

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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 IN RE :  
 HOLOCAUST VICTIM ASSETS :  
 LITIGATION :  
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 This Document Relates to: All Cases :  
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Case No. CV 96-4849 (ERK)(MDG)  
 (Consolidated with CV 96-5161  
 and CV 97-461)  
  
**MEMORANDUM & ORDER**

KORMAN, C.J.

On November 22, 2000, I adopted in its entirety the Proposed Plan of Allocation and Distribution of Settlement Proceeds filed by Special Master Judah Gribetz (the "Distribution Plan").

As pointed out in the Distribution Plan, and as I noted at the November 20, 2000 hearing on the plan, the Court is required to and in fact will maintain ongoing supervision over the \$1.25 billion Settlement Fund and its distribution. In re Agent Orange, 818 F.2d 179 (2d Cir. 1987); Distribution Plan at Annex B. Most of the recommendations set forth in the Distribution Plan can be implemented directly by the respective administrative agencies suggested by the Special Master: the Claims Resolution Tribunal for the Deposited Assets Class; the Conference on Jewish Material Claims Against Germany, Inc. ("Claims Conference"), the American Jewish Joint Distribution Committee ("JDC") and the International Organization for Migration ("IOM") for the Looted Assets Class; the IOM for Slave Labor Class II; and the Claims Conference and IOM for Slave Labor Class I and the Refugee Class. I address below certain issues related to each claims process.

### 1. Deposited Assets Class

The Zurich-based Claims Resolution Tribunal ("CRT") will administer the Deposited Assets Class claims process on behalf of the Court. Resolution of the tens of thousands of bank account claims expected to be filed against Swiss bank accounts will be complicated, requiring intervention and oversight to ensure that such claims "are resolved speedily, equitably and accurately." Distribution Plan at 14. Most of the critical bank records are located in Switzerland, where the original documents must remain under Swiss law. Disputes concerning access to these records are likely to arise, particularly during the initial stage of the Deposited Assets Class claims process.

For all of these reasons, I have decided to appoint CRT Special Masters to closely supervise the day-to-day supervision of the CRT and to regularly monitor its activities. Paul A. Volcker, who chaired the committee which audited the Swiss banks and produced the "Volcker Report" upon which most of the Deposited Assets Class allocation and distribution determinations are premised, and his counsel Michael Bradfield, are exceptionally well qualified to serve as this Court's Special Masters on behalf of the Deposited Assets Class, and I appoint them jointly to this important role. The terms of their appointment as CRT Special Masters are set forth in greater detail in the Order accompanying this opinion, the Referral to Special Masters for Claims Resolution Process for Deposited Assets, dated December 8, 2000.

With respect to the CRT's rules, the Distribution Plan describes and annexes a set of draft guidelines to govern the Deposited Assets Class claims process. Among the most critical of these guidelines is the recommendation of a six-month deadline for filing claims with the CRT following publication of account holders' names, Distribution Plan at 107, a recommendation with

which I concur. The guidelines are not in final form, however, because there are certain "important and still-open issues" to be resolved in connection with the determination of bank account claims. Distribution Plan at 110. Accordingly, by January 23, 2001, the CRT Special Masters will submit a draft of final CRT rules for my review and final approval, which, among other things, will address the important and still-open issues outlined by the Special Master. See Distribution Plan at 109. Publication of the approximately 26,000 accounts identified by the Volcker Committee as "probably" those of victims of Nazi persecution should occur no later than January 31, 2001.

2. Looted Assets, Slave Labor I and II and Refugee Classes

To ensure that the Settlement Fund is distributed to the remaining four classes as fairly, promptly and efficiently as possible, administrative responsibility will lie with experienced non-governmental organizations of international reputation: the IOM, the JDC and the Claims Conference. However, as true for the Deposited Assets Class, these agencies will require judicial supervision and guidance, particularly in the initial stages of the distribution process. Therefore, I hereby extend Judah Gribetz's appointment as Special Master so that he may continue to assist the Court in its monitoring and supervision of the agencies' activities on behalf of the Looted Assets, the two Slave Labor and Refugee Classes.

In connection with the specific claims processes for each of these classes, I amplify the Distribution Plan as follows.

a. Looted Assets Class

The Distribution Plan recommends the transfer of \$100 million to the neediest elderly Nazi victims, primarily by way of food packages, medical assistance and emergency cash grants.

The distributions are to be implemented by the JDC, Claims Conference and IOM using existing or forthcoming humanitarian programs designed to serve needy survivors.

By no later than February 28, 2001, the JDC and Claims Conference, on behalf of needy Jewish Nazi victims, and the IOM, on behalf of needy Roma, Jehovah's Witness, disabled and homosexual Nazi victims, will provide me with their respective proposals for the first year of operations for the programs for which funding is requested. In accordance with the guidelines set forth in the Distribution Plan, "[e]ach proposal should contain an annual budget, describe in detail the services to be funded, including appropriate data concerning the number, age, and economic needs of the Nazi victims expected to benefit directly from such programs, and provide information concerning the involvement of local communities (and particularly local victims) in all such programs." Distribution Plan at 136-37. For the JDC and Claims Conference, their proposal(s) are to specify humanitarian assistance programs on behalf of Nazi victims in at least the following geographic regions: the former Soviet Union, Israel, the United States, Canada, Hungary, Australia and Argentina. The IOM proposal should specify humanitarian assistance programs primarily on behalf of Nazi victims living in Central and Eastern Europe, where many of the victims are concentrated (particularly within the Roma community) and where the need is greatest.

b. Slave Labor Class I

Surviving former slave laborers will be compensated in accordance with the mechanisms specified in the Distribution Plan. The Claims Conference and the IOM will process all Slave Labor Class I claims, primarily but not exclusively relying upon the claims process established under the German Foundation "Remembrance, Responsibility and Future" (the "German Fund"). As described in the Distribution Plan, however, the method of compensation will vary

depending upon certain factors, including the residence of the claimants. I understand that there has been some confusion in certain European nations concerning the German Fund, the Austrian slave labor agreement, and this Swiss settlement. Therefore, I summarize the Slave Labor Class I claims process as follows.

Members of Slave Labor Class I who are required to apply to the German Fund through the Claims Conference or through the IOM, and who are approved under the German Fund, automatically will receive an additional payment from this Swiss banks settlement. Most members of Slave Labor Class I will be compensated in this way, saving substantial administrative expenses and streamlining the application process, an important consideration for the mostly elderly persons in this class. In most nations, Jewish former slave laborers are to apply to the German Fund through the Claims Conference. Roma, Jehovah's Witness, disabled and homosexual former slave laborers are to apply to the German Fund through the IOM.

In several Central and Eastern European nations, members of Slave Labor Class I are required to apply to the German Fund through one of five "mutual reconciliation foundations." These nations are as follows: Belarus, the Czech Republic, Estonia, Latvia, Lithuania, Moldova, Poland, the Russian Federation, the Ukraine and other republics of the former Soviet Union. Former slave laborers living in these nations who apply to their respective "mutual reconciliation foundations" will not automatically receive an additional payment from this Swiss settlement fund, but they will thereafter receive a payment. For administrative efficiency, the Swiss slave labor payments will be distributed only by the Claims Conference or the IOM. Therefore, any Jewish, Roma, Jehovah's Witness, disabled or homosexual former slave laborer who receives a German Fund payment through a "mutual reconciliation foundation" and who provides confirmation of this

payment to the Claims Conference or the IOM is eligible to receive an additional payment from this \$1.25 billion Settlement Fund. It is my understanding that the respective mutual reconciliation foundations are now establishing their claims processes and payment mechanisms. Once these mechanisms are determined, the Claims Conference and the IOM will be able to advise the Court as to the best method for locating and compensating Slave Labor Class I members who reside in the Central and Eastern European nations specified above.

Former slave laborers who are ineligible under the German Fund, but eligible under the Austrian slave labor settlement, are eligible for compensation under this Swiss settlement. Such individuals will be able to make direct claims under this \$1.25 billion Settlement Fund either through the Claims Conference (for Jewish former slave laborers) or the IOM (for Roma, Jehovah's Witness, disabled and homosexual former slave laborers).

The Slave Labor Class I claims process should commence as soon as possible, and, to minimize confusion and administrative burdens, should proceed in tandem with the German Fund. The Distribution Plan notes that the German Fund application deadline is August 11, 2001. Therefore, by no later than February 16, 2001, the Claims Conference and the IOM (jointly or separately, at their discretion) will provide the Court with a proposal for processing Slave Labor Class I applications, including, as necessary, proposed claim forms and instructions, from the following individuals: (1) those who will receive German Fund payments directly through the Claims Conference or the IOM; (2) those who will receive German Fund payments through the Central and Eastern European Mutual Reconciliation Foundations; and (3) those who will receive payments under the terms of the Austrian slave labor settlement. The Slave Labor Class I application deadline should conform to that of the German Fund; *i.e.*, August 11, 2001. As with the German

Fund, payments to eligible applicants may be made prior to the filing deadline, upon approval of the claimant's application.

c. Slave Labor Class II

Under the Distribution Plan, "Slave Labor Class II will consist of those persons, whether or not 'Victims or Targets of Nazi Persecution,' who performed slave labor for the[] entities which have identified themselves to the Special Master and complied with their good faith obligation to provide the names of their former slave laborers in their possession or control." Distribution Plan at 161; Distribution Plan, Annex I. By no later than January 19, 2001, the entities which have identified themselves to the Special Master (as set forth in Annex I to the Distribution Plan) are directed to notify the Special Master as to whether they possess the names of former slave laborers and, if so, to provide such names to the Special Master.

The Special Master will convey this information to the IOM, which will administer the Slave Labor Class II claims process. By no later than February 28, 2001, the IOM will publish on the Internet and, if necessary, elsewhere, the "Slave Labor II List": the list of entities which have identified themselves to the Special Master and have complied with their good faith obligation to provide available names of former slave laborers. By no later than February 16, 2001, the IOM will provide the Court with a proposal for processing the applications of members of Slave Labor Class II, including a proposed claim form and instructions. To avoid confusion posed by numerous conflicting compensation program deadlines, the Slave Labor Class II application deadline will be the same as that of the German Fund; *i.e.*, August 11, 2001. Payments to eligible applicants may be made prior to the filing deadline, upon approval of the claimant's application.

d. Refugee Class

The Distribution Plan provides for publication of the names of the approximately 4,000 persons known to have been denied entry into or expelled from Switzerland. The September 11, 2000 notice to the class provided such persons with the opportunity to exclude their names from publication.<sup>1</sup>

By no later than February 28, 2001, the Claims Conference and the IOM, which will administer the Refugee Class claims process, will publish on the Internet and, if necessary, elsewhere, the list of individuals known to have been denied entry into or expelled from Switzerland, the "Refugee List." As the Distribution Plan makes clear, individuals not appearing on the published Refugee List also may apply for compensation. By no later than February 16, 2001, the Claims Conference and the IOM (jointly or separately, at their discretion) will provide the Court with a proposal for processing the applications of Refugee Class members: those denied entry into or expelled from Switzerland, as well as those admitted as refugees and mistreated. The proposal will contain a proposed claim form and instructions. As with the two Slave Labor classes, the application deadline for the Refugee Class is August 11, 2000. Similarly, payments to eligible applicants may be made prior to the filing deadline, upon approval of the claimant's application.

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<sup>1</sup> September 11, 2000 Class Notice at 6 ("The approximately 4,000 names of those known to have been denied entry into or expelled from Switzerland will be published. You can also file a claim for expulsion or denial of entry even if your name does not appear on the published list. If you believe that you or a family member may be on that list, and you wish that name not to be made publicly known, you must inform the Court in writing, at the address given above, by November 20, 2000") (emphasis in original).



Conclusion

The implementation of the Distribution Plan is to proceed immediately in accordance with the procedures and timetables set forth above. As necessary, I may issue additional orders to implement the Distribution Plan.

**SO ORDERED.**

Dated: Brooklyn, New York  
December 8, 2000



Edward R. Korman  
United States District Judge