

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: Case No. CV 96-4849 (ERK)(MDG)
HOLOCAUST VICTIM ASSETS (Consolidated with CV 96-5161
LITIGATION and CV 97-461)

ORDER

This Document Relates to: All Cases

KORMAN, District Judge.

The claims distribution process is virtually complete. For three of the five Settlement Classes (Slave Labor Class I, Slave Labor Class II, and the Refugee Class), the respective claims processes ended several years ago. For Slave Labor Class I, nearly 198,000 Holocaust victims and certain heirs have received over \$287 million in compensation; for Slave Labor Class II, 570 Holocaust victims and certain heirs have received \$826,500 in compensation; and for the Refugee Class, over 4,100 Holocaust victims and certain heirs have received \$11.6 million in compensation. With respect to the fourth settlement class, the Looted Assets Class, over 236,000 needy Holocaust victims have received \$205 million in humanitarian aid through a ten-year program which under the terms of the Plan of Allocation and Distribution of Settlement Proceeds (“Distribution Plan”) ended in July 2011.

As to the fifth class, the Deposited Assets Class, the Claims Resolution Tribunal (CRT) on behalf of the Court completed the bulk of claims processing and award payment activities several years ago. Since that time, and through the end of December 2012, the CRT concentrated most of its efforts on analyzing a number of extraordinarily complex cases. In

addition, the CRT was responsible for calculating and overseeing the processing of thousands of supplemental payments to Holocaust victims and heirs following my 2010 decision to increase award amounts for many claimants, to more accurately reflect the actual values of Holocaust-era Swiss bank accounts. *See June 16, 2010 Memorandum & Order Approving Adjustment of Presumptive Values Used in the Claims Resolution Process and Authorizing Additional Payments for Deposited Assets Class Plausible Undocumented Awards.*

With the exception of some minor administrative matters, the Deposited Assets Class claims review process is now closed, the CRT having analyzed more than 100,000 claims relating to Holocaust-era Swiss bank accounts. Of the up to \$800 million that was allocated to the Deposited Assets Class under the Distribution Plan, the Court has authorized for payment \$726 million in awards.

Further, of the \$1.25 billion Settlement Fund, a total of \$1.24 billion has been authorized for payment to more than 457,000 Holocaust victims and heirs. As will be more fully discussed in the final report on the distribution process, these hundreds of thousands of awards, effectuated through the United States court system, are of great significance. Not only do these payments represent what was often the first compensation for injuries sustained many decades ago, but the individual narratives behind the awards help to supplement the historical record of the Holocaust.

I have been advised by the Settlement Fund accountants and by the Special Master that approximately \$54.5 million in residual funds remain for allocation to class members, so that approximately \$1.29 billion will have been paid to Holocaust victims and heirs by the conclusion of this case.

As I have previously made clear, my intention is to distribute residual funds that might remain to the neediest Holocaust survivors as members of the Looted Assets Class. *See In re*

Holocaust Victim Assets Litig., 302 F.Supp.2d 89 (E.D.N.Y. 2004),*aff'd.*, 424 F.3d 132 (2d Cir. 2005). Since the inception of the distribution process, I have made three allocations of funds to the neediest survivors-- \$100 million; \$60 million; and \$45 million -- for a total of \$205 million. I am pleased now to be able to make a fourth allocation of an additional \$50 million from the Settlement Fund, which with the previous additional allocations of \$60 million and \$45 million now represents a 155% increase over the initial \$100 million allocation.¹ These funds will continue to make a significant difference in the lives of many of those who suffered so grievously as a result of Nazi actions and today live with tremendous needs.

In anticipation that residual funds would remain, I sought an update on current economic conditions for Nazi victims. I retained the eminent research institution that previously provided the Court with data on Holocaust victims, the Brandeis University Cohen Center for Modern Jewish Studies & the Steinhardt Institute for Social Research (“Brandeis”). See *Jewish Elderly Nazi Victims: Update - Report Prepared for the Honorable Edward Korman, District Judge, Eastern District of New York* (Elizabeth Tighe, Raquel Magidin de Kramer, Leonard Saxe, Begli Nursahedov and Micha Rieser, January 2013) (“Brandeis 2013 Report”).

The Brandeis researchers conclude that survivor needs, originally analyzed in 2000 in connection with the Distribution Plan and revisited in 2004, remain essentially the same.

“Since 2004, much has changed that potentially affects the condition of the remaining Nazi victims around the world. There have been tangible increases in the humanitarian assistance available to Nazi victims, but also new challenges as a result of the global economic crisis that has exacerbated income inequality. In addition, although the victim population is smaller, it is also more elderly and in need of services. Despite these challenges, the relative deprivation and disparities among victims living in the three regions where most of the population reside -- the Former Soviet Union (FSU), the United States, and Israel -- remains fairly consistent with what was observed in 2004. Although there are clearly victims in

¹ In a separate order of today’s date, I have allocated an additional \$4.5 million in residual funds to the Victim List Project, thus increasing that program’s allocation by 45%, establishing parity with prior 45% increases in the allocations to Slave Labor Class I, Slave Labor Class II, the Refugee Class and the Deposited Assets Class.

need across all regions, the victims in need in the FSU struggle with poor conditions of housing, low income, minimal social services, and poor access to health services. Further, they lack the well-developed and functioning social safety nets that exist in the United States and Israel.”

Brandeis 2013 Report, at 2.

The American Jewish Joint Distribution Committee (JDC), which has overseen the Court’s humanitarian assistance programs for Jewish victims in the FSU, and the Conference on Jewish Material Claims Against Germany (Claims Conference), which oversaw programs for Jewish victims in other parts of the world, have provided updates on survivor needs and proposed assistance programs confirming the conclusions of the Brandeis researchers. The JDC updates are set forth in two reports: the *JDC Presentation on the evolving condition and needs of Jewish victims of Nazi persecution in the Former Soviet Union*, March 2013, and the May 9, 2013 Letter from JDC Assistant Vice President Herbert Block (“JDC 2013 Reports”). The Claims Conference updates likewise are set forth in two reports: *An Examination of the Swiss Banks Looted Assets Class Emergency Assistance Program ending in 2011 as a method to consider the use of future available funds for Jewish Nazi Victims Worldwide, excluding Soviet Successor States*, March 2013, and the *Claims Conference Looted Assets Class Proposal: Emergency Assistance Programs for Jewish Nazi Victims, Proposal for July 2013 - December 2014*, May 9, 2013 (“Claims Conference 2013 Reports”).

As to Roma victims of the Nazis, the situation remains dire. The International Organization for Migration (IOM), which oversaw programs for needy non-Jewish class members, advises that

.... [A]ccording to a recent report by the United Nations Development Programme (UNDP), the World Bank, European Union Agency for Fundamental Rights (FRA) on average, about 90% of the Roma surveyed live in households with an equalised income below national poverty lines.... There is a very little

direct survey data on the specific socio-economic situation of elderly Roma. However based on IOM experience and information collected during the implementation of the [Court-funded] Humanitarian and Social Programmes (HSP) and Roma Holocaust Assistance Programmes (RHAP) [funded by the German Foundation] elderly Roma across much of Eastern Europe still live in ramshackle houses in isolated communities without proper infrastructure, in an almost permanent situation of food insecurity and without access to some basic services such as social and medical care. They remain socially and culturally isolated not only from mainstream society, but also within Roma communities where the traditional respect for elders has all but disappeared.

See Project Proposal for Roma Holocaust Survivors Humanitarian and Social Programmes (RHS-HSP), March 2013, submitted to the Court by the IOM; see also Interim Funding Proposal for Roma Holocaust Survivors Humanitarian and Social Programmes (RHS-HSP) Interim Inception Phase, 24 April 2013 (“IOM 2013 Reports”).

Since conditions are essentially the same today as when the humanitarian assistance programs were adopted in 2000, and revisited in 2004 in connection with possible additional funding, the residual funds will be allocated in accordance with the original terms of the Distribution Plan. Thus, as previously, 90% of the \$50 million in residual funds will be allocated to needy Jewish Nazi victims, of which 75% will be allocated to needy victims in the FSU. These funds will be administered on the Court’s behalf by the JDC. The other 25% will be administered on the Court’s behalf by the Claims Conference, of which 12½% will be allocated to needy victims in Israel, and the other 12½% to needy victims in the rest of the world. Ten percent (10%) of the \$50 million in residual funds will be allocated to programs serving Roma victims of the Nazis, to be administered on the Court’s behalf by the IOM.²

² The IOM notes that the proposed program is somewhat more limited than that undertaken previously. “Taking into consideration IOM’s past experience, the current funding limitations and, most importantly, the intention to assist the neediest among the survivors, this project proposal focuses only on Roma Holocaust Survivors in three less affluent European countries (not members of the European Union).”

I have directed the JDC, Claims Conference and IOM to provide me with specific plans for monitoring and distribution of funds. The JDC and Claims Conference each have recommended a program requiring five years of funding, using essentially the same mechanisms as before. The IOM has recommended a 15-month program, the first 3 months of which will be devoted to investigating and engaging service providers, and the remaining 12 months of which will reintroduce targeted programs similar to those which previously were proven to be successful in reaching the greatest number of victims at a reasonable cost.

Accordingly, it is hereby ORDERED that the following sums shall now be allocated to the three administrative agencies: \$33,750,000 million to the JDC; \$11,250,000 to the Claims Conference; and \$5,000,000 to the IOM. In accordance with the agencies' respective funding proposals for the initial phase of each of their programs, the Signatories to the Settlement Fund are hereby directed to transfer immediately the following sums: \$5 million to the JDC; \$1,102,500 to the Claims Conference; and \$875,000 to the IOM.

Date: Brooklyn, New York
May 13, 2013

SO ORDERED:

Edward R. Korman

Edward R. Korman
United States District Judge