

AUSCHWITZ JEWISH CENTER FOUNDATION

March 6, 2000

**OFFICERS &
STAFF**

President
Fred Schwartz
Executive Director
Daniel Eisenstadt
Vice Presidents
Daniel Eisenstadt
Abe Musher-Eizenman
Secretary
Evelyn Royal
Project Manager
Nadine R. Greenfield

DIRECTORS

Dr. Michael Berenbaum
Daniel Eisenstadt
David Goldman
Hadassah Lieberman
Jeffrey Marks
Abe Musher-Eizenman
Hon. Nicholas Rey
Hon. Arthur Rosenblatt
Dr. Evelyn Royal
Robert Satloff
James Schreiber
Wendy Schreiber
Allyne Schwartz
Fred Schwartz
Kalman Sultanik

ADVISORY BOARD

Fred Bachner
Dr. Eleonora Bergman
Rabbi Chaskel Besser
Adam Druks
Prof. Yaffa Eliach
Lucyna Filip
Dr. Eugene Fisher
Lejb Fogelman
Miroslaw Ganobis
Prof. Gideon Greif
Prof. Jan Gross
Ruth Gruber
Prof. Samuel Gruber
Prof. Israel Gutman
Jacob Henenberg
Eva Hoffman
Dr. Jan Jagielski
Peter Kolevzon
Murray Laulicht
Hon. Michael Lewan
Tamar Major
Robert Motzkin
Jacek Nowakowski
Dr. Irene Pipes
Prof. Antony Polonsky
Dr. Neil Rosenstein
Joachim Russek
Norman Sherran
Rabbi Michael Schudrich
Prof. Michael Steinlauf
Rabbi Mordechai Waxman
Connie Webber
Prof. Jonathan Webber
Dr. Stefan Wilkanowicz

Hon. Judah Gribetz
Special Master for Holocaust
Victim Assets Litigation
Richards & Oneill LLP
885 Third Avenue
New York, New York 10022

Dear Mr. Gribetz:

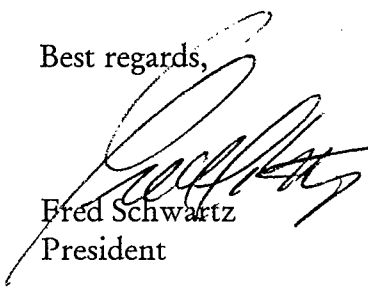
We are writing to submit our recommendations with regard to the allocations of funds received as a result of the settlement of the various claims against Swiss banking institutions. The attached memorandum sets out our perspective on the difficult job of establishing a plan of allocations.


We are submitting the attached memorandum with an appreciation for the needs of survivors. Therefore, we have suggested that all moneys first be directed to the needs of survivors, and only after these needs are addressed, would we request an allocation of a small portion of the settlement funds.

As you know, our project is unique. We will be the only educational institution in Oswiecim available to teach future generations of visitors about the Holocaust and Jewish history. As the Shoah and the vibrant Eastern European Jewish life recedes into history, our institution will be the only Jewish presence near Auschwitz.

We would be delighted to discuss our recommendations or submit additional clarifying memoranda should you or the court deem that necessary. Thank you in advance for your consideration.

Best regards,


Fred Schwartz
President


Daniel Eisenstadt
Executive Director

cc: Jim Schreiber
Enclosures

**MEMORANDUM SETTING OUT THE AUSCHWITZ JEWISH
CENTER FOUNDATION'S RECOMMENDATIONS
TO SPECIAL MASTER JUDAH GRIBETZ**

The Auschwitz Jewish Center Foundation ("AJCF" or the "Foundation"), a New York not-for-profit 501(c)(3) corporation founded in 1995, has established the only Jewish educational institution near Auschwitz, in the town of Oswiecim, Poland. This facility is comprised of a restored synagogue that dates back to the turn of the century, as well as an educational center focusing on Eastern European life before the Holocaust. Both the synagogue and the center service visitors to the former concentration camps situated several kilometers away. Although construction and restoration work on the Center only commenced in November 1999, the AJCF has already established itself as the only permanent Jewish voice in the vicinity of Auschwitz. In 1998, the AJCF and its sister not-for-profit organization in Poland (Fundacja Edukacyjne Zydowskie w Oswiecimiu) acquired title to the last synagogue near Auschwitz, through the first application of Poland's Jewish Communal Property Restitution Law, and acquired title to a nearby Jewish home that will house the aforementioned educational center.

Each year more than 500,000 people of dozens of different nationalities visit the former Auschwitz and Birkenau concentration camps, now run as a Polish State museum. Of these visitors, a significant percentage are Jews from the United States, Israel, and the rest of the world. By permanently erecting a living visitors' center the AJCF is ensuring that future visitors remember the more than one million Jews who perished in Auschwitz. The AJCF is ensuring that future generations do not forget the lessons of this horrific place.

The AJCF has been recognized by American Jewish leaders, survivors, Israeli leaders, and the Polish government for its important educational and memorial agenda. U.S. Undersecretary of Treasury, Stuart Eizenstat has cited the Foundation's work as "an example of a restitution success story that can benefit us all." Professor Israel Gutman, a survivor and the Chief Historian at Yad VaShem has described the Foundation's work to create "a center of learning" as "important," and Rabbi Israel Meir Lau, the Chief Rabbi of Israel and a survivor, has suggested that the Center "represents the spiritual victory of the Jewish people."

Recommendations or Suggestions:

The AJCF believes that first and foremost, and perhaps only, individual survivors of the Holocaust should receive the funds made available through the settlement agreement with Swiss banking institutions. Moreover, the AJCF believes that the Plan of Allocation and Distribution recommended by the Special Master and

adopted by the courts should ensure that funds are allocated to the neediest of survivors, as quickly as possible.

However, if the Special Master and/or the Court decide(s) that some part of the settlement amount should be set aside or left over for organizations that promote Holocaust education, then the AJCF believes that it should be among those organizations granted funds. Should the court choose to allocate a portion of the funds to educational institutions, the AJCF would urge the court to do so under the *cy pres* doctrine. The application of this doctrine would lead to the distribution of funds for the “next best use” which indirectly benefits the class. As other Federal Courts have found, the “doctrine of *cy pres* and the courts’ broad equitable powers now permit use of funds for other public interest purposes by educational, charitable, and other public service organizations both for current programs or, where appropriate, to constitute an endowment and source of future income for long range programs.”¹

The AJCF submits that a strong correlation exists between the educational goals of the AJCF and the desires of many members of the class. That is, the AJCF’s establishment of an educational facility will ensure that future generations never forget the people who were killed at Auschwitz, or the hundreds of thousands forced into slave labor in satellite camps nearby. Moreover, the AJCF will ensure that the symbol of Auschwitz is never diminished and always used for the positive education of future generations.

If educational funds are allocated, the AJCF should receive funds as a symbolic representative of (i) the hundreds of thousands of Jews whose gold was looted by the Nazis at Auschwitz and (ii) the thousands of Jews forced into slave labor in the factories and industrial plants around Auschwitz and Birkenau. It is a well established historical fact that the Nazis stole gold objects and removed gold fillings from prisoners at Auschwitz.² It is equally accepted that thousands of Jews were forced into slave labor, in plants located near Auschwitz, which were owned and operated by major German industrial firms.³ The most infamous of these plants was operated by the I.G. Farben company, and the chemical plant established during World War II continues to operate today as a Polish state owned factory.

According to Benjamin B. Ferencz’s definitive account of the I. G. Farben case, Auschwitz was “financed and owned by I.G. Farben.”⁴ At Nuremberg, five directors of I.G. Farben were found criminally liable for the abuse of slave labor, and after a

¹ *Superior Beverage Co., Inc. v. Owens-Illinois, Inc.*, 827 F.Supp. 477, 479-80 (N.D. Ill., 1993).

² See generally, George Carpozzi, *Nazi Gold*, New Horizons Press, New Jersey, 1999

³ See, Benjamin Ferencz, *Less than Slaves*, Harvard University Press, 1979, P. 34

⁴ *Ibid*

Frankfurt court found I.G. Farben liable in a civil suit⁵, the German company settled all claims for \$30 million DM.⁶ In 1963, Dr. Nachum Goldmann, President of the World Jewish Congress, and the Conference on Jewish Material Claims Against Germany, recommended that 250,000 DM of the settlement be set aside for the creation of a “Jewish pavilion at Auschwitz.”⁷ However, by 1968, the Communist Government of Poland had rejected the notion of a “Jewish pavilion” and had instead erected a universal pavilion to honor all “the dead of Auschwitz”.⁸ Thus, no funds from the I.G. Farben settlement were ever applied to the creation of a Jewish memorial near Auschwitz. Presently, most Jewish leaders agree that no sufficient Jewish memorial has ever been erected at the Auschwitz State Museum.

It is widely known that Switzerland was Germany’s “principal banker and financial broker...during and after World War II.”⁹ It is also accepted that much of the gold looted at Auschwitz and significant portions of the proceeds of I.G. Farben’s slave labor were invested and processed through Swiss banking institutions.¹⁰ According to the Bergier Commission and the BBC, “seventy-six percent” of Nazi gold transactions went through Switzerland.¹¹ Moreover, the Commission found that of all the gold that passed through Swiss banks, “\$146 million was Holocaust victim gold and over two million of this came from Auschwitz victims whose possessions were taken by SS guards.”¹²

The nexus between gold looted from prisoners at Auschwitz and Swiss banks is clear. Furthermore, significant portions of I.G. Farben’s proceeds may have also been invested in Swiss Banks during and after World War II. Therefore, the AJCF believes that if funds are made available for educational institutions, it could be given symbolic grants under two of the five classes set out in the Settlement Agreement. Auschwitz has emerged as the quintessential symbol of the Holocaust, and it will no doubt be the enduring image of the Shoah for future generations. As the only Jewish institution near Auschwitz, the AJCF could be considered a symbolic representative of those Jews whose assets were looted by SS guards at Auschwitz and, therefore, granted funds under the second settlement class. The AJCF could also be considered a symbolic representative of Jews forced into slave labor at I.G. Farben’s plant and, therefore, granted funds under the third settlement class.

⁵ Ibid at 37

⁶ Ibid at 49

⁷ Ibid at 65

⁸ Ibid at 66

⁹ See, George Carpozzi, Nazi Gold, New Horizons Press, New Jersey, 1999, Page 10.

¹⁰ See generally, George Carpozzi, Nazi Gold, New Horizons Press, New Jersey, 1999

¹¹ Ibid at p.113

¹² Ibid at p. 114

Conclusion:

The AJCF is the only institution in the vicinity of Auschwitz that is committed to the memory of the individuals killed at Auschwitz and/or forced into slave labor for IG Farben, and other German industrial firms. Therefore, the AJCF is an appropriate symbolic beneficiary of settlement funds resulting from the Swiss banks complicity in the (i) theft of gold and other assets from Jews by SS guards at Auschwitz, and (ii) the investment of profits derived from the savage slave labor forced upon Jews by I.G. Farben and other German industrial giants. By providing an endowment for the future operation of an educational institution near Auschwitz, the settlement funds could be usefully directed to educate future generations, while memorializing those individuals whose assets were looted before their deaths, and those individuals who were forced into slave labor nearby. In 1963, Nachum Goldmann had the foresight to understand the educational importance of directing a portion of the I.G. Farben settlement funds to the creation of a permanent memorial and educational pavilion at Auschwitz. Unfortunately, the Communist leadership of Poland blocked this worthy endeavor. Today, the Auschwitz Jewish Center is being erected with the acceptance of the current Polish government as an educational institution dedicated to the memory of the lives of those who were enslaved or who perished at Auschwitz.

If the Special Master or the Court decides that any funds should be allocated for educational or memorial purposes, the AJCF strongly believes that it deserves an endowment grant of \$10 million. This endowment, which would constitute less than one percent of the entire settlement fund, would guaranty the future operations of the Auschwitz Jewish Center in perpetuity. Nearly every survivor has urged future generations to “never forget,” and to continue to tell the survivors’ stories. The Auschwitz Jewish Center is dedicated to meeting so many survivors collective wish. The comparatively small endowment, which we have requested, would have an enduring and significant impact well beyond the specific amount allocated.

The AJCF would be pleased to furnish the Special Master and/or the Court with any additional documentation deemed necessary, including future operating budgets, financial statements, or a longer elaboration of the Foundation’s mission statement and history. Finally, representatives of the AJCF are available to meet with the Special Master and/or the Court to discuss these recommendations, if such meetings are deemed worthwhile.