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January 29, 2004

RECEIVED

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LEGAL SERVICES

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

Re: In Re Holocaust Victim Assets Litigation, Master Docket No. CV-96-4849

Dear Judge Korman:

Please find enclosed a courtesy copy of the Distribution Proposal of the World Council of Orthodox Jewish Communities, Inc. The original has been sent to the Clerk via Federal Express for filing in the above-referenced action.

Respectfully,

Stephen A. Whinston

SAW/tc
Enclosure

cc: All counsel (via first class mail)

Holocaust Victim Assets Litigation (via U.S. Express Mail) ✓
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January 29, 2004

VIA FEDERAL EXPRESS

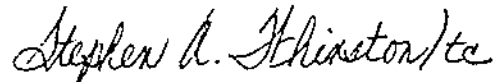
Clerk of the Court
United States District Court
For the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: In Re Holocaust Victim Assets Litigation, Master Docket No. CV-96-4849

Dear Sir or Madam:

This is to transmit the original and one copy of the Distribution Proposal of the World Council of Orthodox Jewish Communities, Inc. for filing in the above-referenced action.

Sincerely,



Stephen A. Whinston

SAW/tc
Enclosures

cc: All counsel (via first class mail)

Holocaust Victim Assets Litigation (via U.S. Express Mail) ✓
P.O. Box 8300
San Francisco, CA 94128-8300

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

IN RE	:	
HOLOCAUST VICTIM ASSETS	:	Master Docket No. CV-96-4849
LITIGATION	:	

**DISTRIBUTION PROPOSAL OF THE WORLD
COUNCIL OF ORTHODOX JEWISH COMMUNITIES, INC.**

I. Introduction and Summary

In response to the Court's Order of November 17, 2003, as amended, the World Council of Orthodox Jewish Communities, Inc. (the "World Council"), hereby submits this proposal for distribution of funds. The World Council is a named Plaintiff and class representative in this litigation. Through its counsel of record, it participated in the litigation and the settlement negotiations. It submitted a distribution proposal to the Special Master and participated in the Court hearings regarding the distribution plan. The World Council remains intensely interested in this litigation.

The World Council supports the Court's decision to consider the near term distribution of some portion of the funds originally designated for the Deposited Asset claims. For various reasons, it now appears clear that the portion of the Settlement Fund set aside for Deposited Asset claims will not be fully expended for that purpose. Since the processing of those claims is time consuming, it makes eminent sense to reallocate a portion of the Deposited Asset fund for other purposes consistent with this litigation and the applicable legal precepts.

In distributing these funds, the World Council urges the Court to use these funds for two primary purposes. First, to build on the decision it has already reached, and which has been approved by the Second Circuit, the Court should allocate additional funds for *cy pres* distribution to needy class members in locations other than Eastern Europe. As discussed in Section II, below, there are many needy Holocaust survivors living within minutes of the Courthouse who would benefit greatly from such an allocation. Second, as discussed in Section III below, the World Council urges that survivor communities receive a distribution in light of their unique status and ability to assist numerous class members. Finally, in Section IV below, the World Council proposes a methodology to implement its proposal.

II. Assistance to Needy Class Members Beyond Eastern Europe

In its initial distribution plan, the Court allocated \$100 million over a period of up to ten (10) years to be spent to supplement the *Chesed* program operated by the American Jewish Joint Distribution Committee in Eastern Europe and the Conference of Jewish Material Claims Against Germany. The Special Master's observations supporting this allocation are as true today as they were when the initial decision was made:

For the neediest members of the Looted Assets Class, a *cy pres* allocation can have a significant concrete impact upon the lives of many thousands of elderly survivors.

Special Master's Proposed Plan of Allocation at 23. This same concept supports the use of money now made available from the Deposited Assets fund for the same purpose over a wider geographical area. The Court need look no further than its own District to recognize the needs of class members and the potential benefits that could be achieved from the allocation of settlement

funds for this purpose.

A detailed study of needy Holocaust survivors in New York City has recently been published. See Special Report, Nazi Victims in the New York Area: Selected Topics.¹

According to the report, approximately 55,000 Holocaust survivors live in New York, of which about 30,000 are in Brooklyn alone.

It is estimated by the Metropolitan Council on Jewish Poverty that at least 1,000 survivors are tightly clustered in the Williamsburg section of Brooklyn. Because of the insular nature of this community it is paramount that this group be served. According to the information in the UJA-Federation Report:

- 14,300 Nazi victims live alone. Those victims living alone are considerably older than victims who live in two-person or multiple person households. Approximately 8,580 victims who live alone are 75 years of age or older.
- New York area Nazi victims have a median age of 72. Forty-four percent are at least 75; an additional forty percent are between 65 and 74.
- The New York area, and in particular, Brooklyn, has a substantial number of Nazi victims who are living in poverty. Specifically, 38% of New York area Nazi victims, or almost 21,000 Holocaust survivors, live in households with annual incomes under 100% of the Federal poverty guideline. An additional 13,000 survivors are categorized as “nearly poor.”

¹This report is available online at www.ujafedny.org.

Providing a distribution to these individuals, and those similarly situated in other geographical areas, would have a meaningful positive impact on their lives.

III. Support of Community Continuity

In Section II above a proposal is made for direct distributions to benefit Class members. In this Section, the World Council outlines its views regarding distributions to survivor communities: organizations which can provide indirect assistance which would equally benefit Class members. In addressing this aspect of its proposal, the World Council focuses on Williamsburg, since that is a community with which the World Council is intimately familiar. However, similar arguments can be made for other communities where Holocaust survivors and Class members are concentrated.

To some degree, the survivors in Williamsburg have the same social service and economic needs of their cohort throughout America. But this group also has some very specific mental health needs, mostly related to social anguish and the loss of the rich community life they had before the Nazi occupation.

Much attention has been paid to the distribution of funds to individuals or to programs that provide social services and specific programs to needy survivors, but there is little provision to meet their social and communal needs. In particular, millions of lives were shattered and ruined by the Nazis and for those who survived, some restitution in terms of finances has been forthcoming. But what has been lost forever is the way of life, the community that these survivors built before their villages, streets and neighborhoods were destroyed. In these communities there were "institutions" that included synagogues where members met and prayed.

Each synagogue was a communal effort where all involved participated and donated to the community. Each synagogue had several *sefer torah* and other treasures that were bought collectively and used as a community. Both those who survived the persecution and those who perished, were part of a community with a past that was lost forever.

Support of communities will have a powerful impact on the survivors and on the heirs. It will let this oldest group of survivors finish their lives in peace, knowing that their future generations not only understand, but will benefit from their pain and suffering and loss.

As an example, funds could be dedicated to building a community center to be used for delivery of social services and socialization and to build a community for the generation of survivors that are left – and for generations and generations to come. The power of the successor link – and their drive and desire to rebuild their lives will be realized for themselves and their survivors providing much needed relief from the deep mental anguish that plagues many survivors as they grow older.

A community institution is a recognized important component of a healthy and productive society. Prior to Nazi occupation, there was rich community life. Some survivors were able to escape the tragic events that reshaped their past and were able to prosper financially. But many survivors were never the same and remain unable to overcome the events that changed their lives forever. Yet this group has significantly contributed to the rebuilding of the Jewish people through the children they have had to replenish the Jewish population. This group is in “double jeopardy” with regard to their futures and their children’s futures. They struggle now with social service and economic needs and they torment themselves with what they are unable to leave their children.

The funding of a community center would accomplish three important goals:

- a. Provide restitution to communities (just as the current architects of the WTC space realize that survivors need a place to gather and community).
- b. Provide a physical site for community social services, socialization and service center for needy families of survivors.
- c. Relieve mental anguish to survivors by building something that survivors can leave to their children in their own community.

It would serve as a central resource and community center to galvanize and meet the needs of the survivors and their families. This Community Center will provide one-stop shopping for survivors, and all of the social service and case management needs. Applications and advocacy for benefits and services including cash assistance, as well as support, counseling, socialization and nutrition assistance will all be available. Professionally trained staff will coordinate all services and benefits and serve as a lifeline for this community of survivors.

Services to be provided could include:

- Socialization – a place for frail survivors to recapture their sense of community and through an oral social history project re-creation of the communities that were left behind.
- Case Management and Social Service Assistance – for those that need to access benefits, assistance with transportation services and most importantly funding for tuition vouchers for their children, so they can continue on path of righteousness. Tuition vouchers are a critical benefit for poor survivors who do not have resources to support their children and

grandchildren in religious study. It is a miracle that these survivors are alive and have created heirs to rebuild the Jewish community. Religious study, something they were denied should be given to their children as appropriate restitution.

IV. Distribution Mechanism

In the initial distribution plan, the Court was able to select a single program, run by a single organization, to effectuate the *cy pres* distribution. This was a one-time allocation of a set amount over a set period of time. The proposal by the World Council to expand this program geographically and substantively would require an assessment of world-wide needs of the Class and the ability of existing organizations to implement distributions that would meet the Court's requirements. While this can be accomplished through various means, the World Council suggests two alternatives which have been used by courts in analogous situations. As opposed to the one-time assessment involved in the initial distribution plan, this would be an ongoing process since the total amount of funds ultimately made available for these purposes could change over time.

First, the World Council will create a subcommittee of their Board of Directors to oversee fund distribution and make sure that benefits go to all eligible survivors. We recommend \$12 to \$15 million for the start-up of building costs and to start providing the services that will eventually all be housed in the community center. In addition, additional funding of \$7 million is needed for the looted assets of religious artifacts for successor congregations that now reside in the New York area.

Second, the Court could appoint a committee to administer this aspect of the settlement. Such a committee was used in the Agent Orange litigation to administer the *cy pres* aspect of the settlement and, with some modification from the original proposal, was approved by the Second Circuit. In re Agent Orange Product Liability Litig., 611 F. Supp. 1396 (E.D.N.Y. 1985), aff'd in part, 818 F.2d 179 (2d Cir. 1987), on remand, 689 F. Supp. 1250 (E.D.N.Y. 1988).

Whether in the form of a Special Master or an advisory committee, the administrator would establish a protocol where interested and qualified entities would apply for an allocation of funds. After appropriate review and assessment, the administrator would recommend to the Court programs to be funded. This process is consistent with the requirement in Agent Orange that distributions be controlled by the Court and is analogous to the current format regarding payment of Deposited Asset claims.

In the view of the World Council, this format is superior to an *ad hoc* allocation by the Court for specific projects or purposes based on submissions made in response to the Order of November 17, 2003. The funds potentially available and the huge benefits such funds could provide to needy Holocaust survivors demand a careful review of proposals by persons with knowledge of the type of proposals being made and the sponsors of such programs.

V. Conclusion

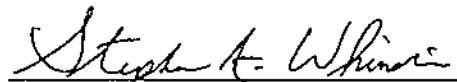
The World Council appreciates the opportunity to express its views on this important matter. The proposal it has made is premised on the special knowledge of the World Council stemming from the many Holocaust survivors who are members of the World Council's constituent congregations and communities. In making this proposal, the World Council also

incorporates the discussion contained in its original distribution proposal dated November 3, 2000, which is on file with this Court.

Dated: January 29, 2004

Respectfully submitted,

BERGER & MONTAGUE, P.C.

 ^{1/29/04}

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 29, 2004, the foregoing Distribution Proposal of the World Council of Orthodox Jewish Communities, Inc. was served on the following persons via U.S. First Class Mail, postage prepaid:

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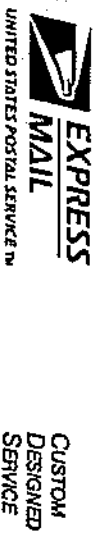
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 SAN FRANCISCO CA 94128-8039

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 Pick-up Charge \$ *0.25*
 Basic Rate \$ *8.75*
 Delivery Charge (Domestic Only) \$ *0*
 Return Receipt Service
 Show to whom and date delivered
 Show to whom, date and address of delivery

Total Postage + Fees \$ *9.00*

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