

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

In re HOLOCAUST VICTIM ASSETS
LITIGATION,

This Document Relates to All Cases

96 Civ. 4849 (ERK) (MDG)
(Consolidated with 99 Civ. 5161
and 97 Civ. 461)

MEMORANDUM & ORDER

**ORDER CONCERNING USE OF ICEP CLAIMS
AS CLAIM FORMS IN THE CLAIMS RESOLUTION
PROCESS FOR DEPOSITED ASSETS**

Special Master Helen B. Junz moves this Court to accept as claim forms those claims filed subsequent to the publication of account owner names in July and October, 1997, prior to the completion of the audit of Swiss banks conducted under the auspices of the Independent Committee of Eminent Persons ("ICEP").

This Court notes that the Claims Resolution Tribunal for Dormant Accounts in Switzerland was established in 1997 to arbitrate claims to 5,570 dormant accounts in Swiss banks whose owners names were published in July and October, 1997. That arbitration process is now referred to as "CRT I." The accounts adjudicated by CRT I dated from 1933 to 1945 and had remained open and dormant. Those accounts were owned by both Victims of Nazi persecution and others who were not such Victims. Ultimately, CRT I adjudicated over 9,000 claims to accounts belonging to Account Owners whose names were published in 1997. The CRT began a new phase of its existence when it was mandated to process Deposited Assets claims as part of the Global Settlement and is now known as "CRT-II."

The jurisdiction of CRT I extended only to those accounts included in the lists published in July and October, 1997. Claims to unpublished accounts were not treated.

Although many claimants who filed claims to unpublished accounts subsequently filed claims with the CRT II in connection with the publication of an additional list of account owner names on February 1, 2001, the CRT II has identified approximately 4,610 claims for which no corresponding CRT II Claim Form was filed pursuant to the February 1, 2001 publication. These 4,610 claims were submitted to CRT I, ATAG Ernst & Young, and ICEP.

A review and analysis of these claims indicates that many of the claims were submitted by Class Members who provided considerable detail about the name of a Holocaust victim depositor in a Swiss bank and the circumstances in which this deposit was made. A comparison of a sample of these previous claims with the Claim Forms that have been filed with the CRT II indicates that many Class Members who submitted previous claims to CRT I, ATAG Ernst & Young, and ICEP containing sufficient detail to constitute a claim for Deposited Assets did not submit a Claim Form to the CRT II.

This situation appears to be substantially explained by the uniform impression, derived from contacts with Class Members by the CRT II and others charged with responsibility for administering the Settlement of the Holocaust Victim Assets Litigation, that many claimants believed erroneously that the previous claim was sufficient for claiming under the Settlement Agreement and that no other claim form needed to be submitted to qualify for a Deposited Asset award under the Claims Resolution Process. In an Order dated July 30, 2001, this Court addressed this issue with respect to Initial Questionnaires ("IQs") which were circulated to members of the Deposited Assets Class in 1999 and ordered that IQs be treated as timely submitted Deposited Assets Class claim forms. To further correct this situation and to assure that no Class Member with Deposited Assets claims is precluded by technical procedural requirements from having fairly and timely presented claims fairly adjudicated, Special Master

Helen B. Junz proposes that all claims previously submitted to but not treated by CRT I, ICEP, or ATAG Ernst & Young be treated as Deposited Assets claim forms and adjudicated under the Rules Governing the Claims Resolution Process, as amended, (the "Rules") including the Rule on admissibility of claims.

In consideration of the foregoing, I hereby

ORDER and ADJUDGE as follows:

1. Claims submitted to but not treated by CRT I, ICEP, or ATAG Ernst & Young shall be treated as timely submitted Deposited Assets Class claim forms for purposes of the Claims Resolution Process.

2. These claims shall be processed as Deposited Assets claim forms under the Rules, including the Rule on admissibility of claims. Each claim derived from such claims and so processed to a decision by the CRT II in accordance with the procedures provided for in the Rules and this Order shall be submitted to the Court through the Special Master for final approval.

SO ORDERED:



Edward R. Korman
United States District Judge

Dated: Brooklyn, New York
December 30, 2004