attached. The German Foundation is expected to approve a proportionate funding request for like programs in the near future.

The sum of USD 2,241,354 is sought to fund projects during the coming quarter. We therefore request the transfer of the amount of USD 2,241,354 to the following bank account:

REDACTED

As previously referred to, HSP is now in a position to report that an increase in the size of many proposals now submitted for funding should result in continued requests for substantial quanta of implementation funds throughout 2003 and 2004.

The Honorable Edward R. Korman
Chief Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
USA

CC: Mr. Judah Gribetz
Ms. Shari Reig

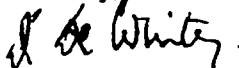
Headquarters:
17 route des Morillons • C.P. 71 • CH-1211 Geneva 19 • Switzerland
Tel: +41.22.717 91 11 • Fax: +41.22.798 61 50 • E-mail: hq@iom.int • Internet: <http://www.iom.int>

At this time forty-one projects have commenced for Roma and Jehovah's Witness survivor groups with a further sixteen project proposals awaiting review for possible implementation. At this time 33 projects are currently in operation with nine having been completed. To date in excess of 34,500 elderly Roma and Jehovah's Witness survivors have received, or are shortly to receive, humanitarian assistance via HSP projects.

Regarding expansion countries of implementation listed in the attached tables, IOM is pleased to report that it has recently received its first project proposal for Roma survivors in Slovakia, that HSP's premier Russian Federation project commenced in the last quarter with a further USD 3.7M in Russian Federation proposals currently under revision, and that proposals from Macedonia are expected in the near future.

On behalf of IOM's delegation that met with you and the Office of the Special Master in June this year, I would again like to convey our deep appreciation for the opportunity to meet with you and to report on the status of this most important programme to date. We look forward to further discussions with the Office of the Special Master in the future regarding programme extension and the possibility of additional funding being allocated to IOM's HSP programme.

Sincerely,



Dirk De Winter
Director, Compensation Programmes

IOM HSP Project Implementation Funds Request July - September 2003

	HSP Total	German Foundation
Balance Carried over into 2Q 2003	\$1,121,022.00	\$385,738.00
Funds Received 2Q 2003	\$3,045,550.00	\$989,899.00
Funds Disbursed to Service Providers in 2Q 2003 *	\$2,480,921.32	\$692,359.39
A Balance Carried over into 3Q 2003 *	\$1,685,650.68	\$483,288
Funds Committed to Service Providers in 3Q 2003 *	\$2,296,686.04	\$762,837.67
Potential Commitments to SPs in 3Q 2003 *	\$2,998,183.82	\$788,443.42
B Total for 3Q 2003 *	\$4,994,869.86	\$1,551,281
A+B Total Funds Requested 3Q 2003	\$6,680,520.54	\$2,034,569

* Estimate
 ** Includes funds previously requested for "Romani Becht" (Czech Republic), which was terminated early and from which the recovery of unspent funds is currently underway.

IOM HSP Anticipated Implementation Costs for Project Activities, July - September 2003

I. Ongoing Projects		Survivor Group	Country	Project Service Provider	Type(s) of Assistance	Number of Beneficiaries	Total Project Budget	Total Funding Required for Period	Funding Required of German Foundation *	Funding Required of U.S. Court
Roma	Belarus			Belarusian Gypsy Diaspora	Food & hygienic packages	144	40,129.20	8,019.38	0.00	6,019.38
	Czech Republic				Legal and social counseling	1,350	50,000.00	7,500.00	4,125.00	3,375.00
				PINF	Comprehensive (food, medical, home care, social, legal, financial support)	300	60,000.00	6,000.00	3,300.00	2,700.00
				DROM	Comprehensive (food, medical, home care, winter, financial support, clothing, social, legal)	1,250	187,500.00	37,500.00	16,500.00	21,000.00
				League for Help to Roma Victims of War	Comprehensive (food, medical, social, other)	200	185,450.00	24,818.00	13,649.90	11,168.10
				Mediator Foundation	Food and hygienic items, winter assistance	5,776	584,184.00	56,534.00	27,510.98	31,023.02
				Hungarian Baptist Aid	Comprehensive (food, home care, winter, clothing)	44	16,613.00	7,660.00	2,038.60	5,511.50
				Bagamar	Food & hygienic packages, winter assistance	7,678	1,022,624.00	693,191.00	263,412.58	429,778.42
				Hungarian Baptist Aid	Comprehensive (food, medical, home care, winter, social)	2,053	615,900.00	147,500.00	66,375.00	81,125.00
				Sex Education Foundation	Comprehensive (food, home care, financial support, clothing, social, hygienic)	360	165,080.00	47,000.00	21,160.00	25,850.00
			Polish Red Cross	Comprehensive (food, winter, financial support, social, hygienic)	400	120,000.00	32,900.00	11,166.00	21,714.00	

* No food package assistance is included.

I. Ongoing Projects, cont.

Survivor Group	Country	Project Service Provider	Type(s) of Assistance	Number of Beneficiaries	Total Project Budget	Total Funding Required for Period	Funding Required of German Foundation *	Funding Required of U.S. Court
		Roma Ethnic Minority Solidarity Polish Medical Mission	Winter assistance Medical and dental assistance	50	9,817.00	378.00	182.54	215.46
		Romanian Orthodox Church	Comprehensive (food, medical, winter, clothing, social, other)	230	65,000.00	20,800.00	9,270.00	11,330.00
Romania		Romanian Orthodox Church	Comprehensive (food, medical, winter, clothing, social, other)	3,000	798,998.00	184,799.20	85,139.58	69,659.64
		Ramsee Foundation	Comprehensive (food, medical, home care, winter, financial support, clothing, social)	400	168,700.00	75,950.00	23,544.80	52,405.50
		St. Petersburg Memorial	Medical and legal assistance	250	120,288.00	59,281.00	28,687.45	32,593.55
Russia		Roman Yag	Cash to provide a daily hot meal	100	19,998.00	1,988.00	1,098.80	888.10
Ukraine		Terna Chaya	Food and hygienic items, home care	25	10,987.00	2,741.75	685.44	2,056.31
		Eklips	Food packages	100	20,000.00	2,000.00	0.00	2,000.00
		Rom Sam	Monthly food packages	150	31,220.00	25,280.00	0.00	25,280.00
		Roma Transcarpathia	Legal assistance	800	10,020.00	2,805.00	1,377.75	1,127.25
		Chirfoi	Comprehensive (food packages, medical, clothing, legal, hygienic)	800	357,219.00	73,548.00	17,851.04	55,694.88
		Terna Chaya	Clothing	280	25,084.00	1,732.51	952.88	778.83
		Roma Transcarpathia	Food packages, medical, clothing, other	1,000	548,448.00	188,180.00	18,049.80	173,070.40
		Romano Drom Kherson City	Food and hygienic packages	90	19,498.00	5,848.40	0.00	5,848.40
		Roma Society Ternob Lviv	Food packages	130	36,444.00	10,939.80	0.00	10,939.80
		Chernigov	Food packages	74	23,881	8,080.80	0.00	8,080.80
		Romano Drom	Food and hygienic packages	100	34,840.00	17,345.00	0.00	17,345.00

* No food package assistance is included.

I. Ongoing Projects, cont.

Survivor Group	Country	Project Service Provider	Type(s) of Assistance	Number of Beneficiaries	Total Project Budget	Total Funding Required for Period	Funding Required of German Foundation *	Funding Required of U.S. Court
		Elgipe	Comprehensive (food, food packages, medical, winter, clothing, legal, hygiene)	1,208	828,805.00	175,288.00	14,023.68	181,272.92
	Serbia & Montenegro	New Road	Comprehensive (social, legal, financial support, home care, winter, medical, food, clothing)	400	181,460.00	40,372.50	22,204.87	18,167.63
		Prominapress	Comprehensive (social, legal, home care, winter, medical, food, clothing)	800	319,989.50	95,965.50	42,238.15	53,727.65
		Beit Ballo	Comprehensive (food, medical, home care, winter, financial support, legal)	400	184,080.00	60,000.00	21,800.00	38,400.00
		Italian Consortium of Solidarity	Comprehensive (food, medical, home care, financial support, social, legal, other)	800	380,000.00	152,127.50	51,723.35	100,404.15
Jehovah's Witnesses	Global	JWHESF	Comprehensive (food, medical, home care, social, winter, financial support)	2,000	382,590.00	55,311.00	0.00	55,311.00
TOTAL, ongoing projects				32,802	7,584,071	2,289,655	782,638	1,657,017

* No food package assistance is included.

II. Possible New Projects

Survivor Group	Country	Project Service Provider	Type(s) of Assistance	Number of Beneficiaries	Total Project Budget	Total Funding Required for Period	Funding Required of German Foundation *	Funding required of U.S. Court
Roma	Belarus	Belarusian Gipsy Diaspora (1st revision)	Food packages, emergency in support, clothing, hygienic supplies	1,173	579,922.60	144,981	26,357.48	118,823.17
	Czech Republic	League for Human Rights	Comprehensive (food, home care, winter, financial support, clothing, social, other)	60	24,000.00	12,000.00	5,400.00	8,600.00
		Compensation of the Romani Holocaust in CR	Comprehensive (food, medical, home care, winter, emergency, clothing, social, legal, hygienic)	860	338,968.70	89,690.00	40,390.50	49,329.50
		DROM (1st revision)	Comprehensive (food, medical, home care, winter, emergency, clothing, social, legal, hygienic)	340	125,355.00	32,088.76	14,439.94	17,648.81
	Moldova	The Salvation Army Polish Humanitarian Action	Comprehensive (food package, medical, winter, clothing)	2,000	1,122,828.00	561,413.00	252,635.85	308,777.15
	Poland	Association of Romani Women in Poland	Medical & winter assistance, other	200	100,000.00	25,000.00	11,250.00	13,750.00
		Cracow Nowa Huta	Comprehensive (food packages, medical, winter, clothing, hygienic)	12	4,800.00	2,400.00	961.20	1,438.80
		Union of Polish Gypsies (1st revision)	Food, medical winter, emergency in support (Comprehensive (food packages, winter, medical, emergency, clothing, legal, hygienic)	59	43,198.00	10,799.00	4,859.55	5,939.45
				550	436,311.00	218,155.50	91,298.06	128,857.42

* No food package assistance is included.

21. Possible New Projects, cont.

Survivor Group	Country	Project Service Provider	Type(s) of Assistance	Number of Beneficiaries	Total Project Budget	Total Funding Required for Period	Funding Required of German Foundation *	Funding required of U.S. Court
Romania		Romanith	Comprehensive (food packages, winter, clothing, hygienic)	1,400	734,882.00	183,670.80	58,937.86	128,732.85
Russia		Volgograd Roma Association Federal Ethnic-Cultural Russian Roma Autonomy	Food packages and emergency financial support Food packages and emergency financial support	3,800	1,259,924.44	314,981.11	29,930.88	286,050.23
			Comprehensive (food packages, medical, winter, emergency, social, legal, other)	5,932	2,344,973.78	586,243.44	118,714.30	487,529.14
Slovakia		ETP Slovakia	Comprehensive (food, food packages, winter, social, legal, other)	2,000	1,019,800.00	253,400.00	89,206.10	154,183.90
Ukraine		Roma Association Izmail & region Erzjbe (1st revision)	Food, food packages, social, legal, other	1,052	469,870.67	117,217.87	37,508.65	79,708.01
			Food, food packages, social, legal, other	1,548	576,498.00	144,124.00	12,582.03	131,541.97
TOTAL, possible new projects				20,976	9,177,956	2,696,164	799,443	1,896,730
Total for FY 2008				83,778	16,743,027	4,904,519	1,882,081	3,433,739

* No food package assistance is included.



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

Holocaust
Victim Assets
Programme
SWISS BANKS

12 September 2003

Dear Judah and Shari

Subject: Latest distribution statistics for HSP

Your email of 10 September 2003 refers. Please find following for IOM's Humanitarian and Social Programmes our latest beneficiary statistics for countries with substantial recent increases. Should you have any queries in this regard please do not hesitate to contact me.

IOM has by now put in place assistance for approximately 49,000 Roma and JWHESEF beneficiaries under HSP. Please find following updated figures from those last reported in IOM's Request for Humanitarian Programme Funding for the Third Quarter of 2003, approved and funded by Court order dated July 30, 2003. As mentioned above, the below countries represent the most significant increases in beneficiaries assisted. A more complete update will follow in the subsequent quarter's funding request.

Belarus: 1450; Romania: 7,400; Ukraine: 8,600; Russia: 4,050

IOM would also like to state that it is currently estimated that a further 10,000 beneficiaries may be assisted under the existing programme structure.

I would like to thank you on behalf of HSP Geneva for your most appreciated support and assistance.

Sincerely,

Delbert H. Field, Jr.
Deputy Director, Compensation Programmes
Team Leader, Humanitarian & Social Programmes
(HSP)

Mr. Judah Gribetz
Ms. Shari Reig
Bingham McCutchen LLP
399 Park Avenue
New York, NY 10022
USA

Headquarters:
17 route des Morillons • C.P. 71 • CH-1211 Geneva 19 • Switzerland
Tel: +41.22.717 91 11 • Fax: +41.22.798 61 50 • E-mail: hq@iom.int • Internet: <http://www.iom.int>

EX.12-12

IOM Humanitarian and Social Programmes (HSP)

Presentation at the 13th meeting of the
Kuratorium

Foundation "Remembrance, Responsibility and Future"

*Federal Ministry of Finance, Berlin
24 September 2003*

I. Introduction

Ambassador Kastrup, Members of the Board of Trustees, Board of Directors of the German Foundation, distinguished colleagues,

Good afternoon. My name is Delbert Field.

I am Deputy Director of Compensation Programmes at the International Organization for Migration, IOM. I would like to say something today about the Humanitarian and Social Programmes carried out by my organization, in coordination with the German Foundation, for the benefit of Roma and Sinti survivors.

You have received some information materials from the Conference Secretariat on these activities. I hope that you have also had a chance to see the photographs the Ministry of Finance has allowed us to put up in the delegates' lounge.

I propose first to give you an overview of our programme, after which I will be pleased to take your questions.

II: Background: two donors, not claims based

The German Foundation Act allocates twenty-four (24) million Deutschmarks for social purposes for Sinti and Roma victims of National Socialist injustice. IOM is designated as the partner organization responsible for administering and monitoring this assistance.

Following the 1999 Holocaust Victim Assets, or "Swiss Banks," Settlement, the United States District Court for the Eastern District of New York mandated IOM to deliver humanitarian aid to members of the so-called "Looted Assets Class" who are needy, elderly Roma, Jehovah's Witness, Disabled and Homosexual former targets of Nazi persecution. To date, IOM has been allocated fourteen-and-a-half (14.5) million US dollars for this purpose. As you know, IOM was also designated by the Court to help process and pay individual compensation claims from former slave labourers and certain other victims.

In contrast with IOM's larger claims processing and payment activities on behalf of the German Foundation and the US Court, the Humanitarian and Social Programmes, or "HSP," are not based on claims of individual persecution. They are based on a person's membership in the victim group.

An additional way in which these programmes differ from claims activities is that cash is not a permissible form of assistance.

As agreed with both the Foundation and the Court, benefits may include medical and dental care, home care, legal assistance, social assistance, food, clothing, winter assistance, (such as coal or firewood), hygienic supplies, and limited, one-time, emergency financial support, (for example, to prevent eviction or utility shut-off).

To be more precise, HSP is about group recognition, recognition of persecution and suffering, through basic assistance, when and where possible, to surviving members of that group.

HSP assistance is not a substitute for, nor does it diminish, any individual compensation to which a claimant may be entitled under either the German Foundation Act or the Swiss Banks Settlement.

III. Getting started: lack of reliable information or proven partners

Three years ago, IOM found itself in a challenging position. We had substantial commitments from two donors and a significant "overlap" in the objective of assisting needy Roma and Sinti victims.

We got to work.

To begin with, we found that there was little dependable information on survivor populations.

Official census figures could not always be taken as reliable data. Individual Roma, sometimes out of fear, sometimes in a spirit of assimilation, may give another ethnic or nationality. Governments may also overestimate Roma populations.

Yet another variable enters into the equation when the representative of one Roma group, seen as an objective source of information by outsiders, neglects to recognize those belonging to another Roma group as Roma.

We found that an international programme like HSP, targeting the elderly, hadn't been done before, at least not in the manner and scale that seemed to be required.

And, when we began to locate survivors, we found not only that they were more numerous than expected but that there were few service infrastructures in place that could reach them, especially the most needy.

In short, to deliver HSP assistance, IOM had to overcome a number of challenges, and to do so quickly in order to reach survivors in their remaining years.

IV. Breaking new ground

IOM developed a potential beneficiary database, confirming a higher number of needy survivors than had been anticipated by donors.

Then, using our field offices in Eastern and Central Europe, we proactively sought and built up, through research and outreach, a network of local service providers capable of delivering and accounting for humanitarian or social assistance to Roma.

These IOM offices have continued to locate and to estimate potential beneficiary populations. (The count keeps getting higher.)

Today, less than three years after the passage of the Foundation Act, IOM cooperates with a wide range of partners of various nationalities and backgrounds.

These are faith-based NGO's, non-affiliated professional social service organizations and Roma NGO's.

These are organizations, some small, others large, willing to work together, and to accept IOM standards of project monitoring and reporting in order to deliver assistance.

It has sometimes been a delicate process, as none of our programme partners had delivered HSP-type assistance specifically to elderly Roma before.

Why was this the case?

Non-Roma NGO's often had appropriate technical expertise, yet lacked the experience or access required to work in Roma settlements. Roma NGO's, which knew and could locate their own people best, may have been excluded from past opportunities as "high risk" or "high maintenance" from an oversight standpoint, and were often untested through large community projects.

Picking the right projects and partners for each country, together with coordinated teamwork, have been key to the achievement of good results on all levels.

Equally critical to our success have been the time and efforts taken to move beyond the resistance and mistrust with which IOM was first confronted by some members of the Roma community.

That we have predominantly done so is supported by the fact that some of these leaders are now IOM's implementing partners or their referees, that Roma press have written favorably on HSP and, most importantly, that the assistance is getting through.

V. Projects & locations

In the past two years, IOM has launched forty-nine (49) HSP projects in nine (9) countries. Through these projects, more than 50,000 Roma and Sinti have already received recognition.

I'd like to give some examples, by no means exhaustive:

- In the Carpathian mountains of Western Ukraine, one project provides a winter's wood supply to elderly residents of Roma settlements, persons who normally heat their houses and cook with what they can gather in the forest.
- In the Czech Republic, a project offers legal and social counseling in twenty-three (23) urban and rural locations.
- In central Serbia, HSP provides an array of assistance, according to needs identified by social service staff, including homecare, medical, food, clothing and hygienic supplies.
- In Hungary, HSP supports social centers for elderly Roma. The same service provider delivers food, medical and legal assistance.
- In Belarus, HSP offers hygienic supplies, food and emergency financial support.
- In eighteen (18) Romanian counties social workers distribute food, winter assistance, cleaning supplies and clothing.
- A project recently launched in St. Petersburg, consists of medical and legal assistance.
- HSP delivers sides of pork in the early winter to many of the elderly Roma living in northern Poland.

To be sure that beneficiaries, usually through a literate younger family member, may know the origin and intent of our assistance, and that it comes at no cost, each receives a bilingual card listing basic programme information.

Projects may last from two months to eighteen. While our major focus has now shifted from project development to monitoring, there remain a number of activities in preparation.

In fact, proposals still in development exceed available donor funding.

In line with our agreements with both the Foundation and the Court, IOM submits quarterly funding requests to these donors with project details, including locations, beneficiary numbers and expected costs.

We also report annually on HSP, to our donors as well as to IOM member governments, in conjunction with reporting on claims activities.

From time to time, the Foundation shares with IOM ideas on how best to use resources in the interest of beneficiaries, and also seeks our advice in matters where comparable interests, such as the Future Fund and HSP, may intersect.

A small management team, led by me in Geneva, oversees our programme and supports fifteen dedicated and very active IOM staff members in the field.

VI. Procedures: keeping things on track

Special procedures have been put in place to approve, implement and monitor HSP projects.

These allow IOM to oversee carefully all stages of implementation, from proposal through reporting stages.

They help us to screen-out less-promising proposals, and to prioritize others.

To be selected, service providers must have a good record of delivering similar assistance, access to beneficiary communities and be able to meet certain IOM standards, as we are ultimately accountable to the US Court and the German Foundation.

Once agreements are signed, IOM monitors all projects, meeting regularly with service providers and beneficiaries.

Intensive early monitoring can help to spot problems and to resolve them. It also helps in identifying "best practices," from which others may learn.

And, it helps IOM to keep service provider overheads low, so that the maximum amount of donor resources may reach survivors.

Information on all HSP projects is stored and tracked in a database in Geneva.

Although the chief motivation for these controls is programme management, such practices should also have a significant "capacity building" effect on our less experienced service providers, as well as provide new information on Roma community needs and how to meet them.

VII. Region in transition

Much of Eastern and Central Europe, where beneficiaries suffered Nazi occupation and continue to live, is undergoing a complex transition.

By their own account, some elderly Roma and Sinti have not seen worse times since World War II.

As recently as 1991, survivors in some countries received free government healthcare and held factory jobs as unskilled labourers. Now, their sons and daughters are more often than not without work, with severely diminished access to social benefits once considered a basic right.

Victims' grandchildren may not attend classes, when family resources are felt better spent on survival necessities, such as food, medication or coal, than on books or clothing for school. In some "tabors," the Roma settlements, many persons of working age have gone to seek their fortunes further west. The old people HSP helps are left behind.

International donors and national governments have spent much in past decades on Roma education, cultural preservation and leadership capacity building.

Yet, for historical and social reasons, as well as logistical and security constraints, the task of meeting the daily needs of the older generation, the most respected and the most vulnerable members of the Roma and Sinti communities, has fallen to their neighbors and families.

VIII. In Conclusion

HSP is happening.

The provision of direct humanitarian and social assistance to elderly Roma, on an international scale and according to consistent standards, is a new and challenging activity.

It is also, from a human standpoint, a remarkably rewarding activity.

Many of the old people you see in the photographs in the next room broke into tears when we brought them assistance, in most cases the first, still meager, recognition in return for their suffering in nearly sixty years.

They gave us a hug, or a handshake, and recounted their story, and that of their families, after we thanked them for inviting us into their homes.

So, while I am here today to report, I suppose that I am also here to offer thanks...

Thanks from IOM, to the Board, and to the Foundation, for entrusting us with the unique opportunity that this programme presents.

And thanks from the Sinti and Roma, good and grateful people who, with your help, may now have known a bit more hope, comfort and joy.

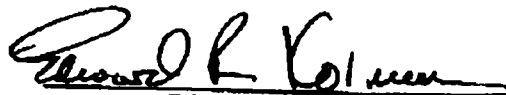
I would be pleased to take your questions.

recent decisions by the German Foundation "Remembrance, Responsibility and the Future," which has allocated DM 24 million to social welfare programs serving, among others, the Roma survivor community. IOM has confirmed that the \$1 million originally allocated to the Pilot Project Proposal instead will be applied to the humanitarian assistance programs described in the Supplemental Proposal and to similar programs selected in consultation with the Special Master.

In view of the foregoing, I hereby approve the IOM's June 10, 2002 Supplemental Proposal. In implementing these programs, the IOM shall adhere to the reporting requirements set forth in the Distribution Plan and in the IOM proposals previously submitted to the Court. I will issue additional orders transferring further sums from the Settlement Fund for the benefit of needy members of the Looted Assets Class as additional applications filed by the IOM, American Jewish Joint Distribution Committee and the Conference on Jewish Material Claims Against Germany, Inc., are approved.

Brooklyn, New York
June 24, 2002

SO ORDERED:


Edward R. Kornman
United States District Judge



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

Holocaust
Victim Assets
Programme
SWISS BANK

In Re Holocaust Victim Assets Litigation

10 June 2002

SUPPLEMENTAL PROPOSAL

*In furtherance of the International Organization for Migration's Pilot Project
Proposal 31 August 2001 as approved by the Court on 24 September 2001*

ORGANIZATION

International Organization for Migration (IOM)
PO Box 71
1211 Geneva 19
Switzerland

SUBMITTED TO:

The Honorable Edward R. Korman
Chief Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
USA

CC: The Office of the Special Master
Mr. Judah Gribetz
Ms. Shari Reig
Bingham Dana, LLP
885 Third Avenue
New York, NY 1002 1873
USA

(a) Programme Overview

Background to Supplemental Proposal

As the Court is aware, the foreseen course of action regarding food packages in the Pilot Project Proposal submitted to the Court on 31 August 2001 has been substantially re-evaluated and modified following the receipt of final Roma potential beneficiary numbers from AB Data which exceeded earlier estimates of a vastly enlarged beneficiary population. As referred to on page seven of the initial Pilot Project Proposal, it was already anticipated that some 39,000 Roma beneficiaries might have been eligible for assistance under this *cy pres* allocation. The final report submitted by AB Data on 10 January 2002 shows in fact that 43,858 Roma have been entered into a database representing potentially eligible Roma beneficiaries in 17 Eastern and Central European countries.

Given this substantial increase in the potential beneficiary population, which is also to include Jehovah's Witness, disabled and homosexual victims, IOM in consultation with the Special Master elected option (b) contained on page 9 of the Pilot Project Proposal. Essentially, that the start of the Pilot Project be temporarily delayed in order to establish a method of delivering meaningful assistance in accordance with the goals of the Special Master's Proposed Plan of Allocation and Distribution of Settlement Proceeds ("the Distribution Plan").

The driving philosophy with respect to the allocation of resources remains that meaningful assistance will be delivered wherever possible. The reality is that not all members of the survivor population will receive assistance, or the same form of assistance. Accordingly, IOM will endeavor to allocate resources in an equitable manner in keeping with locally determined beneficiary needs.

The above re-assessment notwithstanding, the Court will note below that several "food package" projects are contemplated. These are cases where such assistance has been proposed by potential local service providers based on their knowledge of beneficiary needs. Please refer below ("Food Packages") regarding specific funding parameters in respect of projects that either contain a food package component or where the proposed project is only for the delivery of food packages.

This supplemental Proposal reflects IOM's revised methodology with regard to assistance delivery, and provides details in respect of potential service providers, types of humanitarian assistance to be provided, project target groups, approximate funding costs, percentages to be contributed by HVAP and the German Foundation as well as the programme's manner of reporting and monitoring.

The projects contained herein are to be initially funded from the allocation of \$1 million USD previously designated by the Court for the aforementioned Pilot Project and received by IOM on 30 April 2002. Where projects are for Jehovah's Witness, homosexual or disabled beneficiaries they are to be funded exclusively by HVAP. Projects for Roma survivors will be funded via a dual allocation from HVAP and the German Foundation (note below in respect of food package delivery). Accordingly, the present proposal does not at this time seek additional funding in excess of that previously allocated in furtherance of the Pilot Project Proposal.

The German Foundation "Remembrance, Responsibility and Future"

As referred to in the Distribution Plan¹ the German Foundation has earmarked DM 24 million for social programmes to be administered by IOM; this allocation is for Roma and Sinti beneficiaries only.

As anticipated under the Distribution Plan², the Swiss Banks settlement funds will, where relevant, supplement programmes for Roma and Sinti beneficiaries sponsored pursuant to the German Foundation initiative, thereby expanding benefits to survivors whilst consolidating administrative expenses.

Food Packages

On 17 May 2002, the German Foundation asked IOM not to apply its funding in respect of food package assistance. Regrettably this decision jeopardises synergies in respect of HSP in regards specifically to food package projects and generally to the administration and management of the combined programme. The decision seems to be based on unspecified bad experiences with German NGOs.

Nevertheless, IOM continues to view food packages as a viable form of assistance, when:

- It has been proposed by local Roma NGOs in a good position to gauge localized victim needs;
- Assistance will be able to be delivered in a timely manner; and
- Assistance can be properly monitored.

Accordingly, IOM recommends that the Court persist with the implementation of food package projects that at this time are modest in size and quantity. Where projects are only providing food package assistance, such projects would be funded 100% by the Court's allocation. Where food packages form part of a comprehensive project for Roma and Sinti survivors, IOM proposes that the Court's allocation entirely cover the food package component of the project with the remainder of the project to be funded as discussed below (45% HVAP / 55% GFLCP). IOM further proposes at this time that where comprehensive projects (i.e. projects with more than one mode of assistance) have a food package component with an individual needs assessment still to be carried out, that not greater than 20% of total project costs be for the provision of food package assistance. This methodology will mean that, for some comprehensive projects, the Court may expect to cover up to 56% of the total implementation costs of a project. IOM intends to review this percentage cap to confirm its appropriateness as implementation goes forward.

At this time IOM proposes that no more than 20% of the Court's total contribution to Roma projects be available to fund food package projects, with a

¹ At 139-141

² Id. 141

review and report in this regard when the success of such projects can be assessed. Currently two such proposals are for six-month implementation periods only. This approach at the initial stage of HSP implementation also strives to provide for diversity of assistance in order that modes of assistance that prove to be successful can be properly expanded later in the programme.

As discussed below, a fixed percentage distribution formula is to be applied in respect of the balance of Roma and Sinti projects that are to be funded by both programmes.

Proposals for the provision of legal assistance

IOM is implementing measures to facilitate the provision of legal assistance in order that such programmes are in keeping with the requirements of re Agent Orange Product Liability Litigation, 818 F.2d 179, 186 (2d Cir. 1987)³. As several proposals received to date state that legal assistance will be provided according to beneficiary needs, it is necessary to expressly limit the scope of legal services to be provided whilst not forbidding additional permissible types of legal assistance that may be proposed in the future.

IOM currently expects that legal services to be funded shall predominately include matters regarding proprietary rights (e.g. tenancy), access to social services (e.g. health, social security), family law (e.g. abuse of elderly Roma by younger community members, including and in connection with, abandonment and neglect) and representation in minor criminal matters (e.g. Roma charged with gathering firewood from local forests where no alternative source can be obtained/paid for).

Accordingly, a clause in respect of legal services that may be provided under HSP is to be included in all relevant contracts specifically forbidding legal assistance in respect of "political advocacy" and class actions. Further, a limit of 200 USD of legal services in respect of each beneficiary is imposed. Regular HSP reporting and monitoring of legal assistance provided shall also seek to further enforce such requirements.

Further countries

The Pilot Project Proposal referred to the implementation of a food package assistance project in Hungary, Poland, Romania and Ukraine. As a result of additional information obtained and a training workshop facilitated by IOM for its humanitarian and social programme field coordinators in December 2001, the Czech Republic and the Federal Republic of Yugoslavia have since been included as countries to participate in initial projects.

³ Distribution Plan, Volume 1 at 137 (footnote 381), B18-B19

Future reporting and funding requirements

Given the protracted payment schedules that are triggered by corresponding reporting and monitoring requirements, the initial stage of the programme and the variance in the quantum of funds sought by potential service providers, it is currently unclear at this time when IOM will need to apply to the Court for further funding.

IOM undertakes however to provide the Court with an updated financial and narrative report not later than six months from the submission of this proposal.

(b) Implementation: methodology, publicity and projects

As the Court may be aware, an Agreement for the provision of humanitarian assistance to needy, elderly Jehovah's Witness survivors of Nazi persecution was executed with the Jehovah's Witness Holocaust Era Survivors Fund Inc. (JWHESF) on 22 March 2002. Given the standing, access to and knowledge of the relevant beneficiary population and prior involvement of JWHESF in IOM claimant assistance activities, the selection of a service provider to assist Jehovah's Witness survivors was more apparent than that in respect of the selection of less known potential service providers for assistance for Roma and Sinti beneficiaries.

IOM has developed a 'kit' (attached Annex 2) of forms for potential service providers to complete and submit. This kit includes an overview of HSP, basic guidelines, a proposal form with notes for guidance as well as standardised reporting forms. The proposal form requires potential service providers to supply two independent referees that are contacted by IOM field offices prior to the proposal being initially reviewed in Geneva. Field coordinators then provide a summary of the referee's remarks in an official evaluation form that the field coordinator submits to Geneva with the project proposal.

Therefore, whilst IOM is in many respects tasked with creating a wholly new activity for the delivery of assistance to certain victims groups, it is endeavouring to do so with due regard for the need to contract with service providers that can astutely deliver assistance to beneficiaries. In this regard, it should be mentioned that an element of risk is unavoidable given the limited experience of many smaller but well positioned NGOs.

IOM's project proposal form requires potential service providers to furnish copies of registration documents and recent financial reports. Service providers are generally obligated pursuant to their Agreement to submit project reports to IOM bi-monthly. HSP staff will routinely monitor the implementation of projects. Agreements are structured so that projects that IOM may find to be inefficient or otherwise unacceptably operated may be promptly terminated and further payments withheld. Final payments to service providers will not be made until a final report has been received and approved by IOM.

IOM's regular monitoring and reporting will also strive to ensure that assisted persons are in fact eligible beneficiaries as identified in the Distribution Plan. IOM has stressed at all times to potential service providers that project beneficiaries are to

primarily be needy, elderly survivors in one of the four sub-categories. This same requirement is reflected in relevant Agreements.

Distribution formula for projects for Roma and Sinti beneficiaries

Having made initial estimates in respect of funds to be available for beneficiaries that may be identified in each of the four categories set forth in the Distribution Plan, IOM has preliminarily allocated a quantum of funds that may be combined with the resources of the German Foundation for projects for Roma and Sinti beneficiaries. This process is not only in keeping with the intent of the Distribution Plan regarding the expansion of assistance to be provided, but also ensures firm synergies between the two programmes in respect of projects for Roma and Sinti survivors. Further, it serves to minimise administrative (overhead) costs at all levels.

Accordingly, a distribution formula of 55% German Foundation / 45% HVAP of direct assistance costs is planned for the coming year (e.g. if a project for Roma requires \$100,000, \$55,000 will be provided via the German Foundation and \$45,000 via HVAP). This distribution formula will be re-evaluated and amended as required. As noted previously, an exception to this formula will be made in respect of food package projects.

Publicity

Out of consideration for the privacy and security of individual beneficiaries, and in order to conserve resources, HSP activities will assume a relatively low profile.

Beneficiaries will be informed about sources and reasons for direct assistance by means of stickers, simple leaflets, etc. In most instances, the "message" will accompany the assistance delivered by contracting service providers.

While IOM offices and service providers may organise joint press conferences to launch or to publicise projects, these will be held on a limited basis and in close coordination with Geneva. The primary goal of any such public information activities will be to ensure that projects reach a significant number of needy victims.

Projects and proposals under review for funding

IOM is currently in the process of finalizing contracts with the following potential service providers for direct assistance to Roma victims. We expect to reach agreement with these and a number other HSP service providers in the coming months. IOM proposes to supply the Court with information on such additional partners and activities, as well as to update previously supplied information as necessary, on a quarterly basis.

Ukraine

Transcarpathian Cultural-Educational Society "Romani Yag"
Telmana Str., 1/48a, 88007
Uzhgorod, Ukraine

Contact Person: Mr. Adam Aladar

Type of assistance: a canteen to provide a daily hot meal for 100 Roma survivors. This project was implemented by Romani Yag in 1999-2000 and now seeks further funding to purchase limited additional resources (most have been retained from the initial project implementation) and to continue to supply food assistance.

The proposal states that Roma women will be employed in the delivery of this assistance.

Project duration and budget: 12 months; \$19,998 (all figures supplied are in USD)

Transcarpathian Regional Women's Society "Terne Chaya Po Neyvo Drom"
10 Dendeshi Str., Uzhgorod
Ukraine

Contact Person: Ms. Olena Brugosh

Type of assistance: Roma women are to provide home care, including shopping, cleaning, cooking as well as social assistance to 25 survivors twice a week.

Project duration and budget: 12 months; \$10,967

Roma Association of Izmail and its Region
St. Tuchkova 8
Izmail, Odessa Region
Ukraine

Contact Person: Mr. Anatoly Kondur

Type of assistance: food packages for 160 survivors.

Project duration and budget: 6 months; \$22,843.20

Transcarpathian Association of Roma Non-Government Organizations "Ekgipe"
Dendeshi, 10
88007 Uzhgorod
Ukraine

Contact Person: Mr. Adam Aladar

Type of assistance: this project is to "involve persons of a Roma nationality" in the provision of food packages for 100 Roma beneficiaries. Food packages are to be delivered twice a month.

Project duration and budget: 12 months; \$20,000

"Rom Som" Cultural Society of Zakarpacie Roma People
10/5 Mukachivska St., Uzhgorod
Zakarpatska Oblast 88000
Ukraine

Contact Person: Pap Aladar Aladarovich

Type of assistance: primarily medical assistance in the form of treatment for TB, diabetes, hypertension and other serious chronic diseases with associated food assistance for 120 survivors.

Project duration and budget: 12 months; \$35,982

ROMA, Society of Roma of Transcarpathia
4 Donska St., Uzhgorod 88007
Ukraine

Contact Person: Yosyp Ivanovych Adam

Type of assistance: funding is sought to continue the provision of legal services (accessing social benefits/pensions, trial lawyer assistance, lodging complaints/applications) for approximately 600 Roma survivors as previously carried out under the "Legal Defense of Roma" (2000 – 2002) which was funded by the International Renaissance Foundation (IRF). Should this proposal be funded via IOM it will be by contributing to limited funds already earmarked by IRF for the project's continuation.

Project duration and budget: 12 months; \$10,200

ROMA, Society of Roma of Transcarpathia
4 Donska St., Uzhgorod 88007
Ukraine

Contact Person: Yosyp Ivanovych Adam

Type of assistance: the proposal outlines assistance for "Roma who represent the least financially and socially protected population group in Transcarpathia" in the form of food packages for 100 survivors and emergency grants to cover gas, electricity and/or rent for a further 50 beneficiaries.

Project duration and budget: 12 months; \$49,260

Roma Women Charitable Fund "Chiricli"
Per. Vancetti, 2
Odessa 65000
Ukraine

Contact Person: Mr. Vladimir Kondur

Type of assistance: the provision of food packages for 247 beneficiaries.

Project duration and budget: 6 months; \$29,950.14

Czech Republic

People in Need Foundation
Na Hrebenech II, Kavci Hory
Praha 4 - 147 00
Czech Republic

Contact Person: Mr. Stepan Moravec

Type of assistance: a project entitled "Social Assistance to Roma War Survivors" is to be based on the People in Need Foundation's existing project "Field Social Work in Excluded Communities". Twenty-eight social workers in 23 locations throughout the Czech Republic are to provide legal and social counseling (social assistance includes matters in respect of citizenship, entitlements to social benefits, housing, debt management, family conflict management, etc.) to approximately 1354 Roma survivors.

Project duration and budget: 24 months; \$50,000

DROM, a Roma Center
Bratislavská 41
602 00 Brno
Czech Republic

Contact Person: Svatava Vaculova

Types of assistance: via the establishment of a "special advisory bureau", field work and a "Senior Club", the service provider proposes to provide 300 survivors with social assistance (such as shopping and home cleaning, involving beneficiaries in implementation of project and problems it seeks to address, communication with authorities, facilitating communications with legal staff), legal assistance (i.e. addressing common problems of the elderly Roma population - habitation and social benefits as well as the need of mitigation of negative consequences as a result of the separation of families caused by penalty enforcements), emergency financial support, home care, medical assistance and food.

Project duration and budget: 12 months; \$60,000

League for Help to Roma Victims of War
Pod Strasnickou Vinici 6
100 00 Prague 10 – Strasnice
Czech Republic

Contact Person: Ms. Marta Tulejova

Types of assistance: according to individual beneficiary needs for 5,000 survivors. Assistance to include food, medical, home care, winter assistance, utility and rental assistance, clothing, social assistance (e.g. housing matters, individual needs assessments) and legal assistance (tenancy matters, accessing social services including pensions, health care and insurance, citizenship assistance).

Project duration and budget: 18 months; \$374,971

Olassian Roma Council – Romani Bacht
Kpt. Stranskeho 997/11
Praha 9 – Cerny Most
190 00
Czech Republic

Contact Person: Mr. Edmund Rafael

Types of assistance: 1500 beneficiaries to receive food, medical and dental, winter, clothing, social (individual needs assessment to determine beneficiary requirements) and legal assistance (tenancy matters, accessing social services including pensions, health care and insurance, citizenship assistance) as well as further rehabilitation treatment. Project to be delivered by "Olassian Romanies volunteers".

Project duration and budget: 12 months; \$277,500

Federal Republic of Yugoslavia

Humanitarian Association "New Road"
Kragujevacog oktobra 104/III
34 000 Kragujevac
Yugoslavia

Contact Person: Miroslav Jovanovic

Types of assistance: establishment of a social centre for the benefit of approximately 400 beneficiaries where assistance in the forms of food, medical and dental, home care, emergency financial support, social assistance (establishment of social 'club' to disseminate information regarding health insurance, care of elderly and abandoned persons, family relationships, communications with state institutions) also legal assistance (property and tenancy issues (e.g. disputes with neighbours), social legal rights (e.g. "social and health insurance" for elderly Roma), family law (abuse of elderly Roma by younger community members, including and in connection with, abandonment and neglect)) is to be provided.

Project duration and budget: 12 months; \$160,000

Romania

Church and Society, The Social Work Department of the Romanian Orthodox Church
Aleea Dealul Mitropoliei, nr. 25
70526 Bucharesti
Romania

Contact Person: Cosmin Grigorescu

Types of assistance: needs analysis and individualized assistance to 4,000 survivors including a combination of food, winter assistance, clothing, social assistance (needs assessment, counselling on entitlements) and/or coverage of medical prescriptions.

Project duration and budget: 12 months; \$800,000

Hungary

Mediator Foundation
1072 - Budapest
Nyar utca 12.
Hungary

Contact Person: Dr. Hegyesi-Ornos Eva

Types of assistance: depending on beneficiary needs, services such as meals, recreational programmes, personal hygiene care, legal advice (accessing social benefits, property matters, advocacy assistance) and medical care for 200 survivors.

Project duration and budget: 24 months; \$165,450

Further beneficiary groups

Jehovah's Witnesses

Jehovah's Witness Holocaust Era Survivors Fund Inc.
2800 Route 22 Patterson
New York 12563
USA

Contact Person: Ms. Jolene Chu

As mentioned above, IOM entered into an Agreement with JWHEFSF on March 22, 2002 for the provision of financial support for humanitarian and social projects for the benefit of 1,122 elderly, needy Jehovah's Witness survivors of Nazi persecution living in Croatia, Hungary, Poland, Romania, Ukraine and Moldova. Types of assistance to be provided by JWHEFSF field workers include food, medical, home care, winter assistance, emergency financial support and social assistance.

Recent communications with JWHEFSF indicate that beneficiary numbers may need to be adjusted in respect of this project in the coming months. Assistance is scheduled to be expanded to further countries.

Project duration and budget: 24 months; \$235,350

Homosexuals

IOM has contacted an interlocutor for seven homosexual survivors who is currently conducting a needs assessment for these survivors who are resident in western European countries. It is unclear at this time what humanitarian and social assistance may be requested however a per beneficiary guide in terms of cost has been provided.

Further, HSP will be monitoring data from relevant claims activities in order to identify further homosexual beneficiaries.

Disabled

IOM has carried out research identifying possible interlocutors for contacting or providing assistance to disabled survivors. This survivor population has proved to be difficult to identify. As soon as more time of a small HSP team can be devoted to this victim group, greater progress in this regard is anticipated.

As stated above with respect of potential homosexual beneficiaries, HSP also will be monitoring data from relevant claims activities in order to identify further disabled beneficiaries.

Financial Summary for beneficiary groups, countries of initial implementation and (16) project allocations

<u>Beneficiary Group</u>	<u>Country</u>	<u>Total proposal cost</u>	<u>HVAP contribution</u>	<u>% HVAP Contribution</u>		
Roma and Sinti	Ukraine	\$19,998.00	\$9,199.00	45%		
		\$10,967.00	\$5,283.50	45%		
		\$22,843.20	\$22,843.20	100%		
		\$20,000.00	\$20,000.00	100%		
		\$35,982.00	\$16,191.90	45%		
		\$10,200.00	\$4,590.00	45%		
		\$49,260.00	\$27,693.60	* 56%		
		\$29,950.14	\$29,950.14	100%		
		Czech Republic	\$50,000.00	\$22,500.00	45%	
			\$60,000.00	\$27,000.00	45%	
			\$374,971.00	\$209,963.76	* 56%	
			\$277,500.00	\$155,625.00	* 56%	
		FRY	Romania	\$160,000.00	\$88,000.00	* 56%
				\$800,000.00	\$448,000.00	* 56%
\$165,450.00	\$74,452.58			45%		
Sub-total Roma Projects		\$2,087,121.34	\$1,113,908.35			
Jehovah's Witness		\$235,350.00	\$235,350.00	100%		
Total		\$2,322,471.34	\$1,397,381.35			

* Maximum possible HVAP contribution, assuming 20% of project resources will be utilized for food packages.

c. Conclusion

IOM respectfully requests the Court's endorsement of this supplemental proposal and the relevant methodology implemented in respect of the humanitarian and social programmes.

IOM attaches hereto as Annex 1 a Proposed Order for the Court's signature.

IOM HUMANITARIAN AND SOCIAL PROGRAMMES (HSP)

Cumulative Installments Paid to HSP Service Providers, March 2002 - June 2003

Country of Implementation	Project Name / Service Provider	Cumulative payments to HSP Service Providers, March 2002 - June 2003	Funding Supplied by GERMAN FOUNDATION	Funding Supplied by US COURT
Belarus	Belorussian Gipsy Diaspora	\$24,077.52	\$0.00	\$24,077.52
Czech Republic	PINF	\$28,250.00	\$14,437.50	\$11,812.50
Czech Republic	DROM	\$64,000.00	\$27,027.00	\$28,973.00
Czech Republic	League for Help to Roma Victims of War	\$75,000.00	\$33,000.00	\$42,000.00
Czech Republic	Romani Becht	\$20,812.50	\$9,157.50	\$11,655.00
Hungary	Mediator Foundation	\$62,045.00	\$34,124.75	\$27,920.25
Hungary	Hungarian Baptist Aid (1)	\$525,750.00	\$247,102.50	\$278,647.50
Hungary	Bagamar	\$5,730.00	\$1,547.10	\$4,182.90
Hungary	Hungarian Baptist Aid (2)	\$767,118.00	\$291,504.84	\$475,613.16
Hungary	Sex Education Foundation	\$224,620.00	\$101,079.00	\$123,541.00
Moldova	The Salvation Army	\$11,413.00	\$5,135.85	\$6,277.15
Poland	Polish Red Cross	\$37,090.00	\$16,690.50	\$20,399.50
Poland	Association of Romani Women	\$6,839.00	\$3,064.72	\$3,774.28
Poland	Union of Polish Gypsies	\$80,000.00	\$27,200.00	\$52,800.00
Poland	Roma Union in Wloclawek	\$4,789.00	\$1,628.28	\$3,160.74
Poland	Rabka-Zdroj	\$998.00	\$429.14	\$568.86
Poland	Roma Ethnic Minority 'Solidarity'	\$9,439.00	\$4,058.77	\$5,380.23
Poland	Polish Medical Mission	\$45,400.00	\$20,430.00	\$24,970.00
Romania	Romanian Orthodox Church	\$634,196.80	\$348,808.24	\$285,388.56
Romania	Ramees Foundation	\$9,800.00	\$3,038.00	\$6,762.00
Russian Federation	St. Petersburg Memorial	\$59,261.00	\$26,667.45	\$32,593.55
Serbia and Montenegro	New Road	\$145,341.00	\$79,937.56	\$65,403.44
Serbia and Montenegro	Frominterpress	\$208,993.70	\$91,957.24	\$117,036.46
Serbia and Montenegro	Salt Batic	\$41,080.00	\$14,788.80	\$26,291.20
Serbia and Montenegro	Italian Consortium of Solidarity	\$121,242.50	\$43,647.30	\$77,595.20
Ukraine	Romani Yag	\$18,000.00	\$9,900.00	\$8,100.00
Ukraine	Terna Chaya (1)	\$9,870.20	\$2,457.54	\$7,412.66
Ukraine	Izmail	\$22,756.90	\$0.00	\$22,756.90
Ukraine	Ekgipe (1)	\$18,000.00	\$0.00	\$18,000.00
Ukraine	Rom Som	\$25,280.00	\$0.00	\$25,280.00
Ukraine	Roma Transcarpathia (1)	\$9,018.00	\$4,959.90	\$4,058.10
Ukraine	Chiridl	\$168,581.00	\$40,459.44	\$128,121.56
Ukraine	Carpathia Charity Fund	\$33,614.00	\$18,487.70	\$15,126.30
Ukraine	Romani Cherhen	\$6,610.00	\$3,635.50	\$2,974.50
Ukraine	Terna Chaya (2)	\$6,965.02	\$3,830.76	\$3,134.26
Ukraine	Roma Transcarpathia (2)	\$0.00	\$0.00	\$0.00
Ukraine	Romano Drom (1)	\$11,698.80	\$0.00	\$11,698.80
Ukraine	Kherson City Roma Society	\$21,866.40	\$0.00	\$21,866.40
Ukraine	Teripe Lviv	\$12,996.00	\$0.00	\$12,996.00
Ukraine	Romano Drom (2)	\$5,240.00	\$2,882.00	\$2,358.00
Ukraine	Chernigov Romano Drom	\$17,720.00	\$0.00	\$17,720.00
Ukraine	Ekgipe (2)	\$297,959.00	\$23,836.72	\$274,122.28
Global	JWHSF	\$247,356.00	\$0.00	\$247,356.00
TOTAL		\$4,134,797.34	\$1,556,921.58	\$2,577,875.76

TOTAL DONOR FUNDING RECEIVED BY IOM, MARCH 2002 - JUNE 2003 *

GERMAN FOUNDATION \$2,031,575.04
US COURT \$3,709,357.00

* IOM requests funds quarterly in advance from donors for HSP projects based on:

- 1) known and anticipated project needs for the upcoming quarter, and
- 2) the desirability of maintaining sufficient flexibility so as to approve a number of projects which may have not been included in the funding request for a given quarter.

Factors such as those outlined above, as well the recent momentum gained in HSP allocation and disbursement rates have led to the amounts requested being higher than those distributed.

IOM has further requested the amount of \$3,310,168 for the July - September 2003 quarter (i.e. \$1,068,813 from the GERMAN FOUNDATION and \$2,241,354 from the US COURT), due to the same increase in HSP allocation and disbursement rates. Anticipated disbursements to HSP projects during the same July - September 2003 quarter could reach \$4,995,819 (i.e. \$1,562,081 from the GERMAN FOUNDATION and \$3,433,738 from the US COURT), thereby reducing or eliminating the existing margin between the funding requested and that disbursed.

Any funds not distributed to Service Providers (SPs) in a given period are held in escrow for distribution to SPs in the subsequent quarter. As mentioned, the current momentum of the programme dictates that such additional funds will not be so held in escrow for an extended period. For example, the extension of the Romanian Orthodox Church's activities in the current quarter required a disbursement of \$850,000, which had not been foreseen in the funding request for the relevant period.