

# DOCUMENTS - The Holocaust Assets

August 1998 Settlement

## **Transcript of Settlement Before the Honorable Edward R. Korman, United States District Judge**

United States District Court, Eastern District of  
New York

In Re: **Holocaust Victims Assets**

*CV-96-4849, CV-96-6161, CV-97-0461*

United States Courthouse, Brooklyn, New York  
August 12, 1998 -- 5:30 pm

### **Appearances:**

For the Plaintiffs: Edward Fagan, ESQ and Robert Swift, ESQ (For: Weiss Haus); Michael Hausfeld, ESQ, Melvyn Weiss, ESQ and Martin Mendelson, ESQ (For: Friedman); Richard Appleby, ESQ, Mel Urbach, ESQ and Stanley Wolf, ESQ (For: World Counsel).

For the Defendants: Roger Witten, ESQ, Anthony Pachioni, ESQ, and Peter Calimari, ESQ.

Other: Prof. Burt Nueborn, Israel Singer.

Court Transcriber: Frederick R. Guerino, C.S.R.

Proceedings recorded by electronic sound recording, transcript produced by CAT.

**The Court Clerk:** In re: Holocaust Victims Assets. Counsel, your appearances for the record.

**Mr. Hausfeld:** Michael Hausfeld for plaintiffs.

**Mr. Witten:** Roger Witten for the defendants.

**The Court :** And others. Go ahead.

**The Witness:** We have reached an agreement in principal and we want to recall the main elements of it now for the record. I will set forth those elements and ask that after each, each one confirms that I set it forth accurately and completely.

Part one: The defendant banks will pay \$1 250 000 000 in four payments over the course of three years.

The first payment will be a payment of \$250 000 000 made within 90 days preliminary court approval of the settlement.

The second payment will be \$333 000 000 and it will be made on the first anniversary of the first payment.

The third payment will be \$333 000 000 and it will be made on the second anniversary of the second payment.

And final payment will be the balance, and it will be made on the third anniversary of the first payment. That's point one, Mike.

**Mr. Hausfeld:** Agreed.

**Mr. Witten:** The banks will receive a credit against the payments I just listed for payments they make directly on dormant account claims to dormant account claimants through, for example, the local presses, that's the second point.

**Mr. Hausfeld:** Agreed.

**Mr. Witten:** The plaintiffs on behalf of the worldwide classes delineated in the complaints will provide complete and total releases, the broad as possible releases, for all claims of any kind arising out of a Nazi era World War II or its aftermath, including, but not limited to, claims actually made in this case and in the California case, and those releases will run in favor of the defendant banks, the government of Switzerland, the Swiss National Bank, all other Swiss banks, and all other members of Swiss industry, except for the three Swiss insurers who are defendants in the case before Judge Mukasey.

**Mr. Hausfeld:** Agreed, with the inclusion of the case filed against the Swiss National Bank and pending in Washington D.C.

**Mr. Witten:** It will be dismissed. The cases pending here in the Eastern District will be dismissed, and the case pending in California will be dismissed. I just said, Mike, while you were distracted, that the cases pending here against the banks will be dismissed and the case pending in California against the commercial banks will be dismissed, and the case pending in the District against the Swiss National Bank will be dismissed as part of this.

**Mr. Hausfeld:** All cases that we have, it is our understanding that there's another case that we'll file a notice of settlement to see if it can be transferred here as well and subject to this agreement in principal.

**Mr. Witten:** Okay, good. And, in fact, there's other purported class actions filed here in the Eastern District in the last day or so, we'll deal with that. The release specifically will include any and all liability that could arise from the investigative efforts and findings of the ISEP/Volcker

Committee.

**Mr. Hausfeld:** Agreed.

**Mr. Witten:** The banks will not be responsible for payment of any legal fees, costs or any costs associated with notice or other aspects of the settlement process.

**Mr. Hausfeld:** All costs and fees will come out of the one and a quarter billion dollars.

**Mr. Hausfeld:** Agreed.

**Mr. Witten:** The releases given to Swiss banks - swiss commercial banks, other than the defendant banks, will be held in escrow pending some form of certification from the ISEP and Mr. Volcker, that those other banks have continued to cooperate with those aspects of the Volcker investigation and will continue.

**Mr. Hausfeld:** Agreed.

**Mr. Witten:** The parties will work out mutually agreeable protections with respect to potential opt outs.

**Mr. Hausfeld:** Agreed. You need to include the fact that ISEP will continue its original mission only.

**Mr. Witten:** Okay. It's everyone's expectation and wish that the ISEP will continue its investigation, as Michael has put it, into its original mandate, which is search for identifiable accounts, but does not include any effort to make other kinds of estimates.

**Mr. Hausfeld:** Agreed. One point of clarification in connection with the Volcker audit and identification of dormant accounts. With the deductions mentioned previously for findings of the Volcker process in connection with dormant accounts, it is limited to that process as it is presently constituted.

**Mr. Witten:** I used it as a for example. As you know, the New York Claims - Holocaust Claims Processing office is also forwarding a claim to the banks, which the banks are investigating and, where appropriate, make payments on it. We need to include payments made by the banks directly to qualified claimants.

**Mr. Hausfeld:** If they are outside the Volcker process, we just might have to have some kind procedure to identify and verify them.

**Mr. Witten:** Okay. We think that if all claimants were to centralize their claims through the Volcker process, that would be in everyone's interest.

**Mr. Hausfeld:** I think that's what we just agreed to.

**Mr. Witten:** And if maybe the New York Claims Holocaust Processing Office would be brought into that, that would be helpful.

**The Court:** New York State.

**Senator D'Amato:** We'll work on that.

*(Pause).*

**Mr. Witten:** And, finally, it is a condition of settlement that all economic boycotts and other forms of sanctions against the banks or threats thereof will be lifted within fourteen days from today.

**Mr. Hausfeld:** As I understand it, we'll have a walkaway within that time period, so that if there are infractions of a minor order, that at least will be in your discretion to waive.

**Mr. Witten:** That's accurate.

**Mr. Hausfeld:** Agreed.

**The Court:** That's it.

(The settlement is concluded).

*(Transcript distributed by the Swiss Press Agency ATS)*