

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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: :
HOLOCAUST VICTIMS ASSETS : U.S. Courthouse
ALLOCATION : Brooklyn, New York
: :
: April 29, 2004
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TRANSCRIPT OF CIVIL CAUSE FOR HEARING
BEFORE THE HONORABLE EDWARD R. KORMAN
UNITED STATES CHIEF DISTRICT JUDGE

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1 THE COURT: Good morning.

2 Our first speaker on the list is Diana
3 Taylor, the New York State Banking
4 Superintendent.

5 Good morning.

6 MR. SWIFT: Your Honor, if I may,
7 Robert Swift. I, as being counsel in the case,
8 I had asked your deputy clerk whether I may
9 speak a little earlier in the case. She had
10 said I might not get on until very late in the
11 day. There was a federal judge in Detroit who
12 canceled a hearing for me out there today, so I
13 --

14 THE COURT: I'll try and work you in.
15 You should have called before and I would have
16 worked you in. But I will try and work you in.
17 Go ahead.

18 HOLOCAUST SURVIVOR: Excuse me,
19 your Honor, last week the Honorable Governor of
20 the State of New York George Pataki just picked
21 remembrance of 6 million Jews. We are here not
22 for a traffic violation or something like a
23 parking ticket, therefore I would like you to
24 ask everybody here for a minute of silence.

25 THE COURT: We'll do that. We're here

1 remembering the people who died in the speaking
2 not by silence.

3 Go ahead.

4 MS. TAYLOR: Thank you, Judge.

5 Good morning, Judge. I want to thank
6 you for the opportunity to provide comments on
7 the recommendations that parties received from
8 Special Master Judah Gribetz and Deputy Special
9 Master Sherry Reed for the --

10 THE COURT: Please be quiet.

11 MS. TAYLOR: -- allocation of excess
12 and possible unclaimed residual funds. Over the
13 past months, you have received a plethora of
14 proposals, many of them commendable for their
15 efforts to provide humanitarian assistance
16 programs serving needy Nazi victims in the
17 (unintelligible).

18 Having said that, I feel it appropriate
19 to take a step back to recount the reason I am
20 here and to sketch our involvement in these
21 issues since 1996 when the Court finally began
22 to pay attention to the fate of the assets
23 deposited in Swiss financial institutions.

24 Governor Pataki, at the urging of then
25 Superintendent Neil Levin (phonetic) encouraged the

1 Banking Department to use its influence,
2 expertise and reach to help rationally resolve
3 these emotionally charged and tangled mistakes.

4 We have been actively committed ever
5 since. First with our investigation in to the
6 war time activities of the Swiss Bank's New York
7 agencies and then by establishing the Holocaust
8 Claims Processing Office as part of the Banking
9 Department.

10 Our involvement has extended further
11 still with the establishment of the
12 international commission on Holocaust era and
13 insurance claims, also a legacy of the late Neil
14 Levin. The so-called Swiss dormant account
15 issue was a catalyst for a number of other
16 Holocaust era looted asset questions including
17 lost accounts, insurance claims and missing art
18 work. The Banking Department has been
19 intricately bound to resolve many of these
20 issues in the intervening years through the
21 steady, solid work done by the Holocaust Claim's
22 Processing Office.

23 Since we opened our doors to claimants
24 in 1997, we have received a total of 4,754
25 claims from 45 states and 37 different countries

1 regarding bank accounts, insurance policies or
2 lost or stolen cards. Some have been resolved,
3 others are still under investigation.

4 As important as these other issues are,
5 it was clearly the fate of assets deposited in
6 Swiss financial institutions by individuals who
7 were persecuted by the Nazis and their henchmen
8 in their sweep across Europe that brought us all
9 here in the first place.

10 In 1998, a sizeable settlement with the
11 defendant banks was achieved with the Claims
12 Resolution Tribunal in Switzerland. CRT was
13 established to review and resolve claims for
14 Swiss bank accounts.

15 By early 2001, the names of 21,000
16 account holders were published, out of a total
17 of 365,000 accounts identified by the Volcker
18 audit as possibly or probably having belonged to
19 Holocaust victims. The publication prompted
20 more than 33,000 claims from around the world.

21 I do not intend to speak for the CRT.
22 I am sure you will hear from them today
23 regarding the difficulties they have faced and
24 the challenges that still await. What I will
25 say is that to date, \$139 million has been

1 returned to bank account owners or their heirs
2 in connection with 1145 awards. Contrast with
3 200 million in pay outs, due former slave
4 laborers and surviving refugees who have been
5 paid almost in entirety and more than 200
6 million already distributed and/or allocated to
7 humanitarian assistance programs serving 100,000
8 of the neediest survivors worldwide, I would say
9 restitution to the account claim is lacking and
10 lagging.

11 Let me be clear, I am not disputing the
12 worthiness or necessity of any of these other
13 payments. They are essential humanitarian
14 reparations. But another way, virtually all of
15 these allocation and distribution programs are
16 now nearly finished, except for the deposited
17 assets class that deals specifically with funds
18 deposited by former bank customers. That is,
19 the very group of individuals whose claims
20 promoted our involvement some eight years ago.

21 Based on our experience, the Banking
22 Department is aware of the difficulties
23 encountered by those trying to research such
24 claims and that's what information has survived
25 in the banks through often fragmentary

1 information claimants can provide.

2 We alone have received nearly 1,700
3 claims from 33 different countries seeking to
4 recover assets still believed to be held by
5 banks in Switzerland. These claims reference
6 more than 2,312 individuals who lived in pre-war
7 Europe and are believed to have had a customer
8 relationship with a Swiss financial institution.

9 Therefore, the Banking Department's
10 Holocaust claims processing office has been
11 working closely with the CRT office in an effort
12 to expedite those claims to Swiss bank accounts.
13 While only five percent of the CRT claims
14 originated with our department, more than ten
15 percent of the CRT's payments to date have been
16 made to claimants who have worked with us.

17 I say this to illustrate that I know
18 whereof I speak. This is hard, exhausting and
19 exhaustive work, as you know. We are clearly
20 faced with a Herculean task. The overwhelming
21 majority of claims remain unresolved. This is
22 the main reason I would respectfully submit to
23 you, Judge Korman, that before this court
24 determines how to allocate any so-called
25 residual funds, the CRT be given an opportunity

1 to complete its work on the claims it has
2 received.

3 Until this has been achieved, there is
4 no accurate means of determining just what may
5 be left at so called residual funds. Moreover,
6 I must confess that from where I sit, as
7 difficult as it may be for those representing so
8 many commendable projects here today, I rather
9 hope that there be no funds left. That is, I
10 sincerely hope that we can identify as many
11 rightful owners of bank accounts as possible and
12 extend awards to their heirs as quickly as
13 possible. That is what I have always understood
14 our priority to be.

15 It was with this in mind that the
16 department had worked hard to have results of
17 our investigation into the Swiss Bank's New York
18 Agency incorporated into the ICEP (phonetic)
19 investigation. Indeed, it is my understanding
20 that a number of accounts that were uncovered as
21 a result of our investigation were slated for
22 publication by ICEP as likely to have belonged
23 to Holocaust victims.

24 Similarly, the New York State Banking
25 Department has repeatedly stressed the

1 importance of unfettered access to the total
2 accounts database containing these \$4.1 million
3 Holocaust era bank accounts located during the
4 Volcker investigation. A database, we believe
5 it is important and imperative for those
6 receiving adjudicated claims to have access to.
7

8 The Holocaust Claims Processing Office
9 works with Holocaust survivors and the heirs of
10 Holocaust victims and survivors everyday. From
11 this first hand experience, I know only too well
12 how difficult this path has been and how
13 unbearably long the wait for justice.

14 While some claimants have been able to
15 provide documentation for the accounts they
16 seek, others sadly are dependent on the records
17 still available in the banks to supplement their
18 memories. This is why publication of as many
19 account holder names as possible has always been
20 so important to us. And I note from the
21 comments you have received that we are right on
22 our assessment. Mrs. Dee (phonetic) puts it
23 plainly when she states in her letter to you and
24 I quote, "I know that my mother would not have
25 known of her parents' accounts, if it were not

1 for the publication of the account owner's list
2 in February 2001. I also know that she
3 abstained from making claims in regards to other
4 relatives because they did not appear in the
5 said list."

6 I know from the Holocaust Claims
7 Processing Office's experience, that many others
8 shared Mrs. Dee's mother's reluctance to file
9 additional claims not knowing whether to trust
10 their own memory, not having anyone left with
11 whom to compare their recollection or to ask in
12 details. For some, it must be like attempting
13 to scale the highest mountain alone without a
14 map. Where does one begin? And what will the
15 peak offer?

16 That is the undeniable reality of the
17 Holocaust, when family and friends and neighbors
18 are murdered, when entire communities perish,
19 there's often no one that one can turn to for
20 documentation or assistance for establishing the
21 facts. Many claimants lost everything and
22 everyone. In those cases, publication can be
23 the only way to connect a claimant with the
24 relatives they had.

25 It's my understanding that the parties

1 are currently engaged in an ongoing discussion
2 about what additional accounts can be made
3 public and what can be made available to the CRT
4 for the claimant's related work.

5 Let me repeat here once again what my
6 predecessor, Superintendent McCall stated in
7 this very court in January 2001, "Unfettered
8 access to the total account database is critical
9 if matches are to be made, accounts identified
10 and awards made to claimants."

11 It is imperative that those who will be
12 rewarded in adjudicating claims have full access
13 to the \$4.1 million names in the total accounts
14 database. If the CRT is to have credibility
15 with the claimants, if the process is to have
16 any integrity, the facts necessary to make an
17 informed decisions must be readily available.

18 The data compiled in the Volcker audit
19 is an essential part of any effective case by
20 case adjudication of individual claims.
21 Otherwise, we risk having the effectiveness,
22 fairness and credibility of the entire claims
23 process called into question.

24 The special master's report states that
25 recent tests demonstrate there are awardable

1 accounts in the total accounts database. We
2 always suspected there would be. We now
3 apparently have the technology to find them.

4 Moreover, unlike three years ago, we
5 now have claim forms from claimants that often
6 provide the additional information needed to
7 help determine whether account closing dates,
8 where they are available, fall into a period of
9 time when the account holder would have had full
10 control of the account. Given this, it would be
11 indefensible to place any obstacles in order to
12 make the best use of this information.

13 We also have the benefit of the work
14 that HCPO has done with claimants. This
15 includes archival and genealogical research to
16 confirm family relationships, as well as details
17 regarding the fate of many account holders. It
18 also encompasses significant work the HCPO staff
19 has done with archives, financial institutions,
20 trade associations and our colleagues in
21 federal, state and local governments in Europe
22 to locate historical records, identifying pre-
23 war assets and ownership for claimants.

24 I cannot urge all involved strongly
25 enough to make the most of the CRT's new

1 technology, as well as the information provided
2 by claimants in our Holocaust Claims Processing
3 Office to help settle such a claim:

4 In this context, it is my understanding
5 that some bank secrecy concerns remain. I am
6 confident that the parties would find a way to
7 insure the list of names is searched while still
8 remaining responsive to the needs of our Swiss
9 colleagues and their framework. It would be a
10 tragedy if limitations on access to account
11 ownership documents, the very issue that
12 prevented resolution of claims Holocaust
13 survivors for so many years were once again made
14 their claims process impossible.

15 We have been able to overcome similar
16 obstacles in the past. We should be able to do
17 so again. The special masters reports states
18 that some work has been relocated to New York
19 from Zurich without objection from the Swiss
20 Federal Banking Commission, that
21 (unintelligible) as well.

22 I am confident that whatever secrecy
23 issues remain can be resolved promptly and if
24 everyone is going to take the claimant's best
25 interest in mind. I am fully aware that my

1 suggestions here come close to asking for
2 patience from those for whom the wait has
3 already been too long. Moreover, by finding
4 more matches and potentially more awards we are
5 also generating far more work from the CRT and
6 with that comes the potential for further delay.

7 I am only too familiar with how
8 cumbersome this process has been to date. The
9 CRT faced many challenges over the past three
10 years. Let us not add further obstacles to
11 their path by denying them access to information
12 that would help to resolve claims, thereby
13 delaying the process further.

14 While I recognize how difficult the
15 wait for justice has been, let's remember what
16 brought us here in the first place. We need to
17 work hard to expedite the CRT's efforts. I
18 cannot stress that enough. But it is precisely
19 because there is so much work that remains for
20 the CRT in this juncture that we must be
21 cautious so as to not risk expending any of the
22 funds we may need or the positive assets. Based
23 on the CRT's recent analysis, we may well need
24 them to pay for future awards. It is my sincere
25 hope that we will meet them soon.

1 In closing, I commend you for your
2 commitment to this issue. Were it not for your
3 work, along with the special masters and the CRT
4 and indeed the dedication of the Department's
5 Holocaust Claims staff, we would not be where we
6 are today with the potential to help so many
7 people.

8 We all share the profound hope that
9 together we'll be able to push forward and
10 expedite the remaining bank claims.

11 In closing, time is not our friend.
12 The reality is that too many of those that filed
13 with the HCPO in the year since 1997 are no
14 longer with us. Claimants have been waiting far
15 too long for resolution of their claims, as well
16 as for closure of this difficult issue, as even
17 if you can imagine that is a possibility. There
18 is no obstacle here that cannot be revolved.
19 There is no discernible reason why claimants
20 seeking return of assets deposited in Swiss
21 financial institutions should have to wait any
22 longer.

23 Thank you very much.

24 THE COURT: Thank you.

25 MR. SWIFT: Excuse me, your Honor,

1 Robert Swift again.

2 If your Honor has no questions of
3 counsel, I have a couple of questions?

4 THE COURT: No, this is a hearing. I'm
5 not conducting examination. Sit down.

6 Thomas Molnar?

7 MR. MOLNAR: I'm honored to be invited
8 to testify at your hearing,
9 Honorable Judge Korman, especially since I feel
10 that the issues addressed here are of great
11 import to current and future Jewish generations.

12 Many Jews in Germany and Eastern Europe
13 who were afraid that their savings and the
14 results of their hard work would be confiscated
15 by the Germans, found their way to deposit their
16 hard earned funds in the Swiss banks, fully
17 believing in the neutrality of Switzerland and
18 the integrity and the sincerity and secrecy of
19 these banks. We now know better.

20 Unfortunately, at the end of World War
21 II, many of these Jews perished and those who
22 survived including my father in Budapest,
23 Hungary, were left without being able to recover
24 these funds, the funds they thought they could
25 fall back on when they survived the Holocaust.

1 We all know that with your efforts,
2 Judge, the settlement for the class action suit
3 was addressed in this court and with the efforts
4 of Master Judah Gribetz, a settlement allocation
5 was devised which allocated \$800 million to bank
6 account holders or their heirs.

7 To date, five years since the 1998
8 settlement, only less than \$150 million has been
9 disbursed. And we should ask ourselves why it
10 took so long to disburse only a fraction? And
11 the other question we need to ask, if this \$800
12 million restitution fund created for the
13 depositors and their heirs was for them, what
14 authority does this court have to give away the
15 remaining \$600 million or so to other
16 beneficiary groups before satisfying itself that
17 all claimants of the original group have
18 received compensation? Why?

19 My father, Mr. Carmen Molnar, a
20 Hungarian citizen, a Jew, in 1938 entrusted in
21 great secrecy funds to a friend who was able to
22 travel to Zurich, Subrosa and open a secret
23 account for him. He wanted to assure that
24 before he was called up in the Jewish officer's
25 labor camp, if he failed to return, his family

1 would have something to fall back on.

2 Fortunately, he survived, although a
3 broken man psychologically and physically, and
4 while a very successful businessman before the
5 war, he just about made it afterwards, only to
6 suffer further antisemitism and communist
7 persecution in Hungary beyond tolerance.

8 I am his only heir and I filed a claim
9 in 1999 in December with the HCPO and the CRT
10 took over the claim in March 2001. I've had no
11 communication from the CRT until I started
12 writing several letters to this court to Masters
13 Gribetz and Master Baxfield pointing out that I
14 had a valid and documented claim. This is in
15 spite of the fact that my father's name as a
16 claimant was known to them. With great effort
17 and I need to recognize Ms. Taylor here, because
18 the department of -- the New York State Banking
19 Department Holocaust Claims Processing Office
20 was extremely helpful in pursuing my case and
21 they were able to trace back which bank was --
22 my father's account was opened; the date when it
23 was opened and the amount in Swiss francs that
24 was deposited. All of this documentation is in
25 my possession.

1 Furthermore, it was forwarded to the
2 CRT by the banking claims department and by me
3 to Masters Gribetz and Master Baxfield. The
4 Swiss Bank secrecy argument that Master Gribetz
5 referred to in the -- or quoted by "The New York
6 Times" on February 21, does not apply as a valid
7 argument for rejecting my claim because I have
8 the data.

9 I'm here today because I am very
10 frustrated and disappointed witnessing this
11 whole process firsthand. I have several letters
12 in my hand from Masters Gribetz and Baxfield
13 informing me that unfortunately, my claim cannot
14 be processed because they have no data from the
15 bank. Each time I respond to them indicating
16 that this is incorrect. I have the documents.
17 I have forwarded these documents to them. No
18 response from them acknowledging that these
19 documents, in fact, would indicate that my
20 father has been a depositor.

21 Mr. Graverson (phonetic), who reports
22 frequently for "The New York Times" on the
23 proceedings in this court, pointed out that this
24 Court states that the process is bogged down and
25 many obstacles including lack of cooperation by

1 the banks. But what additional cooperation of
2 the banks does the CRT expect in my claim when,
3 in fact, I have forwarded the documents that I
4 referred to and I have obtained these documents
5 from the bank.

6 Why am I upset? I am upset not only
7 because I have seemed to have a Mexican stand
8 off with the CRT on whether I have valid claim
9 to enforce my claim, but also because I realize
10 that the CRT has so far only awarded less than
11 150 million of the claims and this opens up the
12 path for this court to devise other
13 beneficiaries for the unspent funds rather than
14 forcing the CRT to more diligently pursue the
15 claims.

16 The Swiss restitution was for
17 compensating up to \$800 million, those who lost
18 their funds in the Swiss banks. At the time of
19 the settlement with the commission, there was no
20 discussion of other groups getting these funds.
21 I feel that before awards are made out of the
22 settlement fund to new beneficiaries, this court
23 has the responsibility to find ways to
24 compensate all of those who have claims of
25 having lost money in the Swiss banks.

1 As "The New York Times" reported on
2 this planned hearing, there are many depositors
3 like myself who want to challenge the Court on
4 taking the funds away from the valid claims and
5 awarding them to other beneficiaries. And
6 especially people like me who have all of the
7 documentation to prove the validity, I find the
8 argument advanced by the various legal officials
9 spurious to say that my father's name does not
10 appear on the official Swiss Bank -- what's on
11 the documentation is required, actually, that
12 prove of the account, which I have that the
13 account was opened.

14 I also feel that before funds are
15 awarded to other groups, the Court should make
16 an effort to maybe relax the rigorous terms of
17 qualifications to reach more of those whose
18 families did have actual losses in their
19 deposits, maybe even there's only partial
20 information or not enough data about the amount
21 of loss, the Court should consider making a
22 humanitarian award to depositors before
23 including other groups, not contemplated
24 originally in the settlement.

25 And finally, I want to thank Judge,

1 that you have spent so much time on this matter
2 but I would like to ask you and all of the
3 others involved, let us not wait until even more
4 of the claimants pass away.

5 Thank you.

6 THE COURT: Thank you. Let me just say
7 to you that -- well, first of all as I've
8 already written and I don't intend to award any
9 monies from the \$800 million that's been set
10 said to anyone else until we're certain that
11 we've taken all the steps possible to insure
12 that those who are entitled to be paid from the
13 deposited assets class are paid.

14 I also agree with you and the banking
15 superintendent, ms. Taylor, that there have been
16 in part, unnecessary delays in the awarding of
17 accounts, in part due to the fact that the CRT
18 hasn't functioned as efficiently as I would like
19 it to have functioned. And I'm taking steps and
20 I've taken steps to try and deal with that
21 problem.

22 I'm not familiar with the facts of your
23 case but I could also tell you we have made
24 awards in cases even where there was no bank
25 record of an account where we've had sufficient

1 proof to satisfy us that in fact an account was
2 opened, notwithstanding the massive destruction
3 of bank records by the Swiss since the war.

4 So, you know, it's hard for me to
5 disagree but I don't know the particulars of
6 your case with your overall comments and your
7 criticism, accept responsibility.

8 Greta Beer.

9 Mrs. Beer, it's good to see you again.

10 MS. BEER: It's lovely to see you, your
11 Honor, Special Master Gribetz, too.

12 Dearest Judge, I didn't know I was
13 going to be here today. I just want to say my
14 name is Greta Beer; many know me, born Greta
15 Lichdish (phonetic). My father had a textile
16 mill in eastern Europe, one of the biggest
17 textile mills. And he worked constantly, go to
18 Switzerland, deposit money for me, for my mother
19 who is passed since and my brother. We were
20 always told and we always knew there was money
21 for us in Swiss Banks. I was sent to
22 Switzerland to a boarding school and everything
23 was in contained in Switzerland.

24 What happened was that my father died
25 in 1940 and the concentration, the war,

1 everything else, we fled. The point is that in
2 1964 my mother was in Montrose, Switzerland. My
3 brother brought her there. And the Swiss Bank
4 for a time often let people look into the
5 so-called special private secret account. We
6 went from bank to bank with my mother. I said
7 it at the Court, at the Senate in Washington,
8 when I testified under Senator D'Amato, the
9 Banking Commission, we went from bank to bank in
10 Montrose, Geneva, and all over. And then they
11 clamped up. They clamped shut.

12 In 1995, Peter Gambler (phonetic) was
13 the higher official, manager of overseas -- of
14 the overseas, works with Germany in Europe,
15 contacted me. He heard about my investigation
16 about my search and he contacted me, put me on
17 the first interview, he put me on the first page
18 of "The Wall Street Journal," first and second
19 page. I must say, at the time very few people
20 knew what secret private accounts were. And
21 this made a splash all over. I was invited by
22 Senator D'Amato, as I said, to testify at the
23 Senate and tell my whole life story. And that
24 was painted by Hans Bayer, who was the bank --
25 Julius Behr and was sent here as a deputy from

1 Switzerland, took me to Switzerland. We went
2 all over investigated and so on.

3 Since I had investigated since the
4 1960s, everything was done away, destroyed with
5 Mr. Mele, the young man who himself destroyed
6 Jewish accounts.

7 In -- from that point on, dearest
8 Judge, what happened, you took over lately and
9 qualified me and so many other people brought
10 the billion, \$250 million on the table. \$800
11 million were apportioned just for accounts. And
12 since that time, I hear there are rumors now to
13 do away, fetter away the money. \$800 million is
14 a sacred amount of money, dear Judge Korman.
15 There is a holy file around it. Nobody can
16 touch it. Only you, dear, sir, and
17 Special Master Gribetz, nobody has a right to
18 it. This is sacred money. People -- it has
19 survived the Holocaust. It has survived the
20 bank manipulations and has come here to this
21 country.

22 I've been a citizen since 1954 and I
23 love my country and I trust my country. I trust
24 my, Judge. I trust my Court. Something has to
25 be done. Nobody has the right but you, sir, and

1 Master Gribetz to touch this money. This
2 belongs to -- it's a sacred money. It belongs
3 to souls who from their grave have made the
4 money come here to the United States and it has
5 to be distributed among us. Those who have
6 money in Swiss Banks (unintelligible).

7 I trust you here, Judge, and I trust
8 Master Gribetz. And I know it's going to be
9 done with the highest -- you are the highest --
10 the high order, that is God. And on this -- in
11 this world, it is you and Master Gribetz are the
12 only ones to touch the money.

13 Thank you.

14 THE COURT: Thank you.

15 Leonard Cole. Mr. Cole?

16 MR. COLE: Thank you, your Honor.

17 My name is Leonard Cole and I'm
18 president of the UJA Federation of Bergen
19 County, New Jersey. I'm here on behalf of the
20 United Jewish Communities, the UJC, which is the
21 umbrella organization representing 156 Jewish
22 community federations throughout the United
23 States and Canada.

24 I also serve as chairman of the UJC's
25 Holocaust Survivors Services Committee which has

1 sought the perspectives of spokespersons with a
2 variety of news on this matter.

3

4 At the outset, we want to acknowledge
5 the conscientious manner in which this court has
6 deliberated on the complex issues pertaining to
7 the welfare of Nazi victims. Further, we
8 recognize the many and varied submissions to you
9 about the funds under your discretion should be
10 distributed.

11 While it is impossible to satisfy the
12 full range of these submissions, we are
13 impressed by the beneficent intentions of
14 virtually all of the advocates. Indeed, their
15 sincerity makes your task all the more
16 challenging.

17 The UJC provided a submission to the
18 Court detailing the needs of Nazi victims in the
19 United States. In view of the fact that almost
20 half of the survivors in this country live in
21 the geographic area served by the UJA Federation
22 of New York City, the New York Federation
23 provided the Court with a separate submission.

24 However, the UJC and the New York
25 Federation joined today in making this statement

1 to the Court. We applaud the thoughtfulness of
2 the special masters recommendations for
3 allocation of possible unclaimed residual funds
4 dated April 16 and want to especially underscore
5 the following.

6 First, we are in agreement on the legal
7 and moral obligation initially to take every
8 step possible to provide for the claims of the
9 deposited assets class prior to the creation of
10 the residual fund.

11 Second, even while acknowledging and
12 supporting the great need for commemoration,
13 remembrance and research, we are in agreement
14 that the basic human needs of Nazi victims must
15 be taken care of first.

16 We agree that in the event that there
17 are unclaimed residual funds to distribute, the
18 provision of food, shelter and emergency aid for
19 the desperately needy Nazi victims represents
20 the first priority for humanitarian assistance.

21 The Federation System of North America
22 fully recognizes that conditions of Jewish
23 survivors in the former Soviet Union are among
24 the most difficult in the world. Indeed, the
25 Federation System itself has long been committed

1 to helping these populations through regular and
2 special fundraising campaigns.

3 We recognize, as well, the distressed
4 condition of many survivors in the state of
5 Israel and elsewhere. We also appreciate your
6 recognition of the urgent needs of an extremely
7 vulnerable segment of Nazi victims in the United
8 States, especially in the home health care and
9 medical areas. We welcome your acknowledgement
10 that the safety net system in the US has serious
11 flaws resulting in significant unmet needs.

12 In conclusion, we anticipate that the
13 Court will continue to address the issue of Nazi
14 victims with utmost care and sensitivity. We
15 trust that if and when residual funds are
16 released, the Court will be in a position to
17 offer enhanced support for the needs in the
18 United States.

19 And may I say apart from the written
20 script, a message that you've heard already and
21 I'm sure will hear throughout the day and
22 probably throughout the weeks and months ahead,
23 time is of the essence. Many of the people, the
24 rightful claimants of these funds and whatever
25 residual funds would be available after have

1 limited time left on this earth. The increased
2 and accelerating needs by way of medical and
3 other humanitarian needs as they get older
4 require the most expeditious and quick
5 resolution as possible because this is all of
6 our interests at heart.

7 Thank you.

8 THE COURT: Well, I agree with the need
9 for expedition and one of the reasons we're
10 holding this hearing in advance of knowing for
11 certain how much we're going to have left is
12 because when we do know, I want to be able to
13 proceed as quickly as possible and I don't want
14 to start this hearing and comment process at
15 that point. I would rather do it now even
16 before we're certain of how much money we would
17 have left.

18 MR. COLE: Thank you, sir.

19 THE COURT: All right.

20 Steven Schwager and other speaks from
21 the Joint Distribution Committee.

22 MR. SCHWAGER: Good morning,
23 your Honor.

24 My name is Steve Schwager and I'm the
25 executive vice president of the American Jewish

1 Joint Distribution Committee. Joint, as it's
2 known to hundreds of thousands of beneficiaries
3 around the world is a 90-year old American
4 Jewish institution dedicated to rescue, relief
5 and reconstruction of Jews and Jewish
6 communities worldwide.

7 In our history, we have worked in over
8 85 countries and are currently operating in
9 sixty countries to meet the needs of Jews in
10 distress. The Joint was created in 1914 to
11 assist European Jews displaced by World War I in
12 what was then Turkish Palestine and is today
13 Israel. We have never left the land of Israel
14 in our 90 year history.

15 In terms of welfare, we are now engaged
16 in the third largest relief program in our
17 history. The largest was in the '20s when JDC
18 was feeding over 600,000 Jews in what was the
19 Great Famine of the Ukraine. In addition, JDC
20 operated over 600 orphanages to care for Jewish
21 children whose parents perished in the famine.

22 After World War II, the American
23 government requested the Joint to operate the
24 DP, displaced persons camps, which housed over
25 400,000 Jewish victims of Nazi persecution. JDC

1 operated these camps until the Jewish Nazi
2 victims moved to new homes or made Aliyah to the
3 newly created state of Israel.

4 Today, in the Former Soviet Union, the
5 JDC using funds from restitution sources,
6 including from this court under the Swiss Bank
7 settlement, as well as the Claims Conference, is
8 caring for over 120,000 Jewish victims of Nazi
9 persecution.

10 JDC also cares for a similar number of
11 poor elderly Jews in the FSU using charitable
12 donations as you just heard from the American
13 Federation System.

14 As someone who has observed poverty
15 deprivation around the Jewish world, I can
16 clearly state that these elderly Jews in the FSU
17 and in particular the victims of Nazi
18 persecution are the poorest, neediest Jews on
19 earth.

20 However, JDC strongly supports the
21 notion that all Holocaust survivors in desperate
22 need wherever they reside in the world deserve
23 help.

24 The average Nazi victim client in our
25 case load is a 75 year old woman who lives alone

1 in a four or five story walk-up building. She
2 exists in a one-room apartment about ten feet by
3 ten feet and generally never goes outside.
4 There are almost no personal items left except
5 for some fading photographs, an old black and
6 white television and a book or two. Everything
7 else she owned was sold.

8 Their pensions are so small that even
9 by today's post-Soviet standards, the pensions
10 are almost meaningless. Generally, after they
11 pay their rent and utilities, there is little
12 left and they have to decide whether to buy food
13 or medicine or cannot pay for both.

14 Except for the Hased network, there
15 simply are no other safety nets or government
16 programs available to help them live out their
17 final years in dignity. There are no Jewish old
18 age homes or Jewish hospitals. The funds
19 currently available to us from restitution
20 sources including this court, allow us to spend
21 an average of \$25 per month providing welfare
22 services for each victim.

23 While we recognize that the funds
24 available to the Court are limited and are
25 primarily for unclaimed bank account holders, I

1 would be remiss if I did not indicate that in
2 order to bring these Nazi victims living in the
3 FSU closer to the poverty line, we urgently need
4 an additional \$15 million a year above our
5 existing allocation.

6 The priority for any additional
7 allocation is food programs. For an average of
8 \$39 a year, the Hesed programs could provide
9 each Nazi victim in the FSU who needs a food
10 package with that package once a month instead
11 of only a few times a year and provide each Nazi
12 victim who needs a hot meal with one meal daily
13 instead of just a few times per week and provide
14 each Nazi victim who needs a set of fresh
15 groceries with that aid two and a half times per
16 month.

17 We would also expand the provision of
18 winter relief and have sufficient funds
19 available for all needed emergency grants.
20 Currently, due to funding limitations, only half
21 of the Nazi victim clients are able to receive
22 medical services. JDC believes that in 2004,
23 with additional funding, approximately 30,000
24 additional clients who need some form of medical
25 service from the Hesed centers could be served

1 at an average cost of \$4 per month per client.

2 Currently, approximately 14 percent of
3 the Hased clients, about 17,000 people need home
4 care services and receive an average of four
5 hours of such care per week. Four hours per
6 week.

7 They do not benefit from any state
8 funded home care or have the possibility of any
9 decent institutional care as a last alternative.
10 We would like to be able to provide each client
11 who needs home care with an additional ten hours
12 of service per week, therefore totalling 14
13 hours per week for an average of two hours a
14 day. This care costs about \$1 per hour.

15 That said, I wish to offer my thanks
16 and admiration to the Court and Special Master
17 Gribetz and Deputy Special Master Reed for their
18 continued recognition of the needs of Nazi
19 victims in the FSU and to pledge that the JDC
20 will carry out its responsibilities as mandated
21 by the Court to insure that these funds create a
22 better life for the FSU victims of Nazi
23 persecution.

24 My colleague, Asher Ostrin will shortly
25 provide more details on the Hased network in the

1 FSU. However, let me close my remarks by
2 bringing you the faces and stories of a few
3 Jewish Nazi victims living today in the Former
4 Soviet Union. They are clients of the Hesed
5 program who currently receive the minimum
6 welfare services our funding can provide. These
7 Hesed clients could not be present today here in
8 Brooklyn. However, I believe it is important
9 for your Honor to see and hear from them
10 directly. With your permission, I would like to
11 show their story on a video to the Court.

12 THE COURT: Go ahead.

13 (Video played)

14 THE COURT: Mr. Ostrin.

15 MR. OSTRIN: Your Honor, my name is
16 Asher Ostrin. I'm the director of the JDC's
17 program in the Former Soviet Union and I've been
18 so since its inception in 1991. Immediately
19 before, during and after the Holocaust, the JDC
20 sought desperately to reach the millions of Jews
21 living in the Soviet Union who were almost
22 completely cut off from the all Jewry (sic).
23 They remained cut off from the decades that
24 followed.

25 One of their primarily lifelines to the

1 Jewish world being the packages and the
2 materials the JDC and their partners were able
3 to smuggle in. In 1989, the lowering of the
4 iron curtain revealed need beyond anything that
5 JDC had encountered since the end of the Second
6 World War. And in addition, there was an
7 opportunity to recapture a lost limb of the
8 Jewish people.

9 In working to help the Jews of the
10 Former Soviet Union recreate an authentic Jewish
11 life that meets their own needs, JDC is guided
12 by three principles; inclusivity, we remain
13 impartial and non partisan and we avoid
14 interference in local affairs.

15 Of the sixty countries in which JDC
16 works today, no region's needs are more apparent
17 than the Former Soviet Union. The social safety
18 nets are grossly inadequate. What does it mean
19 to live on a pension of \$29 per month in
20 Ukraine? In the United States, this would
21 translate into \$187 per month according to
22 purchasing power parity which is equivalent to
23 25 percent of the poverty line in the United
24 States.

25 Even in the state of Russia, state

1 pensions average \$304 in PPP terms, placing the
2 elderly income at 40 percent of the equivalent
3 of the United States poverty line. . When viewed
4 in PPP terms, it's evidence that the Nazi
5 victims in the FSU live in dire economic straits
6 with a monthly income that varies between the
7 equivalent of \$155 to \$420 in American
8 purchasing power terms.

9 When America entitlement like Medicaid
10 and Medicare are included, the FSU pensioner is
11 further comparatively dismantled. We should
12 think for a moment about life anywhere in the
13 United States on \$155 a month. With healthcare
14 services collapsing at an age when people need
15 them most, with growing disabilities and
16 individuals becoming home bound or bedridden,
17 there is no one left to turn to. Their
18 societies have failed them.

19 Tens of thousands live in conditions
20 that in western terms would simply be considered
21 sub-human. No where else are conditions so bad
22 across the board. No where else can it be said
23 that there's no one to turn to. Even with the
24 help funneled through JDC including restitution
25 sources, we are only bringing Nazi victims in

1 the FSU up to a relative 50 percent of the
2 United States poverty line.

3 It's principally for this reason that
4 the conditions of Nazi victims among elderly
5 Jews in the FSU are significantly worse than
6 that of Nazi victims elsewhere. And JDC is
7 uniquely positioned to help. Today, local
8 Jewish communities of the FSU operate 177
9 welfare centers with support from the JDC.
10 These centers are generally known as Hesed
11 centers from the Hebrew term for love and
12 kindness. They combine materially with programs
13 that restore the spirit and strive to assure the
14 client's basic dignity.

15 These programs are located in the 15
16 successor states of the USSR and provide
17 services to the needy. JDC has worked closely
18 over the past years with the Hasidic to insure
19 that the programs and the budgets are consistent
20 with local need. Each Hesed has an independent
21 board that is representative of the local Jewish
22 community. It includes representatives from
23 Holocaust survivor organizations, religious
24 leaders and prominent Jewish community leaders.

25 In 2003, the Hesed centers provided aid

1 and services to 126,000 Jewish Nazi victims in
2 2,749 locales across eleven time zones.

3 The main sources of restitution funds
4 for JDC programs are the Claims Conference, the
5 Swiss Bank settlement and Icheck (phonetic). As
6 restitution sources have grown, JDC has
7 established a two tier system. This system
8 which incorporates a separate financial system,
9 as well as programmatic reporting goes to insure
10 that only Nazi victims benefit from restitution
11 funding.

12 The Court has charged JDC with the
13 management and administration of funds for
14 Jewish victims of Nazi persecution in the FSU
15 under the looted assets class of the Swiss Bank
16 settlement. JDC is able to administer and
17 monitor this grant through its 15 local offices.
18 Each office has an extensive auditing system
19 monitored and supervised by a second layer of
20 auditors in our Jerusalem office. And finally,
21 Ernest & Young offices in each country audit and
22 issue reports on an annual basis for the entire
23 operation.

24 JDC has developed a client based
25 comprehensive management information system that

1 includes both personal data and service
2 received. Each client has a separate record
3 that tracks services received. Information is
4 then transferred to JDC's FSU program
5 headquarters for monitoring and oversight.

6 From the initial allocations the Court
7 gave JDC which cover the period of July 2001 to
8 December 2002, JDC was able to provide the
9 following services to Jewish Nazi victims. Food
10 packages for 40,352 Nazi victims, Meals on
11 Wheels or canteen meals for 5,558 Nazi victims,
12 home care for 4,258 Nazi victims, winter relief
13 kits for 3,688 Nazi victims, medicines were
14 provided to 19,118 Nazi victims and SOS
15 emergency grants were given on an emergency
16 basis to 60,359 Nazi victims.

17 These services handled by the Court
18 only provided care to assist 30 percent of the
19 Jewish Nazi victims in the FSU. JDC is
20 currently working on the Swiss settlement
21 programmatic report for the 2003 calendar year.

22 Even with the influx of the Swiss money
23 to the Nazi victims in the FSU, the need for
24 food, medicine and basic care is great. JDC's
25 goal is to provide additional services to

1 victims of Nazi persecution in order to enable
2 them to live out their lives in dignity. Those
3 services would include the following.

4 More food packages, which are the
5 stable of JDC's support for elderly Nazi
6 victims. Today those victims receive a few
7 sporadic food packages per year. Our goal is to
8 be able to provide Nazi victims with one food
9 package per month.

10 JDC would like to be able to increase
11 the frequency of canteen meals and Meals On
12 Wheels for the homebound, so that all Nazi
13 victims in these programs receive a hot meal
14 once a day.

15 Budget cuts in recent years have forced
16 the Joint to cut medical programs. We would
17 like to be able to provide more medicines and
18 other medical programs for our clients. As our
19 client population ages, the need for more and
20 increased home care hours is critical. Without
21 it and without alternatives, elderly Nazi
22 victims are left to fend for themselves.

23 I would like to conclude with an
24 illustration about the need with a the story of
25 one of the 126,000 Nazi victims JDC helps in the

1 FSU. This is the story of Rosa Zeitzaba
2 (phonetic). She was born in 1914 in Kiev. When
3 the Nazis approached Kiev in 1941, she escaped
4 on foot with her husband. In a forest outside
5 of Kiev she was caught by the Nazis and placed
6 in the Dzierzazna concentration camp. She
7 escaped yet again and was hidden in the forest
8 by a non-Jewish family until the end of the war.

9 At 89, Rosa survives on a monthly
10 pension of \$28. She is bedridden and suffers
11 from diabetes and heart disease. Rosa receives
12 occasional food packages, medicine for some of
13 her medical conditions, winter relief and
14 sporadic home care from Hesed. With additional
15 funding, we can increase the amount of food,
16 medicine and home care that Rosa receives and
17 able to live out her years without worry and
18 with a modicum of dignity.

19 With your permission, your Honor, I
20 would like to now introduce Sofia Abramova, the
21 director of Hesed Rachomin in Minsk. Through
22 her knowledge and familiarity of the Jewish
23 community, she played a key role in the creation
24 of Hesed Rachomin in Minsk in 1994. Through her
25 dedication and commitment to the elderly Jews of

1 Minsk, she serves as a model for Jewish welfare
2 providers, not only in the FSU but throughout
3 the world.

4 Thank you.

5 MS. ABRAMOVA: Your Honor, thank you
6 for giving me this opportunity to speak here on
7 behalf of more than 11,000 Jews, Holocaust
8 victims who are residing in Belarus. They're
9 living under such terrible conditions that they
10 have to choose between food and medication.

11 I want to tell you about their
12 problems, their loneliness and how the Jewish
13 community with the help of the funds from the
14 Claims Conference and the Swiss Banks helps
15 these people to survive in these difficult
16 times.

17 My name is Sofia Abramova. I am the
18 director of the Jewish charitable organization
19 Hesed Rachomin in Minsk, Belarus. Our
20 organization provides lifesaving services to
21 retired and disabled people. It was in 1989
22 that I, for the first time, came face to face
23 with the problems of the Jews, victims of the
24 Holocaust. I came as a volunteer to a state
25 owned house for the elderly and disabled to wish

1 them a Happy Purim.

2 The living conditions in the house were
3 terrible. There was no regular staff to care
4 for them. I had to bathe the old men, feed them
5 and mop the floor. Medical care was practically
6 non-existent. I recall one elderly lady, her
7 name was Sarah, who had not eaten for three
8 days. She was unable to feed herself and nobody
9 even made an attempt to feed her. I failed to
10 save her. She died a few days later. I think
11 she died of starvation, not of an illness.

12

13 Another elderly woman died of blood
14 sepsis, since no kind of surgical help was ever
15 offered to her. Imagine all of this happening
16 at state owned establishment with doctors
17 there.

18 Fifteen years have elapsed since that
19 time but practically very little has changed.
20 There is still no system of social assistance
21 for the population. Social assistance is the
22 norm in all civilized countries of the world.
23 But in Belarus, there are not enough social
24 workers with funds and experience.

25 The Jewish community charitable

1 organization, Hased Rachomin that was created in
2 1994 with the help of Joint and the Claims
3 Conference financing is trying to fill in this
4 void for the most needy members of our
5 community.

6 You cannot even imagine what miserable
7 pensions the old people of Belarus are getting,
8 on an average, between \$57 and \$60 a month.
9 Part of that pension goes to paying the rent for
10 their apartment and utilities. What remains is
11 one dollar per day or in the best case, a dollar
12 and a half per day for food and medications.

13 How can one survive on such an income
14 if even a loaf of low quality bread costs half a
15 dollar. And a simple heart medication costs
16 around a dollar? The medication for high blood
17 pressure is between \$4 and \$12.

18 With the assistance of Joint, my
19 colleagues and I have learned to recognize the
20 needs of the people and care for them. In
21 addition, we have managed to draw into the Hased
22 a large number of volunteers, over 400 people in
23 Minsk alone who help us in this way.

24 Thanks to the funds that we're getting
25 from the Claims Conference and Swiss Banks,

1 we're able to improve the conditions of the
2 people under our care. We provide food,
3 medications, medical services, home care,
4 heating, warm clothing and whatever they need in
5 emergencies. For example, in 2003, the
6 emergency assistant program, SOS, provided its
7 resources to more than 2,000 victims of Nazis.
8 This year, in 2004, we are providing daily food
9 to more than 2,000 people through Meals on
10 Wheels and canteens.

11 The next example pertains to medical
12 care. To replace a broken hip bone costs around
13 \$1,000 and the surgery to remove a cataract
14 around \$600. Who of the people under our care
15 has such money?

16 During the period of 2003, Heses
17 Rachomin helped to pay for the surgeries of 19
18 people. Without our help, a person is left in
19 his home absolutely helpless. He is in great
20 need of our assistance. Our organization brings
21 these people to good health and gives them an
22 active life.

23 You have just seen Basia Vorkina
24 (phonetic) on the screen, a lonely and sick
25 woman, a victim of Nazis. Basia was never

1 married. Her fiance was killed during the war.
2 She had to flee from Minsk and work hard. Basia
3 starved, at times surviving on a meager diet of
4 boiled grass. At present, Basia is disabled.
5 But for Hesed, nobody can help her.

6 She receives daily meals from Hesed.
7 Her homecare worker visits her twice a week.
8 Three times a year before Jewish holidays, she
9 receives food packages. We buy warm clothing
10 for her before winter comes. Social workers and
11 volunteers are in constant contact with her and
12 they can render necessary assistance to her in
13 emergencies.

14 There are over 100,000 of such victims
15 of the Holocaust under similar conditions all
16 over the Former Soviet Union. Is it possible to
17 imagine that we can allow these victims of the
18 Holocaust to go on suffering from lack of food
19 and medical care, old age and loneliness?

20 I ask you not to forget about them when
21 you're going to resolve the issue of the
22 distribution of the funds from the Swiss Banks.
23 Your Honor, on behalf of the Jewish community of
24 Belarus, once again I want to thank you for this
25 opportunity given to me to speak here on behalf

1 of the Jews victims of the Holocaust, as well as
2 for the thank you, also, for the financial help
3 that you have already rendered. And I hope will
4 continue to render in the future.

5 THE COURT: Please be quiet. If you
6 want to remain in here, you have to be quiet.

7 Let's go.

8 MR. BLOCK: Your Honor, my name is
9 Herbert Block and I'm an assistant executive
10 vice president of the American Jewish Joint
11 Distribution Committee.

12 I want to conclude our presentation by
13 briefly stating for the record the continuing
14 needs for welfare services for the Jewish
15 victims of Nazi persecution in the 12 countries
16 in Central and Eastern Europe, as acknowledged
17 in the recent recommendations of the special
18 master, should any residual funds remain.

19 Only a fragment of the pre-war Jewish
20 population of Eastern Europe survived the
21 Holocaust. Those that did return to the region
22 were subjected to over 40 years of communist
23 rule, a period in which they were deprived of
24 the right to express their Jewish identity and
25 heritage.

1 The approximately 33,000 Jewish Nazi
2 victims living today in Central and Eastern
3 Europe like their brother in the FSU are also
4 therefore the double victims. They received no
5 Shoah related compensation until after the fall
6 of the iron curtain. In fact, today, only about
7 half of the Nazi victims in the region received
8 any Holocaust compensation at all.

9 The other half benefits the welfare
10 services funded by this court, the Claims
11 Conference, the JDC and others through the local
12 Jewish community. My work on Holocaust
13 compensation programs and property restitution
14 brings me to the countries in that region
15 frequently. Most recently, I returned on Monday
16 from Warsaw and Prague. I can tell you that
17 this hearing today is being held in a very key
18 moment for the elderly Jewish Nazi victims in
19 that region. On Saturday, five nations in the
20 region, Poland, the Czech Republic, Slovakia,
21 Slovenia and Hungary will join the European
22 union. While this joining with the west
23 represent many new opportunities for these
24 countries, for the elderly, the prospects are
25 much more bleak.

1 The prices of medication, homecare and
2 healthcare services are expected to continue to
3 rise to Western European levels while the
4 elderly including the Jewish Nazi victims
5 continue to live on fixed incomes mainly
6 pensions which remain at formerly Eastern
7 European levels. As one community leader told
8 me, pensions are eastern but prices are western.

9 Additionally, in these countries, the
10 level of state provided care is still no where
11 near western standards. Prior to joining the
12 EU, the governments in these countries where two
13 thirds of the Jewish Nazi victims and the
14 regions live undertook drastic reforms necessary
15 to meet the standards for entering into the
16 European union, including cutting government
17 spending and decreasing debt and as a result of
18 slashed social and health services and pension
19 subsidies.

20 The combination of insufficient
21 pensions, increasing prices and inadequate
22 health and welfare services means the Nazi
23 victims of these countries still need more help.
24 For the other seven countries in the region
25 which are not being admitted to the EU now,

1 there remains severe poverty for the elderly.
2 Nazi victims in these other countries live alone
3 with conditions comparable to those in regions
4 of the Former Soviet Union and without any
5 adequate state social safety networks.

6 They too need greater humanitarian
7 assistance in order to live out their remaining
8 years with a small measure of greater dignity.
9 Should any residual funds from the Court be
10 available, JDC believes that an additional
11 approximately \$1 million of most critically
12 needed for welfare services for Jewish Nazi
13 victims in Central and Eastern Europe.

14 As we detailed in our submissions to
15 the special master, we project that these funds
16 could provide food assistance for an additional
17 thousand Nazi victim clients, medicine and
18 medical care for an additional approximately
19 thousand Jewish Nazi victims and home care also
20 for an additional thousand Nazi victims who need
21 it most in this region.

22 We thank the special master and deputy
23 special master and this Court for its
24 recognition of the needs of the Jewish Nazi
25 victims in Central and Eastern Europe.

1 Thank you, your Honor.

2 THE COURT: Zuzanna Justman.

3 MS. JUSTMAN: Thank you, your Honor.

4 My name is Zuzanna Justman and I
5 represent the Prague Jewish Community. We're
6 applying for funds for the Higagor (phonetic)
7 Old Age Home for Holocaust Survivors. I,
8 myself, was born in Czechoslovakia. As a child,
9 I was in the Terezin Concentration Camp. My
10 father perished in Auschwitz.

11 And I came to this country in 1950.
12 I'm now a documentary film maker and two of my
13 films deal with the Holocaust. I speak here for
14 my friends and fellow Jews in the Czech Republic
15 because I know that had I not emigrated, I would
16 be one of the people now worrying about money
17 and about a place to spend my final years.

18 As the gentleman before me said, Jews
19 were double victims; Czech Jews. They were
20 first persecuted by the Nazis and then by the
21 communists. Those that managed to survive and
22 return barely alive and alone, having lost their
23 families to Czechoslovakia, tried to rebuild
24 their lives and in the early '50s, they faced
25 persecution again from the communists.

1 Czech Jews for 40 years were often
2 subjected to government sponsored antisemitism.
3 The most extreme example and best known was a
4 man called Rudolph Margolis (phonetic), who
5 spent four years in the camps, large Auschwitz
6 and Dachau, and then seven years after the war
7 he was hanged by the communists for crimes he
8 did not commit. He was convicted on the basis
9 of a forced confession in an infamous anti-
10 semitic Slantsky (phonetic) show trial. His
11 wife survived. She wrote a book about it.

12 In contrast to survivors living in the
13 west, Czech survivors received no compensation
14 for forty years. There's one exception in 1967
15 there was a single payment to people who were
16 subjected to medical experiments. So, aging
17 survivors in Czech Republic certainly are in no
18 position to afford private care in their final
19 years.

20 Since many of them lost families first
21 through the Holocaust and later through
22 emigration, many live alone. Perhaps 50 percent
23 of Czech survivors have no families.

24 As was mentioned before, at present in
25 the social net in the Czech Republic is barely

1 adequate. It's really not adequate. So, it is
2 for these reasons that the Prague Jewish
3 community that their membership feel that the
4 Higagor Retirement Home or old age home is very
5 urgently needed.

6 There are about 1,550 aging survivors
7 in the Czech Republic. It is -- they make up of
8 one half of the registered members of the
9 community, of the Jewish community. It is a
10 very unusually high number and it puts a great
11 burden on the Jewish community.

12 Higagor should meet the needs of the
13 survivors under one roof and it will include a
14 day care center and counseling. It will be
15 placed in an existing building which was
16 returned to the Jewish community by the Czech
17 government recently. And its renovation or
18 transformation into an old age home will cost \$6
19 million.

20 The Prague Jewish Community can provide
21 \$2 million. They can raise another 2. And the
22 rest, \$2 million is needed. The Joint
23 Distribution Committee has sent a special
24 mission to examine this project and approved it
25 and they support it but not financially.

1 There are two existing facilities in
2 the Czech Republic but they're very tiny and
3 inadequate and yet there's a long waiting list
4 and the need for beds is constantly decreasing -
5 - increasing.

6 Placing Holocaust survivors in non-
7 Jewish residences would really make it
8 impossible for the Jewish community to provide
9 additional care and religious services. And
10 most of all as survivors age and the trauma of
11 (unintelligible) becomes much more troubling,
12 they would really like to spend their final
13 years in the company of their friends from the
14 past.

15 In conclusion, I would like to point
16 out a very important contrast. I knew survivors
17 who lived in the west who have received from the
18 German government a monthly compensation of more
19 than \$1,000, sometimes quite a bit more. During
20 40 years from the late '50s until 1998, which is
21 the period during which the survivors in the
22 Czech Republic received nothing, some survivors
23 living in the west received as much as half a
24 million dollars per person in total. I know
25 some of them personally.

1 Now the Prague community is request \$2
2 million for a community project which will
3 benefit 1,550 aging survivors. That's \$1,290
4 per person. That's my final point and thank you
5 for listening.

6 THE COURT: Mr. Delbert Field and
7 Stephen Chambers of the International
8 Organization For Migration.

9 MR. FIELD: Chief Judge Korman,
10 Special Master Gribetz, Deputy Special Master
11 Reed, Ladies and gentlemen, good morning.

12 My name is Delbert Field. I'm deputy
13 director of compensation programs at the
14 International Organization of Migration (IOM)
15 which is based in Geneva, Switzerland. I would
16 like to speak briefly today about the work being
17 done by my organization on behalf of the Court
18 to assist extremely needy elderly Roma,
19 Jehovah's Witness, disabled and homosexual
20 survivors of Nazi persecution.

21 IOM assistant to Roma victims is
22 co-funded by the German foundation,
23 responsibility, remembrance and future, an
24 arrangement set to end by June 2005. Such
25 assistance has been available to some victims

1 for just over two years; a shorter period in
2 most locations.

3 Modes of assistance in line with the
4 plan approved by the Court, may consist of food,
5 basic medical and dental care, clothing, coal,
6 firewood, home care, as well as social
7 assistance, legal aid and emergency financial
8 support, for example, to prevent eviction or
9 utility shut off.

10 IOM has to date contracted to assist of
11 59,000 survivors in the above mentioned four
12 groups living in Belarus, Croatia, the Czech
13 Republic, Hungary, Latvia, Lithuania, Macedonia
14 and Moldova, Poland, Romania, The Russian
15 Federation, Serbia and Montenegro, Slovakia and
16 Ukraine, as well as a handful of needy
17 homosexual victims in Austria, Germany and
18 France.

19 The assistance, however modest, is for
20 most survivors the first formal recognition of
21 their suffering in nearly sixty years and comes
22 at a time when by their own account, living
23 conditions haven't been worse since the second
24 World War.

25 Aid is delivered primarily through over

1 45 local non-governmental organizations, NGOs,
2 large and small, yet all closely monitored,
3 associated with victim communities, and monitored
4 by IOM field offices in each country. We are
5 helping far more needy survivors than as
6 recently as three years ago many believed could
7 be found.

8 I said a few minute ago that I would
9 tell you about what IOM was doing. Enough of
10 that, at least from such a distance because it's
11 more than 5,200 miles from this courtroom to
12 Maximca, a muddy Roma settlement just west of
13 Vulgobride, Stalingrad in Russia. And where
14 survivors now receive monthly food packages.

15 It's 4,200 miles from here to Opava, a
16 town on the northern border of the Czech
17 Republic where a local convent has sheltered
18 five disabled survivors for most of their lives
19 and can now afford to buy them winter clothes.

20 And it's just over 4,000 miles from
21 Brooklyn to Shetinek, a town 50 miles from the
22 Baltic coast from which IOM assists over 500
23 elderly Roma throughout Poland.

24 You can read more about the program in
25 the special masters interim report released last

1 October and in IOM's proposal delivered to San
2 Francisco in January.

3 I would like to use the rest of my time
4 instead to help you cross those miles to take us
5 even further back in time to introduce you to a
6 few of the people that IOM has had the privilege
7 in these two short years to assist and for
8 whom we believe resources permitting, we should
9 do more in the few years they have ahead.

10 Romania - Johanna (phonetic) is 72
11 years old. She lives in Rumania, a country with
12 perhaps the largest Roma population anywhere.
13 Her village, Pietrese, just south of the border
14 with Moldova is a sprawl of shacks on two dusty
15 ridges three quarters of a mile uphill from the
16 nearest public well. Pietrese is a mixed
17 community where they told me, Gadja (phonetic),
18 that is non-Roma, make the boundaries in the
19 Roma Nova. It's a village where life hasn't
20 changed much since the 1800s with the same
21 relative hierarchy in place since northeast
22 Rumania was under Russian rule.

23 The Rumanians ancestors were serfs.
24 The Roma's ancestors were slaves. After the
25 1989 revolution, Rumanians reclaimed their

1 family farms, the sort of property that Roma
2 never had. 53 beneficiaries lived there. Those
3 lucky enough to have a farm workers pension
4 received \$5 a month in a country where a decent
5 wage is said to be under \$70. Unlike their
6 younger neighbors, survivors cannot bear more
7 children in order to raise the state subsidy to
8 their households or hitchhike the 25 miles into
9 the city to work dawn to dusk cleaning rail
10 cars.

11 The school children we met in Pietrese
12 told us how their grandparents deported during
13 the war to forced labor in Fransnistria
14 (phonetic) say they must call themselves
15 Rumanians to curious strangers to avoid the same
16 fate. They told of how when lessons are done,
17 their chores include water carrying, wood
18 cutting and field work.

19 Four Roma survivors in Pietrese have
20 died since the project began. Four others have
21 been selected to take their place. Wait-listed
22 community members asked us eagerly who would be
23 next. Non-Roma in Pietrese have remarked Roma
24 neighbors no longer come to beg. Projects, even
25 though specifically targeted to certain survivor

1 groups, have far reaching effects in communities
2 where all are similarly situated.

3 Johanna came to pick up her assistance
4 package in the village square, more of a sloping
5 open space and livestock cross over. She showed
6 off the winter boots she had received from the
7 project last winter which had replaced rags with
8 which even in deep snow some Roma women still
9 wrapped their feet.

10 I had to insist on carrying Johanna's
11 package for her. She said and may have been
12 right, that she was the stronger of the two. We
13 hiked to her cabin, a collapsing thatch roofed
14 structure made of mud and straw lit by cooking
15 oil received thanks to the settlement.

16 As this happened several times in the
17 course of this program, I left Johanna with her
18 kind hospitality, her profound thanks and her
19 gentle blessing for my family and my own long
20 life, feeling that I had just met the poorest
21 European I had yet encountered in my 21 year
22 career of international humanitarian assistance.

23

24 Toma (phonetic), who is 92 years old
25 lives with his wife in the Roma settlement of

1 Smirvoska (phonetic), 50 miles outside of
2 Bucharest. They live in a tent. They always
3 have, except of course during the deportation
4 when they spent three years in the open
5 Intransmistry (phonetic). Then walked the
6 nearly 400 miles home after the war.

7 On the day that I visited last month,
8 Toma received his package of flour, corn meal,
9 rice, oil, canned meat and fish. He opened the
10 meat immediately offering to share it.

11 The Russian Federation - the village of
12 Yiritza (phonetic) and Leningrad Province,
13 Russia, is still snow bound this time of year,
14 accessible by horse and wagon. Many cabins are
15 empty until spring when city dwellers from
16 St. Petersburg are willing to rough it at least
17 for short periods in their Dachaus.

18 Lidia Yavanoka (phonetic), lives in
19 Yiritza where only Roma spend the winter,
20 heating and cooking by wood stove. No one has
21 running water though some hang a bucket of snow
22 to melt into a wash basin. Pensions of \$18 a
23 month are spent on tea, cheese or maybe a
24 sausage to enliven meals of home grown onions
25 and potatoes.

1 Lidia, her sister Raisa (phonetic),
2 along with several others from their village
3 benefit from medical assistance at a nearby
4 outpatient clinic. Survivors most common
5 complaints are the heart, respiratory and
6 orthopedic problems.

7 I spoke with beneficiaries waiting to
8 see the doctor. They told of their experiences
9 in the German occupied country side during the
10 900 day seize of Leningrad. I heard tales of
11 murder and missing parents, of Roma buried
12 alive.

13 With ever deeper cuts in post-Soviet
14 state services, healthcare is no longer
15 automatic, even for the neediest. Thanks to the
16 settlement fund, Roma victims receive
17 transportation, basic exams and lab work,
18 medication, dentures, follow up by specialists
19 if needed. Our medical coordinator also visits
20 beneficiaries at home, delivering medications
21 and instructing patients in their use. IOM has
22 been advised that regular medical staff are
23 often afraid to enter Roma communities even when
24 to provide emergency assistance.

25 Moldova - IOM now assists 2,000

1 Jehovah's witness survivors in seven countries.
2 Constantine lives in Edinetz (phonetic), in once
3 Soviet Moldova. When I met him and two other
4 community members in Kisino (phonetic) last
5 year, I heard of how during the war witness
6 parents were arrested and sentenced for their
7 neutrality on account of their faith. Some were
8 deported never to return.

9 Older children were left to raise the
10 family or sent with younger siblings to
11 orphanages in Romania. Then returning after the
12 war to the burnt ruins of their former homes.

13 In a country with no national health
14 scheme to speak of, monthly pensions of around
15 \$15 and rural poor substituting on bread and
16 porridge, witness survivors take advantage of
17 medical, food and home heating assistance. One
18 Jehovah's witness survivor in northern Moldova
19 has a smaller house on her premises where she
20 lives during winter as the main dwelling is too
21 expensive to heat during the most bitter cold.

22 Roma in Moldova, as in other countries,
23 live on land that no one else wants. Their
24 shacks stand on the perilous flood plains around
25 Kuzinia.

1 Pereskiva (phonetic) lives with her
2 physically handicapped grandson counted lucky by
3 the neighbors as his condition gives him an
4 advantage as a street beggar.

5 Macedonia - Bakim and Bassim (phonetic)
6 live in the hilltop Roma neighborhood of Bahir
7 in the former Yugoslav Republic of Macedonia
8 where residences fear skinheads in the lower
9 part of the town and long for the old
10 Yugoslavia.

11 Survivors grandchildren drop out of
12 school on account of anti-Roma prejudice, lack
13 of supplies and clothing to wear and to help
14 their families through begging, calling and
15 black market trade.

16 IOM's project in Bahir allowed needy
17 victims to spend less time gathering firewood
18 and to see a doctor in their own part of town.
19 25 miles to the northeast is Tristamato
20 (phonetic) a Roma neighborhood nestled in the
21 middle of a modern Macedonia town yet cut off
22 from sanitation. Its streets, alternately
23 clogged with mud or snow. Here Roma live 15 to
24 a room, homes tap into the industria aqueduct.

25 IOM won't solve these problems but we

1 can make life more comfortable for a few. One
2 last photo from Macedonia on a lighter note.
3 The good ladies of Esma (phonetic), a Roma
4 women's organization in the capital of Spokane
5 founded some eleven years ago and now IOM's
6 project partner in the delivery of food, winter
7 and medical assistance.

8 The Czech Republic - at the Mariano
9 Convent in Opava (phonetic) in the Czech
10 Republic, the sisters have taught and cared for
11 the mentally disabled since 1918. Two women and
12 three men have been there since before the war.
13 One night during the occupation with 200
14 children in Reissence, the Germans removed two
15 busloads they sent to the camps. They were
16 never heard from again. The convent was bombed.
17 The Germans mounted a cannon in the entrance in
18 preparation for the Soviet advance. Meanwhile,
19 occupants survived on scarce well water,
20 potatoes and the animals they kept in the
21 garden.

22 Herbert, 67 years old, and a Mariano
23 resident since he was two, showed us the
24 underground tunnel where he and his schoolmates
25 slept during those times of uncommon adversity

1 and affliction.

2 Poland - the textile miles of Lodz,
3 southwest of Warsaw once employed large numbers
4 of unskilled Roma workers. Now, most of the
5 city is on welfare. Roma families in Lodz are
6 large, the borders cramped. The survivor's
7 monthly welfare payment, \$100, maybe shared with
8 a family of 15. Begging, scavenging for fuel
9 and fortune telling help make up the difference.

10 Natalia, who supports several grown
11 sons unable to find legal employment in the west
12 insisted on reading my palm and on doing it for
13 free. Several survivors in Lodz said they had
14 been tinkers before under communism, the Tabors
15 (phonetic). Their traveling communities were
16 forced to settle in Polish Roma to take fixed
17 employment. We heard it was better in the
18 woods, which for Roma living in hopeless urban
19 squalor seemed to cry of eloquent despair.

20 Ukraine - Ushgaro (phonetic) in the
21 remote Transcarpathian (phonetic) region of
22 Ukraine lies at the center of a five country
23 area inhabited by hundreds of thousands of
24 destitute Roma. Emma is 88 years old. She
25 lives alone in Parnosky (phonetic) settlement, a

1 cluster of shacks on the outskirts of town. She
2 had enough firewood to heat her home last winter
3 thanks to the Court. IOM has been told by
4 survivors that without the provision of wood or
5 coal, they would not have made it through the
6 winter.

7 Last January, 450 miles further east,
8 Lubal and Lydia (phonetic) made their way along
9 with sixty other survivors through the snow to
10 meet with us at the Zolakinosha (phonetic) town
11 theater. The group spoke emotionally of the
12 Nazi occupation initially thought by the Roma to
13 be their liberation from Stalin. Following the
14 retreating red army, they hid in the forest
15 accused by the Germans of helping Jews and
16 partisans, many were beaten and transported away
17 by train. They spoke of the burning of
18 livestock of hiding in holes, of surviving on a
19 diet of marsh meadows.

20 Under communism, they labored in the
21 potato fields or dug ditches, gaining the lowest
22 state pensions. Briefly under Gorbachev, for
23 some, things were better. Few homes are heated
24 despite the sub zero cold. Zolakinosha Roma
25 squat in abandoned cabins without running water

1 or light. They live by collecting and selling
2 scrap iron and glass. One woman we looked for
3 wasn't at home. She had gone for a walk to warm
4 up.

5 Another keeps her shutters permanently
6 closed, still fearing the Germans return.
7 Seeing me, one survivor whispered to our local
8 partner, asking, "Why do you bring these
9 strangers here? They could take you away?"

10 That Roma survivors in Eastern and
11 Central Europe are old and increasingly
12 infirmed, is no surprise. This comes with the
13 passage of time. Yet two other factors set them
14 apart, their numbers and their needs.

15 As is detailed in our proposal, IOM
16 estimate that almost 145,000 very needy former
17 victims in the region could benefit from its
18 humanitarian assistance. That count is based on
19 multiple sources, the foremost IOM's first hand
20 field experience in building the current program
21 from the ground up.

22 The persons you've met today are just a
23 few examples, while still proud and worthy
24 representatives of their victim class. Like
25 those many others, they have spent their lives

1 in almost unremitting misery with no
2 acknowledgement nor relief from toil or pain.

3 Four years ago, the Court saw fit to
4 hear their cry and to respond to their feeble,
5 unasking patience with a measure of modest, if
6 still life sustaining, recognition. Recognition
7 to which the old Roma respond with tears and
8 disbelief that someone might really wish to
9 help, asking nothing in return.

10 Chief Judge Korman, without an
11 additional allocation of funds, assistance will
12 cease during 2005. The fate of many extremely
13 needy survivors who rely on this program is
14 precariously fast. IOM's proposal in respect of
15 any unclaimed residual funds sets out four
16 scenarios. The scenario that would help only
17 those survivors already known to us for another
18 three years amounts to \$60 million. Should such
19 additional funding not be made available over
20 50,000 survivors will stop receiving food
21 assistance, 23,000 survivors will no longer
22 receive winter fuel, 10,000 survivors will have
23 basic medical assistance cut and 7,000 survivors
24 will no longer have access to emergency
25 financial support.

1 With more resources, the most generous
2 scenario would require \$215 million. IOM
3 estimates that it could meaningfully help up to
4 twice as many very needy survivors over a period
5 of five years. Some three weeks ago, April 8,
6 in its press statement on the occasion of
7 international Roma day, the United States
8 Department of State reminded us, Roma are the
9 largest minority in Europe where they often face
10 violence, brutality and systematic
11 discrimination in education, employment and
12 housing, particularly in post-communist
13 countries.

14 I don't know that I've seen that level
15 of concern voiced before by a government outside
16 the region. I would like to think that it marks
17 a turning point in the fortunes of the
18 grandchildren and the great grandchildren of
19 IOM's largest survivor group.

20 Just as I would like to think that
21 through progressively, fragrant and more
22 trusting cooperation with the Roma on various
23 levels, together we may play a part in insuring
24 the persecution and the neglect of the world's
25 Roma will someday be a thing of the past, so

1 that the respect so important to the Roma people
2 and for the other survivor groups IOM is
3 privileged to serve may finally come their way.

4 In that sincere hope and in the words
5 of Johanna, Toma, Lydia, Raisa, Constantine,
6 Pariskira, Bakim, Bassim, Herbert, Natalia,
7 Emma, Lubal and Lydia, thank you.

8 THE COURT: All right. On behalf of
9 the State of Israel and the World Jewish
10 Restitution Organization, I call on Kent
11 Yalowitz, Paul Berger and others.

12 MR. YALOWITZ: Thank you, your Honor.

13 From Berlin, joining us by video
14 conference are Minister Sharansky,
15 Dr. Israel Singer and Chief Economist of the
16 Ministry of Financial Michael Sarel. And what
17 I would like to do is allow those three to give
18 statements, then I'll return and say a brief few
19 words.

20 THE COURT: Okay.

21 MR. YALOWITZ: And then I'll return and
22 say a brief few words and then we'll have our
23 witness who are present with your Honor's lead.

24 THE COURT: Okay.

25 MR. YALOWITZ: Thank you.

1 THE COURT: Minister Sharansky, can you
2 hear me?

3 MINISTER SHARANSKY: Yes, I hear you.

4 THE COURT: I'm ready to hear you.

5 MINISTER SHARANSKY: Do you hear me?

6 THE COURT: I hear you. I'm ready to
7 hear you. Go ahead. Speak.

8 MINISTER SHARANSKY: Thank you.

9 Your Honor, good morning, good evening.

10 As you know, I'm the Minister responsible for
11 our relation as per -- in Israel
12 (unintelligible). And because of the
13 (unintelligible), I am dealing all the time with
14 the problems of the Jews who came from more than
15 one common (unintelligible) to Israel and those
16 who didn't even come.

17 I just want to explain to you why I am
18 now giving this testimony from Berlin and not
19 from New York or Jerusalem. Just now this hour
20 we finished extremely important international
21 conference on antisemitism. The leaders of 65
22 countries represented by their leading
23 politicians came to Berlin to have a conference
24 which was prepared for more than a year to
25 discuss the new wave of antisemitism, to discuss

1 the situation of the Holocaust, learning about
2 the Holocaust and preventing the new wave of
3 antisemitism. That's why I had to be here.
4 That is why the leaders of the world
5 (unintelligible) Jewish organizations are here
6 today with me in Berlin.

7 Now, I want to say that the state of
8 Israel agrees with the Court that the first
9 priority is to find the owners of the accounts
10 (unintelligible), owners of the accounts to the
11 Swiss Banks.

12 But I do hope that I will have an
13 opportunity to have additional hearing to come
14 to New York and personally to give the testimony
15 that would explain (unintelligible). Just now
16 was published the report of the special master
17 and we, the (unintelligible) of Israel have
18 strong disagreement with the recommendations of
19 the special master. We feel that the
20 recommendations are in strong contradiction with
21 the just representation of the survivors all
22 over the world and definitely are very unfair to
23 the share of survivors who come with all of the
24 survivors in the world to date in Israel.

25 But unfortunately, we didn't have

1 enough time to start this, it's an important
2 report, and that's why we want more time to
3 bring our thoughtful suggestions after serious
4 study of this report. At this stage,
5 nonetheless, I feel that I am obliged to say
6 that I am the one who has firsthand lifestyle
7 experience of living in the Soviet Union,
8 together with the survivors, I know very well
9 especially the needs of those who are elder or
10 pensioners who are ill people and who remain
11 until now in the Soviet Union.

12 At the same time, I know very well, I
13 worked with these people that way. I am with
14 these people (unintelligible) today in Israel.
15 Well, then my involvement with survivors, knows
16 hundreds of thousands who live in Israel and
17 those (unintelligible) who came from the Former
18 Soviet Union and (unintelligible).

19 I know how we need (unintelligible) of
20 these people who don't travel from America or
21 from other countries from Europe who are coming
22 after they left everything that they had in the
23 Former Soviet Union; their houses, their money
24 that they made all of their life, their medical
25 care and so on. They -- you have to understand

1 that Israel pays for (unintelligible) for these
2 people and covers almost all of their needs in a
3 very basic (unintelligible). Today, when we are
4 cutting practically the budget which is touching
5 the needs of all walks that live in the society,
6 we are making very good efforts to touch
7 minimally if at all, the budget of
8 (unintelligible) Israel to all its
9 responsibilities for them.

10 And we strongly believe, just from my
11 knowledge of the situation of all of the
12 (unintelligible) most of the situation of the
13 familial survivors in the Former Soviet Union,
14 we strongly believe that the recommendation
15 which is by the special master are
16 (unintelligible) and very unfair with the needs
17 of those survivors who are today in Israel.

18 I do know very well that all the money
19 which are covered in restitution cannot cover
20 the need of the survivors in Israel and all of
21 the world. But in addition to the assistance
22 for these survivors, which is very important,
23 it's also very important the feeling of the
24 fairness of justice we believe to be unfair.
25 And that's why I believe that this consideration

1 has to be taken into account. And in order to
2 be able to bring this case and to give much
3 people also who testamations (sic) .I ask that
4 you be able to know this (unintelligible) to tie
5 it to them, and to have an opportunity to come
6 to New York and to give my testimony then.

7 Thank you very much.

8 THE COURT: Thank you.

9 Who is next?

10 MR. YALOWITZ: Your Honor, next
11 speaking will be Dr. Israel Singer. Dr. Singer,
12 as your Honor knows is president of the -- is
13 the chairman of the World Jewish Restitution
14 Organization and is also the president of the
15 Claims Conference.

16 And Dr. Singer, can you hear us?

17 THE COURT: Dr. Singer, can you hear us
18 Dr. Singer?

19 DR. SINGER: I can. Thank you,
20 your Honor.

21 THE COURT: We're ready to hear you.

22 DR. SINGER: Thank you very much. I
23 beg that the Court accepts the few words that I
24 have to say. I thank you very much, your Honor.
25 We've had many opportunities to discuss the

1 subject of this settlement, particularly as the
2 issue of justice for Holocaust survivors who
3 were harmed during World War II and after World
4 War II.

5 And particularly as a result of this
6 settlement, as chairman of the World Jewish
7 Restitution Organization and as president of the
8 Claims Conference, I can tell you that I have
9 spent my waking hours the last few years trying
10 to make the lives of Holocaust survivors
11 somewhat more whole than they were. In fact, I
12 might say that when Natan Sharansky was
13 languishing in prison as a prisoner of Zion, I
14 encountered the first Holocaust survivors in the
15 Former Soviet Union who were living without
16 pensions because the Germans who had given over
17 \$80 billion to Holocaust survivors throughout
18 the world in pensions, because of the cold war,
19 chose not to involve themselves by sending hard
20 currency into the Former Soviet Union and I
21 understand very well how you find that the
22 condition of the Jews who live in the Former
23 Soviet Union are different from those who live
24 in other parts of the world.

25 But since then, I myself have

1 negotiated with the German government since the
2 fall of the wall and although their lives have
3 not been made completely whole nor have the
4 lives of any survivors anywhere, we are here in
5 Berlin for two reasons. The first, because of
6 the antisemitism conference, because of a new
7 outbreak that's taking part of our lives
8 concerns to make the lives of young people and
9 old people in Europe, particularly those who are
10 vulnerable, more secure. But we're also
11 negotiating with the German government to see to
12 it that those who have not yet received pensions
13 somehow become equal and those includes the Jews
14 who live in the Former Soviet Union. We've had
15 much success until now and we hope to have more
16 success.

17 But the issue before us, your Honor,
18 from the very first day and I spent years on the
19 Balko Commission (phonetic), as you know, doing
20 one thing and one thing first and I know you
21 agree more than anyone else, and that is that we
22 need first to do one thing and that is to pay
23 all people who had accounts back, if possible.
24 You've committed yourself, in effect, to that
25 goal and that's our first responsibility as

1 doing some kind of justice late.

2 Before we get to any other aspect, that
3 will be our first responsibility. As a
4 volunteer, I came to you to deal with those
5 people whose money was taken away, whose account
6 has not yet been matched because of various
7 kinds of back sliding. And I have no other way
8 but to describe it as such. They are our first
9 obligation because that was the first principle
10 obligation of the agreement as you sat and
11 listened to how to make justice. And we thank
12 you, your Honor.

13 Today, I know that you are as
14 disappointed as I am to watch people unhappy
15 that we have ny money left that we might or you
16 might consider in your wisdom as your master
17 might suggest in his wisdom, to give to people
18 other than those who are account holders. And I
19 hope and I trust that by the time we have
20 completed this task, there won't be a penny that
21 hasn't been given to an account holder.

22 But if there is, God forbid, and if the
23 Swiss banks don't find a way to give us names
24 that will match up with account holders that
25 demand to have their money back, which is the

1 first obligation that we spent years sitting and
2 negotiating with them on, it is then that I
3 believe that you should give us the opportunity
4 one more time of trying to homogenize the
5 various reports, needs, so that Jews everywhere
6 in the United States in the Former Soviet Union,
7 in Israel, wherever they might live that are
8 Holocaust survivors will be able to appear
9 before you one more time and tell you what their
10 united view is as to what their feeling is
11 impressionistically as it may be.

12 I know that's why you called us
13 together today but no one that I've ever
14 encountered in the courtroom is more patient
15 than you are, your Honor. And that patience is
16 the reason we have this settlement. I ask you
17 for one more opportunity when we return to be
18 able to create a condition whereby all Jews who
19 were victims will be able to agree together with
20 you through your patience to a position that
21 will make them feel if there's any money left,
22 that you, your Honor, will be able to make them
23 feel comfortable.

24 This is a holy task and I know of no
25 other person besides yourself and you alone who

1 could do that. I thank you.

2 THE COURT: Who is next?

3 MR. YALOWITZ: Next, your Honor, also
4 from Berlin is Michael Sarel. Dr. Sarel is the
5 Chief Economist of Israel's Ministry of Finance.
6 He is a Harvard trained economist. He will
7 speak to the current economic conditions in
8 Israel and the deteriorating economy base driven
9 by the Interfata (phonetic) and by other
10 factors.

11 And with your Honor's permission, I
12 will hand a copy of Dr. Sarel's CV to the Court
13 for background and also to the special master
14 and to the class counsel.

15 THE COURT: Mr. Sarel, can you hear me?

16 MR. SAREL: Yes and I can hear you very
17 well, your Honor.

18 THE COURT: Okay. And we're ready to
19 hear you speak.

20 MR. SAREL: Well, your Honor, I would
21 like to briefly explain the economic situation
22 and the budgetary situation in the Israel today.
23 Between 1948 and the early '70s, the growth rate
24 of the Israeli economy was high. And the
25 standard of living of the population gradually

1 which was initially very, very low and gradually
2 started to improve. And by the early '70s, it
3 reached about 50 percent of (unintelligible).

4 However, the standard of living in
5 Israel is (unintelligible) from the standard of
6 living in the U.S. and Western Europe since the
7 early '70s. And after the (unintelligible), the
8 standard of living in Israel actually
9 deteriorated compared with the level in the U.S.
10 And again is widening over the last 30 years.

11 This was the situation before the year
12 2000. In the year 2000, especially in the last
13 quarter of the year 2000, the Israeli economy
14 experienced two major shocks (unintelligible).
15 And the first one, the most important one was
16 the start of Palestinian terrorism which
17 affected many segments of the economy for almost
18 two reasons but gradually, over time, it also
19 affected private consumption, investment,
20 foreign investment and domestic investment.

21 The other major shock which occurred
22 at the same time was the global high tech
23 crisis. And Israel is much more dependent of
24 the global high tech market than any other
25 country in the world, including the U.S. And

1 the shame of the high tech (inaudible) and
2 especially in (unintelligible) is very high.
3 So, when the global high tech crisis started in
4 the year 2000 and the (unintelligible) a
5 significant part of the trade industry was
6 effected.

7 After that, the fiscal situation
8 deteriorated very sharply and over a long period
9 time on both sides of the budgetary situation.
10 in terms of revenues, because of the recession,
11 the result of terrorism and the global high tech
12 crisis, government revenues declined
13 significantly. Capital revenues reclined.
14 Other revenues also declined.

15 In terms of expenditures, there was an
16 increase in defense budget by more than ten
17 percent between 2000 and 2003 in order to combat
18 terrorism and to prevent terrorist acts aimed at
19 Israeli citizens (unintelligible).

20 As a result of this reduction in
21 revenues and increasing expenditures, the budget
22 has increased and the national debt which was
23 already at relatively high levels, like the
24 national centers increased even farther.

25 And there was a significant risk of a

1 financial crisis. The (unintelligible) told us
2 that they were going to reduce the safe rating.
3 And as a result, the government, they don't have
4 any other choice but to reduce the budget
5 deficit.

6 When you look at the budget of the
7 Israeli state, a big part of it is used for
8 defense expenditures. Another part is used to
9 repay -- to pay interest on the national debt.
10 It's quite high.

11 So, what this reflects after the two
12 (inaudible) social expenditures. And there was
13 not a choice not to implement significant cuts
14 and deep cuts in those social budgets, so they
15 (unintelligible).

16 Especially in 2002, we have developed
17 high ground in significant social grounds in the
18 budget, not only in the annual budget also
19 between the budget. And many of the social
20 programs were significantly reduced and
21 (unintelligible. And all of the social
22 expenditures were reduced.

23 In addition to this, we changed the
24 (unintelligible) system for (unintelligible)
25 benefitting the future. In the past, they were

1 -- the wages to government wage. In the future,
2 they will not be (unintelligible) to government
3 wage. As a result, we foresee a significant
4 decline (unintelligible) but significant decline
5 between social benefits over the next ten years.

6 As a result of these cuts, the
7 (unintelligible). According to the national
8 insurance institute, the poverty rates are more
9 than 20 percent and they include also families
10 with many children but also elderly parents,
11 among them a significant part are the survivors.
12 The weaker segments of the population were
13 perhaps affected the most by the revision and
14 the need of the government to cut social
15 expenditures.

16 This is my summary of the economic and
17 budget situation. I would like to make one
18 other point regarding the (unintelligible) of
19 costs and of benefits. As you know, the price
20 level in Israel is very close to the price level
21 in the United States. And is about 4 or 5,000
22 higher than the (unintelligible) in countries
23 such as Russia or Ukraine. As a result when the
24 courts are (unintelligible) how to -- how much
25 funds are needed to increase the standard of

1 living of one survivor by building him out -- by
2 keeping him out, the funds needed in Israel in
3 order to buy the services that a survivor needs
4 like food, housing, medical care, are about five
5 times higher than the funds required in Russia
6 or Ukraine.

7 So, any different -- any given increase
8 in the situation of one individual, the expense
9 is about five times higher. Thank you very
10 much, your Honor.

11 THE COURT: Thank you.

12 Who is next?

13 MR. YALOWITZ: Thank you so much, your
14 Honor, for accommodating the technology and also
15 I wish to thank the Court's staff which was
16 exemplary in helping us accommodate the
17 technology.

18 You heard, your Honor, Dr. Singer and
19 Mr. Sharansky say that the Court's first
20 priority must be the return of property to the
21 rightful owners, if possible. That is the
22 policy of the State of Israel. That is the law
23 that this Court has been following and we
24 strongly support it.

25 We also believe that the Court has

1 correctly decided to allocate funds in the past
2 using the cypres remedy. We support the cypres
3 principles and we support the Court's
4 determination to find and help the neediest of
5 the looted assets class, wherever they may be.
6 The Court, the master and lead counsel for the
7 class have been together on that and your Honor
8 we are with you.

9 We do have a factual issue which we
10 think that the Court will know that the master
11 has considered it with care and we hope that we
12 can educate the Court a little bit today on the
13 factual issue of neediness in Israel today.

14 You heard Dr. Sarel talk about the
15 sobering numbers. But what do these mean? What
16 do these numbers mean in terms of needy
17 survivors, your Honor. And we've prepared a
18 chart which --

19 THE COURT: Stand near the microphone.
20 I don't want to --

21 MR. YALOWITZ: I apologize, your Honor.
22 We've prepared a chart which describes
23 the numbers of needy survivors and the ways in
24 which they are needy. We begin, your Honor,
25 with 500,000 survivors to date in Israel. That

1 figure comes from Dr. Della Pergola. He is here
2 today and he will talk to your Honor about how
3 those figures are derived and in particular, why
4 his figure is somewhat higher because it
5 includes a group that has been forgotten.

6 Of the 500,000, your Honor, there are
7 now 180,000 who came from the Former Soviet
8 Union. None of those, of course, are North
9 African or Eastern Mediterranean survivors.
10 They are immigrants, mainly immigrants who
11 arrived in the last ten years.

12 These are the desperately poor people
13 we have been hearing about and we've been seeing
14 about. And that we all care for. These are --
15 there are now more of these desperately poor
16 Former Soviet Union survivors living in Israel
17 than there are living in any other place in the
18 world. They are the responsibility of Israel to
19 take care of and that's what Minister Sharansky
20 said and he's right. But, your Honor, Israel
21 does need help.

22 Of the 500 survivors, we estimate there
23 are 160,000 who need winter relief. And let me
24 tell your Honor how we estimated that number.
25 There is a study by the JDC Brookdale Institute

1 that studied neediness in Israel. It is in the
2 record before the Court, of course. It was led
3 by Jenny Brodsky, a very serious researcher.
4 And she estimated needs among all Israeli
5 elderly and the Brandeis (phonetic) report
6 participated in by Leonard Sachs (phonetic) and
7 others, felt that the population at large, the
8 percentages of meeting the population at large
9 probably were reasonable if not a conservative
10 proxy for needs among the survivors.

11 And Professor Brodsky found 32 percent
12 of the elderly in Israel need winter relief.
13 That's 160,000 survivors.

14 She found that 26 percent of the
15 elderly in Israel must choose between food and
16 other basic needs. That's 130,000 survivors.

17 We know that the WJRO distributed funds
18 from the Swiss Humanitarian Fund to 120,000
19 needy survivors. We know --

20 THE COURT: We don't know that. I
21 mean, we don't know whether they were needy or
22 not because the Swiss Humanitarian Fund just
23 simply gave money to anyone who said they were
24 in need without -- it was a self-identification
25 process. There were many people who received

1 money that may not have been in need as we would
2 define the term. It's -- the statistic is
3 totally misleading.

4 MR. YALOWITZ: Your Honor, I perhaps
5 stand corrected.

6 THE COURT: But go ahead, I don't --

7 MR. YALOWITZ: Your Honor is certainly
8 more familiar than I. My understanding was that
9 in the United States, it was a self-assessment
10 test. In Israel, there was an income test. But
11 we'll supply documentation on that to your
12 Honor. And if we are incorrect, we will
13 withdraw the statistic, your Honor. Our goal
14 here is to provide information to the Court.

15 We know that there are 19 percent
16 living below the Israeli poverty line. That's
17 95,000 survivors, your Honor. And the Israeli
18 poverty line at today's exchange rates is \$382 a
19 month for a context.

20 We know that there are 19 percent of
21 the Israeli elderly who face food insecurity of
22 some kind. That's 95,000 survivors. And we
23 know that 17 percent of the elderly who Israeli
24 recorded that they cannot afford the cost of
25 calling or visiting their own children. That's

1 the situation that may survivors find themselves
2 in Israeli; not all, but many.

3 So, we ask the Court to think about
4 those figures and to think about the extent of
5 need and how one defines need in Israel. And in
6 other parts of the world where there are very
7 many needy survivors.

8 These matters, of course, your Honor,
9 are directed to the Court's discretion of how to
10 allocate, where to allocate, whether to allocate
11 and to the extent that there are factual issues,
12 we stand ready and we welcome the opportunity to
13 help the Court get to the accurate complete
14 information.

15 There are two other items that are
16 directed to the Court's discretion that we have
17 brought people her to speak about. First, the
18 question of one defines the needs of a survivor,
19 what are the core life needs of a survivor, and
20 to speak to that issue, your Honor, we have Will
21 Zevv Factor. Mr. Factor is a survivor. He is
22 the chairman of the leading private organization
23 in Israel that provides support to survivors,
24 the foundation for the benefit of survivors in
25 Israel. And he will speak to your Honor.

1 And in addition, although we recognize
2 that your Honor has spoken quite recently about
3 the issue of remembrance, a representative of
4 Yah Fashem (phonetic) has come and would like
5 the opportunity to speak to your Honor about
6 that. Her name is Ruth Brand, your Honor. She
7 is a compelling person and I know that you will
8 appreciate hearing from her.

9 So, I thank your Honor for the time and
10 the opportunity. I would like also, if I may,
11 your Honor, provide a copy of
12 Dr. Della Pergola's CV to the Court and the
13 master in anticipation of his speaking to the
14 Court with permission.

15 THE COURT: Okay.

16 MR. YALOWITZ: Thank you, your Honor.

17 THE COURT: Who is next?

18 MR. YALOWITZ: Dr. Della Pergola.

19 And I would also like to provide the
20 Court with a copy of the chart with the footnote
21 indicating the documentation, so that the Court
22 has it.

23 (Pause in proceedings)

24 (Discussion held off the record)

25 THE COURT: All right.

1 Mr. Della Pergola?

2 DR. DELLA PERGOLA: Thank you,
3 your Honor.

4 Your Honor, Mr. Gribetz, my name is
5 Sergio Della Pergola. I'm a professor Jewish
6 population studies at the Hebrew University of
7 Jerusalem and my main professional interest is
8 with the assessment and use of Jewish population
9 data percentage, research and policy planning.

10 Let me open with two preliminary
11 statements. One must express my hope that the
12 whole amount of so far reclaimed funds will
13 eventually be returned to the owners or
14 descendants. And also, I feel that the Court,
15 the special master, their teams, have so far
16 generated an unprecedented amount of invaluable
17 evidence for which we express respect and
18 sincere tribute.

19 The fundamental assessment task is not
20 yet complete and facing what we view as a global
21 problem, we need a truly global overview and
22 approach. And this I would like to provide
23 quickly by reviewing five points. The first
24 point is shifts in Jewish Shoah survivor
25 population. First, once the linkage between

1 actual experience of suffering during Shoah, the
2 reasons for impoverishment and current neediness
3 is being removed from consideration. It is
4 imperative and obviously the Shoah survivors
5 should be defined in the most relevant and
6 comprehensive way.

7 This applies looking aback at recent
8 population trends and specifically focusing on
9 the situation of the Shoah survivors and their
10 location. Since they fold the Berlin wall,
11 there has been a huge geographical
12 redistribution of Jewish population in general
13 and of Shoah survivors in particular.

14 The total number of Jews in the Former
15 Soviet Union that was assessed at over one and a
16 half million in 1989 is now less than 400,000 as
17 assessed at the beginning of 2004 on the basis
18 of fresh evidence. At the same time, the Jewish
19 population in Israel increased, has been also a
20 significant increase in Germany, following the
21 same trend of international migration.

22 But focusing on the topic of today,
23 between 1989 and 2003, over one and a half
24 million Jews and their family members left the
25 Former Soviet Union, of these more than 950,000

1 or 61 percent went to Israel. The age of
2 international migrants is known to be somewhat
3 selective and younger than average.. However,
4 immigrants to Israel have included at least
5 115,000 elderly out of the total immigrants from
6 the Former Soviet Union, many of them former
7 Shoah survivors.

8 As a consequence, the geographical
9 distribution location of the Shoah survivors who
10 are originally from the Former Soviet Union has
11 changed significantly. We now know that about
12 445,000 Shoah survivors born in the Former
13 Soviet Union live in the world, at least
14 probably 146,000 live the Former Soviet Union
15 but 180,000 live in Israel and about 120,000
16 live in other countries.

17 So, there has been a shift, not only of
18 people that I would presume in personal
19 characteristics and therefore the current
20 incidents of neediness, while it's certainly
21 higher among survivors who do live in the Former
22 Soviet Union now, yet neediness accumulated over
23 several decades have not disappeared instantly
24 as the product of international migration of
25 Jews where we know that in general international

1 migration is a further cause for stress and
2 faculties, a person of psychological social
3 economic.

4 Now once they did start coming in the
5 treatment of Shoah survivors until well into the
6 current proceedings was the omission for
7 consideration of the Jews who during the
8 relevant period of years lived in the Southern
9 and Eastern Mediterranean countries that were
10 subject to Nazi occupation or to its
11 instrumentalities, agents and allies. The
12 relevant countries were Morocco, Nigeria,
13 Tunisia, Libya, Syria and Lebanon with different
14 intensities of sufferance but overall a total of
15 275 -- 207,000 Southern and Eastern
16 Mediterranean Jews were included in global
17 estimates of survivors that we've produced
18 originally for the Icheck and Secretary Berger
19 (phonetic) and then for the current proceedings
20 which stands at around 1,029,000.

21 Of the southeastern Mediterranean Jews,
22 about 87 percent originated from the three
23 migrant countries and minor numbers for Egypt
24 and Syria. And so they comprised roughly 19
25 percent of the total of world survivors. About

1 118,000 live in Israel, about 4,000 in the
2 Norther America, about 85,000 in other
3 countries, most of them in (unintelligible).

4 Now were we to exclude these people
5 from our exercise of assessing the total number,
6 interestingly, our assessment would be about
7 885,000 survivors. That is, if we come to a
8 figure without those areas, that is imminently
9 close to estimates that have been produced since
10 the lat 1990s by other researchers and other
11 interested bodies.

12 However, there is one difference and
13 that's the physical difference in the
14 geographical distribution. Since we are in the
15 presence of a significant flow of international
16 migrants, this is reflected by a gradual
17 diminution of the share of those who are in the
18 Former Soviet Union which is ascending country
19 and an increase in Israel and to some extent, in
20 North America and some other countries which are
21 the receiving countries of such migrations.

22 I simply would like to insist because
23 this has been wrongly reported in text that I
24 have read that my estimates reflect sudden
25 increases in the number of survivors. This is

1 simply to do justice with a group that has been
2 forgotten for reasons I can't comment on and
3 which is relevant, not less than others. It
4 then, of course, effects other estimates
5 including the discussion about it.

6 I now turn to my second point and
7 that's the discussion of criteria and aspects
8 for the assessment of neediness. Selection of
9 those eligible for allocation to the needy
10 should follow a number of principles which I
11 believe are implemented by the Court, coherent
12 and comprehensive in terms of the basic
13 principles and eligibility, attributable in
14 terms of access, opportunity to each relevant
15 individual Shoah survivor in the world.

16 Equitable in terms of the validity and
17 comparability of the sources of data used to
18 assess the size and distribution of the eligible
19 population. That is in terms of the
20 relationship between allocation principles and
21 actual needy survivor population distributions.
22 And efficient in terms of the use of public
23 resources in the life of different costs of
24 living in the different countries of
25 intervention.

1 Now, regarding the first principle, the
2 special master has determined that the most
3 urgent needs include food, winter relief and
4 emergency cash grants to survivors facing sudden
5 and unexpected crisis. But he has allocated
6 second priority to home health care and
7 medicines, medical equipment.

8 I think the intention, the good
9 intention is to enhance the survival of the
10 Shoah survivors but I feel that the distinction
11 between food and fuel on the one hand and basic
12 health care not otherwise covered is one that it
13 is difficult to follow especially when the able
14 assistance in our case cannot ignore the need to
15 preserve basic human dignity of those assisted.

16 A person needs to be sufficiently
17 healthy in order to be able to absorb food. And
18 separation between the two things artificial and
19 hard to explain on nullity grounds.

20 Now, the proportion allocation to needy
21 Shoah survivors suggested by different projects
22 and groups has been quite different. I would
23 like to mention briefly an attempt I made and
24 was submitted, although I feel it has not been
25 received in these proceedings to treat a

1 systematic review of relevant data and
2 indicators applied to the geographical
3 distribution of the survivors.

4 The problem we have here is that we
5 would like to have the ideal data, the kind of
6 census of people worldwide, knowing exactly what
7 they are (unintelligible) indeed are. But
8 unfortunately, we are not in this situation.
9 Therefore, it was suggested by me to take a kind
10 of indirect path to assess the needs globally.
11 The cost of living, of course, and the needs and
12 the presence of people in the different regions
13 of the world should be considered adequately.
14 I'll return to this point later.

15 The special master has referred to the
16 population of the neediest based on data
17 concocted in different countries through lists
18 of clients provided by service agencies. The
19 problem is that there are areas not covered by
20 those data. There are areas where the data --
21 the survivors are simply forgotten, perhaps
22 because they were not sufficiently active or
23 efficient agencies that provided the data.

24 I think in our strive to provide
25 maximum compatibility, we should have at the

1 center of our mind the needs of the Nazi
2 victims. In fact, in the words of the special
3 master, the data that are reviewed in the recent
4 April 16 report do not provide an exhaustive
5 representation of all Nazi victim needs. The
6 data perhaps do provide a measure of the
7 efficiency of service organization which is
8 important but this cannot constitute the primary
9 criteria in resource allocation.

10 Again, I would like to add a comment on
11 the Hased data base which we very much
12 appreciate and which has been the name or sole
13 source of information in the Former Soviet
14 Union. We say that intrinsically, those databases
15 tend to be outdated in the sense that people who
16 died or immigrate do not take care really to get
17 canceled. Eventually, the organization does get
18 the information and the numbers are updated.
19 But at any point in time, there is a certain lag
20 between the actual amount of people to be
21 serviced and the figures in the database.

22 I noticed that since the beginnings of
23 these proceedings, the Hased estimate has been
24 significantly updated. We were speaking of
25 135,000 people at the beginning. Now we speak

1 about 121,000. We know that in Moldova, the
2 figures were provided showing the amount of
3 people who were canceled from the list.

4 And we would like to receive a lot of
5 data for the larger communities in the Russian
6 federation and Ukraine. I think that all of
7 this shows that there is the ability to improve
8 the data and to provide updated databases. But
9 this takes some amount of time and this
10 important to assess the numbers in the last
11 resort.

12 Another point is that within the Hased
13 database as we heard this morning, there are
14 also apparently different degrees of need, those
15 5,000 plus who need a daily hot meal are the
16 most painful case and the 40,000 cases who need
17 a package of dry food sometimes in the course of
18 the year are more needy. There are others who
19 perhaps are slightly less needy.

20 This is not to say anything else that
21 the Hased database is very useful and very
22 important but it should be assessed some more in
23 the light of preparing the quality of this data
24 with other data and acknowledging them.
25 Unfortunately, we do not have such data of the

1 same quality and extent for some other countries
2 in the world out of the perhaps the major three,
3 Israel, the United States and Former Soviet
4 Union.

5 I now turn to a brief review of the
6 emerging neediness in Israel. Much as a
7 consequence of the older but also more recent
8 patterns of international migration, the Israeli
9 society has faced overwhelming burden in its
10 social security and economic standing. As
11 mentioned earlier, the contributing factor
12 unfortunately as been political, economic,
13 conjecture of the last three years. But this is
14 not the main point here.

15 The main point here is that thanks
16 essentially to very good research done by the
17 JDC Brookdale in Jerusalem, we have facts that
18 in fact are displayed in that poster showing
19 different levels of neediness by different
20 criteria. The criteria referred basically to
21 the proportion of the elderly in Israel who
22 suffer from certain needs. It is clearly
23 demonstrable that if that's the average and that
24 the projected actual number for the total of the
25 elderly among those Shoah survivors, the

1 situation is even worse. So, all of those data
2 are clearly under estimates but we can take them
3 at face value.

4 So, looking at the 160,000 survivors
5 who do not have adequate heat in the winter, the
6 130,000 who are forced to choose between for
7 basic needs such as heat, electricity,
8 medications, medical treatment, food, the
9 140,000 survivors that as already mentioned were
10 deemed eligible by the Swiss fund for the needy
11 victims of the Holocaust Shoah, which by the
12 test of their document included only those
13 persons who were in need and were eligible for
14 assistance from the fund which included persons
15 if he or she was living on or below the poverty
16 line. In Israel, the poverty line amounts at
17 roughly \$380, which adjusted for PPP is about
18 \$450, not (unintelligible) situation if compared
19 to the United States.

20 And then there are others, 95,000
21 survivors who --

22 THE COURT: That's a month?

23 DR. DELLA PERGOLA: Sorry.

24 THE COURT: That's a month.

25 DR. DELLA PERGOLA: A month.

1 THE COURT: Okay.

2 DR. DELLA PERGOLA: 95,000 survivors
3 who face severe or moderate food in security and
4 I will also mention that 85,000 survivors who
5 cannot afford the cost of calling or visiting
6 their children. Your Honor, we are a very
7 familistic society and that's a problem.

8 So, we have this different estimates
9 and levels and I would end another comment or
10 two, the Jewish population from the Southern and
11 Eastern Mediterranean countries that has usually
12 been ignored in the discussion about the service
13 to Shoah survivors in Israel, they usually
14 constitute lower than average social classes.
15 So, they are -- when factored in, the amount of
16 need in Israeli society increases.

17 I would suggest that if we go back to
18 that poster, not more than 160,000 people, but
19 also not less than 95,000 people would be a
20 reasonable assessment of the amount of very
21 needy people who are comparable to the very
22 needy that we know exist in the Former Soviet
23 Union and not 20,000 as suggested in the current
24 special master document.

25 I would then move to the last two

1 points very quickly. The point of the purchase
2 power of the United States dollar in different
3 countries, is a principle of maximum efficiency.
4 This is money that has to be very special, if
5 any. And just apply the purchase parity ratios
6 to the percent distributions of allocations
7 suggested by the special master in his current
8 document, we would obtain a very different
9 distribution of the time, which in my view would
10 be equitable and worth of considering seriously
11 by the Court.

12 The last point is an agenda for the
13 future. It's that we share the suggestion on
14 radio repeatedly mentioned among others by
15 Professor Zachs (phonetic) and his associates in
16 the Brandeis report that further search is
17 required before a definitely optimal concept is
18 developed with a resource allocation to needy
19 Shoah survivors.

20 This search cannot be completed in such
21 a short time as was under the stringent
22 deadlines proposed by the Court. But it would
23 be good that we would be pleased to be part of a
24 collaborative effort by investigators from
25 different countries to achieve such an endeavor

1 which is not only theoretical but practical, so
2 that in due course and soon, possibly, sensitive
3 recommendations can be made to assist the Court
4 in its allocation of scarce resources.

5 Thank you, your Honor.

6 THE COURT: Mr. Factor, is he next?
7 Mr. Zevv Factor?

8 MR. FACTOR: Your Honor, allow me in
9 this short time given to me first to the master
10 court, Mr. Gribetz, prepared this report and
11 it's a basis for today's deliberations and
12 discussions. Allow me also to -- I apologize
13 for the mistakes that I may make in my limited
14 English in order to bring up my case.

15 My name is Zevv Factor. I am as you
16 call it, a survivor. I am not a survivor.
17 Someone who was there never survived it. I am
18 going with the Holocaust all of my life long, in
19 my head, in my heart, in my feelings, in my eyes
20 and this is a phenomena that will never be gone.
21 There are some survivors that really believe are
22 survivors but the truth, they know in the middle
23 of the night, in their dreams and in the way of
24 their life since they were liberated.

25

1 I am a prisoner of Svietdedeutsche
2 (sic), of the concentration camp of Auschwitz
3 and the concentration camp of Quedlinburg For
4 the last sixty years living now in Israel. And
5 after retirement, I promised myself to do
6 everything possible in order to help my brothers
7 Zuss (phonetic) who are there and are today in
8 very, very hard conditions. You have to take
9 also in account the fact that those people are
10 in an ongoing war since 1939 up to this date.
11 And no one of them entering a bus in Jerusalem
12 or in Tel Aviv is sure that he will arrive to
13 his destination.

14 Therefore, while we are talking of
15 food, we should also take under consideration
16 the mental stress of the people and especially
17 of the survivors who are living today in my
18 country. They really do believe that somebody
19 made, as you say in America, a contract on them
20 and is searching how to kill them in all those
21 years. They have severe problems and they don't
22 know by themselves and they don't have the
23 ability to provide their needs.

24 In the last decade, I am leading the
25 Foundation for the Benefit of Holocaust

1 Survivors in Israel. This is an NGO
2 organization which assisted up to this very day,
3 the last ten years, something like .70,000
4 survivors. This was possible and was done with
5 the help of the Claims Conference, which is
6 located in this town.

7 I believe this holds a good opportunity
8 to say thank you for all that was done and to
9 say thank you for what must be done in the
10 future. We have a very special element in
11 Israel. We have day by day more needy
12 survivors, people who thought they will never
13 ask for help from somebody are now forced to
14 near our doorsteps and to ask for help in order
15 to exist. Especially hearts broken are those
16 who are obtaining, the so-called status of 150
17 percent invalids. Many people are asking me
18 what 150 percent. Yes, we have such a thing in
19 our social system, 150 are those who cannot
20 exist without the help of somebody else.

21 And I am a little bit disappointed that
22 those cases are not put in to the first
23 category, except they lack food and other
24 important things. What can a fellow really do
25 even if his icebox is not empty if he cannot

1 reach out and to take out this food for his
2 failing needs?

3 Take, for example, a lonely handicapped
4 92 years old person in Israel who cannot move
5 alone from his bed. I will spare the Court from
6 specific descriptions but I would like to ask is
7 changing his diapers so he doesn't remain in his
8 own excrements for a whole day, less important
9 than having food? What should we answer to this
10 person in Israel? Even if he does have food in
11 his icebox, how may he reach it? The major cuts
12 in governmental social budget in Israel lack in
13 a situation where the survivors do not get daily
14 home care. Without the special addition aid we
15 requested from the Court, this results is the
16 survivor having a life that can lead only to a
17 very fast deterioration and to death.

18 The same examples are correct for also
19 basic needs for the survivors like bathing and
20 feeding. Please note, a person without food
21 starves and dies. A person without the needed
22 home care rapidly dies as well, not to mention
23 the issue of self-dignity.

24 We are willing to support information
25 and documents, as well as to prepare the Court

1 the professional advisors regarding this issue.
2 I would like to add one sentence more. In order
3 to live and especially in this stage, the last
4 stage of life, since survivors worldwide just
5 reached someone needs, also something for his
6 soul. Sometimes, we know exactly that this
7 person that passed away, he passed away only
8 because he was lonely. And we have to support
9 this person because he expressed the need to
10 learn and lacked the amore (sic) with somebody.
11 If somebody doesn't understand what that means,
12 he needs to read the Holy Book with somebody
13 because it was the way he was used to his whole
14 life.

15 The budget that we are operating with
16 is very, very limited and, of course, we know
17 what the limits are. We cannot provide this
18 help to all said because that is what we are
19 getting. It's the moment from the Claims
20 Conference, from the ICHECK settlement and as we
21 call it in Israel, from the Swiss Bank
22 settlement. I take the opportunity to thank to
23 you, Judge Korman and to all the other
24 organizations who helped us all the way along.

25 I beg you, bring us the means after you

1 paid off the monies that are belong to the
2 people that I have to stress and to underline
3 but don't postpone any steps that you can make
4 today because tomorrow, it might be too late.

5 Thank you for your patience.

6 THE COURT: Ruth Brand.

7 MS. BRAND: My name is Ruth Brand. I
8 now live in Israel for the last 33 years but I
9 do remember when I came to this court and got my
10 citizenship papers here. I lived here 25 years.
11 I came to visit relatives that found me after
12 the war and they invited me to come and visit.
13 I came for a short visit, like three months and
14 I stayed 25 years because I was introduced to a
15 very nice young man who had been discharged from
16 the American army at that time, where he had
17 served for five and a half years. And on our
18 second date, he proposed marriage. I did marry
19 him after a lot of consideration because I
20 didn't think an American can understand us after
21 what we went through but I considered that five
22 and a half years in the army made him understand
23 a lot, more than the average person.

24 At age 16, I was taken to Birkenau with
25 my family. And the first day, we got there

1 do do it with a purpose. I feel it's a mission.
2 I do speak to young people and to older people
3 because the memory of those who died must not be
4 forgotten. I was even surprised to hear even
5 about the people who perished and left their
6 money in Switzerland. If you would ask them if
7 they could tell us they would say, remember us.
8 Just like those people who when they were taken
9 chosen to go to the gas chamber, all their
10 clothes were taken away and everything else and
11 they have nothing left with them. They would
12 puncture their finger and in that room write on
13 the wall, "Don't forget us. Remember us." And
14 "Nekome." Nekome means revenge. And we must
15 not forget that.

16 I'm not so young anymore. I don't have
17 much strength but I do go to Poland, go back to
18 hell with groups. So far I went eight times and
19 in the next two weeks I am going with a group
20 with the Israeli Air Force.

21 Why am I doing this? Simply because we
22 must not forget. We must tell what went through
23 -- what our people suffered and they have to
24 remember. And I ask them usually to be my
25 ambassadors to remember and not to forget and to

1 tell their children and grandchildren eventually
2 because that's the only link in the chain that
3 we have. Not many of us are alive anymore. Not
4 many of us will be around for many years. And
5 then who will tell and what will be told? This,
6 to me, is very important.

7 For that -- and I want you to know,
8 your Honor, that I am one of those survivors who
9 did not ask for any restitutions from the
10 Germans. There are many of us like that. We
11 are too insulted and we didn't want them to wash
12 their blood off of their hands with money.

13 During the Eichmann trial when I heard
14 interviews, some German students were
15 interviewed and they were asked, "How do you
16 feel about the six million slaughtered Jews?"
17 And they said, "We pay for it." As simply as
18 that, they made peace with that that they paid
19 for it, so why worry.

20 And then I said "I don't want anything
21 from them." I worked very hard and so did my
22 husband in bringing up our children, our family
23 but my goal was to reach Israel to help build a
24 country where things like this will never happen
25 again.

1 FEMALE VOICE: (unintelligible).

2 THE COURT: Please, please.

3 MS. BRAND: And in conclusion, I have a
4 little story that I tell every group that I am
5 lecturing to and there are many. Last week,
6 there was Yomashowa (phonetic). I was spoke in
7 eight different places, not the same day, they
8 had to wait a day or a day before, for the same
9 reason.

10 Now, this little anecdote that I have
11 to tell is like this. My profession here in the
12 United States was sewing bridal gowns. It's a
13 happy occasion and the life of a bride. And
14 when I reached Israel, there were those people
15 who knew about me and came and also asked me to
16 continue. I continued. And when I finished one
17 bridal gown, the mother of the bride came over
18 to me. She said, "Tell me, what made you choose
19 this profession? I see your ability. I see
20 your artistic ability. I see how happy it makes
21 you to work at it. But what made you choose
22 it?"

23 I said, "Well, because they didn't
24 allow me to go to school. I went to them and I
25 went to learn a trade."

1 She said, "What? Why didn't they allow
2 you to go to school?"

3 I said, "Because, I am Jewish."

4 She said, "What, in America?"

5 I said, "No, no, no. My husband was
6 born in America. My children were born in
7 America. But I came to America after the war."

8 She said, "After the war? You mean,
9 you're a survivor?"

10 I said, "Yes."

11 She said, "I don't believe you."

12 I said, "I'll show you my number."

13 She said, "I still don't believe you."

14 I said, "Why?"

15 "You don't look it."

16 I said, "How am I supposed to look?"

17 And for the first time in my life I hear I am
18 supposed to have some special look.

19 She said, "You are not sad."

20 I said, "Yes, my dear new friend. I am
21 not sad. Because in 1944, the Germans wanted to
22 kill me but they decided to let me live so I can
23 work hard. But I am still here. And my dear
24 friend, when I wake up in the morning and I say,
25 "Modayami" (phonetic). I say thank you Lord to

1 return my soul. I know what it means. Because
2 I was so close to death, life has a very special
3 meaning for me. And when I see it's a new day,
4 I know that it's a new gift. And with this
5 gift, I do as I please and it pleases me to be
6 happy and not sad. Not sad for many other
7 reasons. Many of my friends had no sufficient
8 strength to build a family. Many of my friends
9 said why bring children into this horrible
10 world? But I did have enough 'der koyakh.'
11 That's strength, inner strength. And I did
12 marry and I did have children. God blessed me
13 with four sons, 11 grandchildren and by now,
14 four great grandchildren. And I'm alive. I am
15 alive in our own country and hope that this will
16 never happen again to any of us, to nobody in
17 the whole world because what happened to us, is
18 just undescribable and unbelievable, too."

19 I also made a contract without signing
20 it with "Hachadosh Bihrahome", with God while I
21 was working hard in Auschwitz and Bergen-Belsen.
22 And I said, "Please, dear God, help me survive.
23 I must live so I can tell what happened to us."
24 And at the liberation, when I was in Bergen-
25 Belsen on the floor with high temperature and

1 diapers, and when the English, the British
2 soldiers walked in and said, "You are liberated,
3 you are free. You can go home even."

4 And I started to cry for the very first
5 time and took the whole experience, I cried and
6 I said, "Big deal, I remained alive for whom and
7 for what?"

8 But now I know. God helped me survive
9 and I will talk as much as I can and as much as
10 he will give me life. And thank you so much for
11 listening.

12 THE COURT: Thank you.

13 MS. BRAND: And I hope that you will
14 allocate to Yavashim an amount, so they can
15 continue with their very important work. They
16 are the ones to remember who are working at this
17 very hard and I am on full support for them.
18 And all of us who can and volunteer to help
19 this, I bless them. And thank you very much
20 again.

21 THE COURT: Thank you.

22 Mr. Paul Berger.

23 MR. BERGER: Judge, I guess this is the
24 first time in my 47 years of practice that I've
25 cried in the courtroom. I don't believe that,

1 with all due respect, if anyone is left with any
2 legal issues, I think you've established the law
3 of this case. It's been approved by the Courts.
4 You are, I believe and special master and the
5 deputy special masters, wrestling with issues
6 that have no answers. And they're the kind of
7 issues that I have spent more time on over the
8 47 years as a lay person in the Jewish
9 community, in my own community of Washington,
10 where I am still presently in (unintelligible) a
11 program and partnership with the Joint and
12 Israel to deal with the Ethiopian children.

13 In the eight years I spent as the
14 chairman of the budget and finance committee of
15 the Jewish Agency during the period of time that
16 we were bringing in the Jews from the Former
17 Soviet Union and Ethiopia. And these questions
18 of how do you take resources that are inadequate
19 and do justice? The questions for which there
20 are no answers. Yet you have to do a job.

21 We have tried to focus on the standards
22 set by this court and we've tried to put before
23 you data which will help determine where are the
24 neediest survivors today? Where are the
25 neediest survivors today? There's a

1 disagreement among the experts. I hope that
2 there will be opportunity for these experts, all
3 with good will and extraordinary capability to
4 sit together and to try to narrow the
5 differences. And if necessary, that there be an
6 evidentiary hearing before you to try to have a
7 standard on the question of where are the
8 neediest today that can e applied in a manner
9 that will allow a further thing to happen.

10 The survivor communities around the
11 world today, while they fully, I think, at least
12 they're told, that the best has been done by the
13 special master and the Judge to do justice.
14 They still have a sense of that justice hasn't
15 been done and that there hasn't been a standard
16 of application of neutral principles fairly
17 applied.

18 I would hope that with some greater
19 consensus among the experts as to where, in
20 fact, today the neediest survivors exist and
21 then perhaps as Israel Singer said that the
22 organizations that are most run forums, all of
23 the good, all of the great, all of them for
24 which I am truly thankful, might put together
25 the best available data today, that still can be

1 put together in a relatively short time and
2 bring before the special master and the Judge, a
3 moral and principled consensus not a political
4 judgment, not a judgment derived from power and
5 not a judgment derived simply from emotion but
6 one that can assist in this extraordinarily
7 thankless task of trying to address what you
8 have before you in a way that can allow you to
9 feel that you've done all that you can, not as a
10 Judge because the legal issues are resolved but
11 as a person who history has given an opportunity
12 to face a small residue of the remnants of the
13 Nazi war machine.

14 I do believe that all of us agree and I
15 hope that Professor Newborne with the assistance
16 of the Court will be successful in tracking down
17 as quickly as possible, those who are entitled
18 to the bank accounts and at the same time while
19 this effort is being done, in the event that
20 there are excess funds, what you stated can be
21 put together. That is to say, a mechanism that
22 in the event there are any excess funds, you can
23 deal with them expeditiously and without further
24 delay, so that I do think that this process
25 while the effort is being made very quickly to

1 get the assets into the hands of the depositors
2 of the heirs, to the extent it's possible.

3 And that the record can be perfected,
4 the effort can be approved and you and the
5 special master, the deputy special master will
6 have a better opportunity, I respectfully
7 submit, to achieve what I hope will happen. And
8 that is all of the survivor communities, while
9 they will not be satisfied in their needs, will
10 feel satisfied or comforted that principles have
11 been fairly applied across the board.

12 Thank you for your continuing effort in
13 what is really at the same time a thankless task
14 and an extraordinary opportunity.

15 THE COURT: Thank you.

16 Mr. Leonard Saxe.

17 MR. SAXE: Thank you, your Honor. My
18 name is Leonard Saxe. I'm a professor of social
19 policy at Brandies University and I'm pleased to
20 appear today to summarize an assessment of
21 available data on the needs of Nazi victims.

22 Research is supposed to be
23 dispassionate but one can't study human behavior
24 well without passion. Like other witnesses who
25 have appeared today, I have intense feelings

1 about the issues raised in these proceedings.
2 The horrific inhumanity of the Nazis and their
3 collaborators profoundly touch my own family and
4 it touches all of us.

5 The Court needs to make allocations
6 about allocating funds that in this imperfect
7 world are nonetheless vital to enable victims of
8 Nazi persecution to live the remainder of their
9 lives with dignity. My goal is to aid the Court
10 by synthesizing objective data about the needs
11 of these victims.

12 The work I am going to discuss was done
13 with a team from Brandeis University. It was
14 originally requested by the Joint and more
15 recently we've worked directly on behalf of the
16 Court. Our analysis reflect application of
17 established social science standards. We have
18 not tried to view the data selectively or to
19 orient conclusions to fit any preconceived
20 notions. We have none to begin with. Our only
21 goal has been to identify those who are most
22 needy.

23 In our report submitted in January,
24 Jewish elderly Nazi victims, we know that it is
25 exceedingly difficult and in some respects odious

1 (sic) to compared victims. It is possible,
2 however, to make comparisons of victims relative
3 health and socioeconomic status and to compare
4 the adequacy of the services that various
5 countries provide to their elderly. Our report
6 provides such information.

7 We compare victim circumstances based
8 on multiple indicators drawn from dozens of
9 sources. Our analyses demonstrate the
10 deprivation of Nazi victims worldwide and in
11 particular indicate that the largest number of
12 Nazi victims live in an abject poverty, reside
13 in the countries of the FSU.

14 A particularly important source of data
15 for this conclusion was the information system
16 maintained by the Hased centers in the FSU. We
17 examined that data set carefully. We examined
18 data for all 225,000 elderly individuals who
19 have received services there during the past
20 year. Almost half, 125,000 approximately, were
21 Nazi victims.

22 Although some have questioned the
23 reliability of the Hased data, we've analyzed it
24 very closely and we find no evidence of
25 systematic over counting or inclusion of

1 individuals who are no longer living. We've not
2 interviewed clients but we are convinced that
3 the data base provides an accurate portrait.

4 The United States and Israel, there are
5 no parallel sources of information. Certainly
6 poor victims live here and in Israel. The
7 economic and social welfare systems of the
8 United States and Israel are far more extensive
9 than those in the FSU. And although there is no
10 question that there are inequalities in access
11 to services, and that Israel in particular is
12 experiencing severe economic distress, but the
13 United States and Israel remain world leaders in
14 the quality of their health and the social
15 welfare systems.

16 In contrast, the services available to
17 victims in the FSU, particularly if one excludes
18 what is provided by Hesed centers, are almost
19 incomparably poor. Although there are
20 significant differences across the FSU, those in
21 Russia, Ukraine, Moldova, Belarus, experience
22 poorly organized public programs, ineffective
23 delivery systems and bear the brunt of weak
24 economies that make it difficult to sustain
25 health and welfare services. It seems critical

1 to continue to supplement the needs of the most
2 vulnerable in these countries.

3 Although our conclusion is, that Nazi
4 victims in the FSU are severely disadvantaged
5 both in absolute and relative terms, this should
6 not obscure or lead to indifference regarding
7 victims in the United States and Israel. Our
8 analysis demonstrate that relative to other
9 Jewish populations, Nazi victims in Israel and
10 the United States suffer from disadvantages that
11 reflect the terrible legacy of persecution.

12 Moreover to the extent that there are
13 problems of poverty and lack of access to
14 service systems here in the United States, they
15 largely involve immigrants from the FSU.

16 It's been proposed as part of the
17 submission by the government of Israel and the
18 WJRO that a formula be applied to determine
19 allocations. We've ruled the formula developed
20 by Professor Dell Pergola and submit today our
21 report on the proposed allocation model that
22 this suggests.

23 To summarize the findings of this
24 analysis, we reject the premise that national
25 level data can serve as a proxy for actual data

1 about victims. Such national level data has
2 gross domestic product, of life span, et cetera
3 are not necessarily indicators of the needs of
4 Nazi victims, the needs of the elderly.

5 And some of the proposed factors, such
6 as gender equities, immigration load, social
7 status, are not even comparable very easily
8 across societies.

9 Despite the goal of developing an
10 objective measure of neediness, the choice of
11 which indicators to include is a value based
12 judgment. And depending upon how they are
13 statistically combined, one can arrive at
14 different conclusions.

15 Perhaps more importantly, application
16 of the proposed formula results in an outcome
17 determined almost entirely by the estimated
18 number of Jewish Nazi victims in each region.

19 This, in turn, in the case of the
20 application of this model results in a dramatic
21 increase in the allocation for Israel because
22 the formula is so dependent on demographics, the
23 key to the increase for Israel is the conclusion
24 that there are far more Jewish Nazi victims in
25 Israel than previous estimates.

1 Although emigration from the FSU to
2 Israel has increased, the number of victims it
3 needs to serve, the difference in demographic
4 estimates is primarily attributable to the
5 inclusion of Jews from North Africa and the
6 Middle East.

7 Although there's no question that some
8 living outside of Europe, in North Africa, in
9 the Middle East who then immigrated to Israel
10 who were victims of Nazi persecution, our own
11 analysis of Israeli survey data and of the
12 Israeli survey of the elderly results in a
13 different conclusion.

14 Our analysis indicate that
15 approximately 20 percent of those born in North
16 African and Middle Eastern countries believe
17 that they lived under or exposed to Nazi rule or
18 influence. They should, of course, be included
19 as Professor Della Pergola argues but -- as part
20 of the victim population, but only according to
21 the proportion that they represent.

22 At the core of the dilemma faced by the
23 Court and the uncertainty about how much will be
24 available for distribution, special masters
25 proposed allocation procedure and based on the

1 identification of people in need and the
2 resources required to address their needs, seems
3 in light of this uncertainty to be appropriate
4 and reasonable.

5 At the same time, I welcome the
6 suggestion of Mr. Berger and as I previously
7 said to you that to the extent that there are
8 fact based differences and that a meeting of
9 experts could resolve some of these differences,
10 I think it is an important effort to entertain.

11 I would also like to suggest that a
12 mechanism should be developed to evaluate
13 programs and services that are provided.
14 Ongoing assessment of how these funds serve
15 needy victims, seems to me to be a means to insure
16 that the available funds are used, as well as
17 possible and not delay in providing aid any
18 longer than necessary but also hold
19 organizations that provide services accountable.

20 It pains me to witness some of the
21 controversy that has been evoked by the Court's
22 rulings and the special masters report. I hope
23 that our work offers some reasonable analysis
24 which can assist the Court. Sixty years ago,
25 the world turned a deaf ear and refused to act

1 to save those who were being persecuted by the
2 Nazis. There is no way to repair that damage,
3 no way to restore the lives, the millions who
4 were brutally murdered or to make whole the many
5 millions more who were driven from their home.

6 The very least we can do is to try to
7 insure that needy victims, wherever they live,
8 get every bit of support we can provide; it
9 seems to me not a job solely for this court.
10 Whatever it is possible, under the terms of
11 Swiss Bank settlement should be only one part of
12 the aid that we provide to elderly Nazi victims.
13 Shame on us, shame on the rest of the world if
14 we fail to address the needs of all victims.

15 Thank you, your Honor.

16 THE COURT: Mr. Swift.

17 MR. SWIFT: Good afternoon, your Honor.

18 As you know, I am co-chair of the
19 Claims Executive Committee and I'm also the
20 Settlement Class Counsel.

21 I am one of the three persons who were
22 integrally involved in settling the Swiss Bank
23 claims and I was one of the principle
24 negotiators of the written settlement agreement
25 before your Honor. I've also been involved in

1 the negotiation and the litigation of a variety
2 of Holocaust class actions and distribution
3 plans. And I represent the entire class and
4 thousands of class members, individually.

5 The first point that I would like to
6 mention is that we're or the Court is about
7 ready to embark on the largest cyprus award by a
8 court in American jurisprudence. It will
9 dwarf any other cyprus award by many multiples.

10 We have very little guidance from the
11 second circuit on it. And the seminal case
12 appears to be Agent Orange. The first or the
13 second point I wish to make is that I believe
14 it's appropriate at this time and I believe it
15 was appropriate six months ago to have kept the
16 deposited asset claims of \$200 million.

17 There is very good, specific evidence
18 to support that. First of all, your Honor did
19 cap them early on at \$800 million. You've
20 accepted Paul Volcker's range, recommended range
21 of \$200 to \$800 million. It should now appear
22 based upon four years of claims experience that
23 we will not get to \$200 million.

24 THE COURT: That's not true but I don't
25 want to argue the point with you.

1 Go ahead.

2 MR. SWIFT: There are two things, of
3 course, that are taking place; one is that the
4 CRT is adjudicating what claims remain and
5 secondly, they are trying to match claims with
6 people that have not made claims even though the
7 class notice was adequate when it was sent out.

8 THE COURT: I don't understand, the
9 match claims of people who have not made claims?

10 MR. SWIFT: That's right, your Honor.
11 There's -- as I understand it, the CRT is trying
12 match claims based upon databases and Swiss Bank
13 records.

14 THE COURT: Right, the matching

15 MR. SWIFT: But not necessarily where
16 people have submitted claims.

17 THE COURT: That's not true.

18 MR. SWIFT: Well, that was my
19 understanding. If I'm in error, I apologize.

20 THE COURT: That's not my understanding
21 but go ahead.

22 MR. SWIFT: The point, of course, is
23 that in the last eight and a half months, there
24 has only been the payout of an additional \$8
25 million by the CRT based on the information that

1 I have seen.

2 THE COURT: I don't think that that's
3 accurate either. But go ahead.

4 MR. SWIFT: Does your Honor have a more
5 accurate figure?

6 THE COURT: I don't have it in front of
7 me. I didn't know we were going to be
8 discussing this. But that's simply not so.

9 MR. SWIFT: The figure that I saw in
10 the special masters report, your Honor, is that
11 today under CRT II, a total of \$138 million
12 plus --

13 THE COURT: I think it's closer to \$148
14 million. But go ahead. Make your point. I
15 don't want to argue --

16 MR. SWIFT: But the point is that --

17 THE COURT: An additional \$10 million
18 or \$11 million was awarded from CRT I which
19 comes out of the settlement fund. So, we're
20 close to \$160 million in awards. But it's not
21 enough and I'm troubled by -- I've said before
22 earlier that I'm troubled by the slowness of the
23 process and I've taken additional steps to speed
24 it up.

25 MR. SWIFT: Well, we've been at the

1 process for a considerable period of time and I
2 think that the time has come where through the
3 people need to say this is a reasonable number
4 at which to cap it and we need to distribute the
5 remaining money to people who would be eligible
6 in the looted assets subclass because time is
7 running out for many of them. Many of them are
8 elderly as we've heard this morning.

9 My next point, your Honor, is that the
10 legal standards to be applied here based upon
11 Agent Orange is that when money can be
12 distributed on a claims made basis, the Court
13 may look to an equivalent distribution based on
14 cypres to the entire class. But what the Court
15 can't do, I submit, is to single out a subclass
16 of the neediest and say that that satisfies the
17 agent orange standard.

18 It is a question of matching the
19 persons to be benefitted with the people in the
20 class. There has to be congruence between the
21 people being benefitted and the people in that
22 subclass because your Honor has ruled and the
23 second circuit has upheld the fact that we
24 cannot do distribution to the looted assets sub
25 class based on a claims made basis. I accept

1 that.

2 However, the Court then has to come up
3 with a solution for a cypres award, which
4 benefits the entire class. The down side to
5 that is that legal claims will be made by
6 members of the looted assets sub class that they
7 receive no benefits from this, therefore they
8 weren't adequately represented and, therefore,
9 the release is not valid. The release was the
10 quid pro quo or the \$1.25 million settlement.

11 And I think based upon precedent both
12 in the Second Circuit, which I've cited and the
13 Supreme Court, there must be that congruence.

14 The next point I wish to make is that
15 the proposal that I made on behalf of the class
16 is the only proposal that satisfies the Second
17 Circuit criteria for a cypres distribution. I
18 propose the reimbursement of medical expenses or
19 medical insurance premiums up to \$1,000 to all
20 members of the -- actually I was proposing it to
21 the Holocaust survivor members of the looted
22 assets subclass. If -- there is an issue
23 between survivors and heirs, which your Honor is
24 very familiar with and which we tried to deal
25 with to some extent in the settlement agreement.

1 The -- dealing with healthcare satisfies a
2 universal need. We've certainly heard from many
3 of the people about that this morning. It
4 reaches all members of the looted assets
5 subclass or Holocaust survivors. It's a
6 galatariian (sic). You give people freedom of
7 choice. They don't have to be handed food
8 packs. Some people may prefer food packs but I
9 believe it's relatively small compared to all
10 those who would prefer to be given legal tender
11 or a reimbursement procedure where they decide -
12 -

13 THE COURT: Assuming that there was
14 enough money to do this, \$1,000 for medical
15 insurance would last everybody in the class,
16 assuming there was even an amount for about
17 three months to six months if that. I mean your
18 proposals are totally unrealistic. If that's
19 what's required by the Second Circuit, then the
20 Second Circuit is going to have to order.

21 MR. SWIFT: The proposal is also non-
22 sectarian. It can be rapidly administered
23 worldwide. It distributes what I believe should
24 be \$600 million within one to two years. It
25 permits close monitoring and supervision to

1 avoid fraud and the use of accounting
2 professionals and the administration costs I've
3 estimated about one percent of the \$600 million
4 which includes loss of class notice.

5 Finally, the relief that I would
6 request would be for your Honor to direct the
7 special master to implement the proposed plan
8 that I've proposed by delivering a plan of
9 implementation within the 30 days.

10 Unless your Honor has any questions,
11 that's it for now.

12 THE COURT: Your application is denied.
13 Mr. Thane Rosenbaum.

14 MR. ROSENBAUM: Judge Korman, thank you
15 for giving me the opportunity to speak to you
16 today and to address these proceedings.

17 My name is Thane Rosenbaum. I am a
18 human rights law professor at Fordham Law
19 School. I'm also a novelist and essayist who
20 writes frequently on Holocaust related themes.
21 I've just recently published a book on the
22 failure of the legal system to provide moral
23 justice and funding. I'm also a child of
24 Holocaust survivors.

25 I am here today not as a representative

1 of any particular group or organization. I am
2 not asking for money. What I am asking for,
3 however, is the restoring of dignity to this
4 restitution process. The legacy of these
5 proceedings matters a great deal. The precedent
6 it creates, the impression it leaves, the memory
7 that it honors is, in many respects as important
8 as the money that it distributes.

9 Actually today, I would like to think
10 that I speak on behalf of the dead. They, too
11 should be factored into these proceedings. The
12 dead cannot make monetary claims but the dead
13 have the right to assert moral claims on all of
14 us.

15 The task before you, Judge Korman, is
16 an unenviable one. It is a true solomonic
17 dilemma. There are far too few unclaimed looted
18 assets. There are far too many Holocaust
19 survivors worldwide who seek a share of these
20 insufficient settlement funds.

21 Yet, as you have indicated, you intend
22 to disproportionately favor the survivors of the
23 Former Soviet Union in your allocation decision.
24 They will ultimately receive a greater amount of
25 the settlement proceeds. Regardless of their

1 proportionate numbers, regardless of the needs
2 of the Holocaust survivors who lived elsewhere
3 anywhere in the world and regardless of where
4 there is a direct connection between the origins
5 of these looted assets and the property lost by
6 the survivors of the Former Soviet Union during
7 the war.

8 THE COURT: First of all, I don't know
9 where you're getting all of this regardless'
10 from.

11 MR. ROSENBAUM: The dictionary?

12 THE COURT: Well, I don't understand
13 this regardless. First of all, I think we have
14 to begin by the fact that since the end of World
15 War II some \$53 billion has been provided in
16 restitution to survivors of the Holocaust -- let
17 me finish -- including what has been paid out of
18 the Swiss settlement fund. Of that amount, .8
19 percent or \$444 million has gone to survivors of
20 the Former Soviet Union. \$14 billion has gone
21 to survivors in the United States. And so,
22 that's the first point.

23 And the second point is is that I'm not
24 deciding things on the basis of nationality. I
25 find that talking about the United States

1 getting 4 percent or the Former Soviet Union
2 getting 75 percent is not my basis for the
3 decision of where the neediest people are. I'm
4 willing to engage in a dialogue on that. But
5 that's the basis for the decision.

6 To the extent that there seems to be
7 more money going to needy people in the Former
8 Soviet Union it's because of the judgment that's
9 been made up to now that that's where the
10 neediest people are. And so, there's no
11 regardless there.

12 And, in fact, out of the Swiss
13 settlement fund, as of today, in terms of money
14 that has been paid out as opposed to money
15 that's been paid out and were allocated, more
16 money has gone to survivors in the United States
17 than in the Former Soviet Union.

18 MR. ROSENBAUM: But that's because it's
19 their money.

20 THE COURT: Well, I understand that
21 but, first of all, I am not disputing it.

22 MR. ROSENBAUM: Well, then we should
23 emprise ourselves on giving people back money
24 for what is --

25 THE COURT: Well, no, we should -- no.

1 MR. ROSENBAUM: -- we will return money
2 as a human nation.

3 THE COURT: But it's not a question of
4 pride or not pride. It's a question of truth
5 and stating facts accurately. And if you want
6 to set up some sort of a conflict between
7 monies, X number of dollars going to the Former
8 Soviet Union and X number of dollars going to
9 the United States --

10 MR. ROSENBAUM: I never said that.

11 THE COURT: -- then we should say how
12 much money went here. And if you want to drop a
13 footnote and say well, it went to people who
14 were slave laborers or it went to people who own
15 bank accounts, that's fine. But one of the
16 things that's wrong with this whole debate is
17 misinformation. And the misinformation is
18 somehow that American survivors have not really
19 benefitted from the Swiss settlement. Now, they
20 may have benefitted because the money was theirs
21 but they benefitted and the truth ought to be
22 stated accurately.

23 MR. ROSENBAUM: First of all, your
24 Honor, I am not, as I said in the outset, I am
25 not here on behalf of a running organization or

1 any country for that matter. I am here to speak
2 on behalf of any survivor wherever they lived
3 depending upon what their experiences were and
4 what they lost. And that loss and the witness
5 of what they experienced during the Holocaust
6 entitles them to a priority position when it
7 comes to funds that were generated and recovered
8 on their behalf.

9 May I continue, your Honor?

10 THE COURT: Yes.

11 MR. ROSENBAUM: Thank you so much.

12 This aspiration, noble and socially
13 progressive as it may be, to my mind presents
14 enormous moral implications. And ironically, it
15 is similar to the kind of redistributed logic
16 that most people had ended with the fall of the
17 Soviet Union.

18 I realize that you believe that the
19 decision to allocate the money to where the need
20 is the most present and desperate is the best
21 among all of the impossible choices before you.
22 But I fear that while it is socially corrective
23 and undeniably charitable, it may also be
24 morally misguided.

25 You see, there is a long history,

1 your Honor, in art, culture, politics, that even
2 law that Holocaust survivors, those who
3 witnessed the Nazi horrors, those who survived
4 the concentration camps, automatically obtained
5 a privileged position whenever it comes to
6 matters pertaining to Nazi genocide. They
7 can't, as a matter of basic moral justice and
8 decency be deprived of legal standing to speak
9 in any forum or tribunal about the horrors they
10 witnessed.

11 THE COURT: Nobody is depriving them of
12 the right to speak.

13 MR. ROSENBAUM: And similarly, they
14 shouldn't be deprived of money that derives from
15 their losses, particularly if they have needs
16 that are being unmet elsewhere. These people
17 are indeed iconic figures. They have become
18 metaphors for mass murder. The Nazis gave them
19 special forbidden knowledge. They observed
20 firsthand inhumanity at its most barbaric and
21 extreme.

22 It is their unspoken testimony that
23 sets them apart from the rest of us even from
24 the rest of all other Holocaust survivors. It
25 is what makes them entitled to everything we can

1 do and anything they wish to say.

2 There is no question that those people
3 who fled Eastern Europe and avoided the camps
4 all together found themselves caught on the
5 wrong side of the iron curtain. They left
6 behind a great deal of people and possession
7 they could never reclaim. And after the war,
8 they suffered enormously under communism and
9 they have continued to suffer economically in
10 the ravaged evolution of the post Soviet
11 society.

12 But the cruelties and deprivations of
13 communism are legally and morally not the
14 subject of these restitution proceedings. And
15 frankly, while it is true that many of these
16 Russians experienced terrible hardships after
17 the Holocaust, they were fortunate to be in the
18 Soviet Union during the Holocaust. They showed
19 great instincts, fortitude and courage in
20 venturing east but some sacrifices ultimately
21 saved their lives.

22 Now I know, your Honor, that I am now
23 treading on the definition of what constitutes a
24 Holocaust survivor which this court has
25 apparently already settled by giving it the most

1 expansive application possible.

2 THE COURT: No, even on the terms of
3 your arguing it becomes very difficult. You're
4 basically taking the position of the German
5 government in terms of reparations by strict
6 definitions of who constitutes a survivors; six
7 months in a concentration camp. If not six
8 months in a concentration camp, they don't view
9 you as a survivor. How many months in a
10 concentration camp? How many months in a
11 ghetto? And how are we going to sit down and
12 sit down and calculate this?

13 This is exactly what the German
14 government has done. They forced this on the
15 claims conference and because the claims
16 conference gives out the money, the claims
17 conference takes the blame for this type of
18 analysis. There's simply no way to measure
19 suffering.

20 MR. ROSENBAUM: I understand that,
21 your Honor, but just -- I think my next point
22 speaks to that. The larger point, your Honor,
23 surely Holocaust victims who survived the worst
24 of the Nazi murder machine and had present
25 economic and medical needs, regardless of where

1 they now live are entitled to participate in
2 this process and receive restitution funds.

3 To the extent to which survivors which
4 such genocidal pedigrees are excluded from this
5 court's consideration is not only an affront to
6 the living but also a desecration to the memory
7 of the dead.

8 How is it that someone who survives
9 Sobipor now finds himself in a lesser position
10 of priority and entitlement that someone who
11 managed to escape to Siberia?

12 THE COURT: Well, first of all, that's
13 not the criteria for distinguishing between the
14 two. The person -- if they're both in need,
15 they both benefit.

16 MR. ROSENBAUM: But not in proportion
17 to this --

18 MALE VOICE: But this very --

19 THE COURT: There's no way to measure
20 that. There's no way to go down that road of
21 measuring degrees of sufferance is an impossible
22 legal road to go down.

23 MR. ROSENBAUM: Except, your Honor, you
24 yourself have said that the Jews of the Former
25 Soviet Union are double victims. And I would

1 submit to you that the Nazis had no --

2 THE COURT: They were double victims
3 because they got no reparations. Part of their
4 victimhood, part of their double victimhood was
5 that the Germans paid no reparations up until
6 the late '90s to people who were living in the
7 Former Soviet Union. And even when they're
8 paying reparations, now they're using your
9 formula of trying to measure degrees of
10 sufferance which is unfortunate.

11 But the basic fact is is that while \$53
12 billion has been paid out to survivors since the
13 end of the war, the people in the Former Soviet
14 Union have gotten next to nothing in comparison
15 to that \$53 billion or next to nothing in
16 comparison to the \$14 billion that the survivors
17 in the United States have gotten and who have
18 lived in a country where there is a substantial
19 social safety net.

20 MR. ROSENBAUM: But why must we redress
21 that wrong by using the Swiss settlement funds
22 to compound the injury? Why not say that the
23 real issue should be to enter into negotiations
24 with the Germans all over again to take care of
25 people that were missed during the first round.

1 THE COURT: Well, then -- yes, we can
2 say that and when it happens, it happens. But
3 the fact of the matter is, I have to deal with
4 an element of reality and immediacy.

5 MR. ROSENBAUM: I understand,
6 your Honor. But the point is the vernacular
7 that we used here by double victims, the fact
8 is, the Nazis have no agenda for Jews --

9 THE COURT: Which was coined not by me
10 but by Stuart Eisenstat (phonetic) who
11 negotiated --

12 MR. ROSENBAUM: Well, I --

13 THE COURT: -- the most recent
14 reparation agreements.

15 MR. ROSENBAUM: The Nazis, your Honor,
16 had no agenda for Jews other than for mass
17 death.

18 THE COURT: That's right.

19 MR. ROSENBAUM: They would never have
20 contemplated life in the Soviet Union as a
21 sufficient punishment for the Jews of Europe.
22 The final solution was not about hardship but
23 about annihilation.

24 If you do nothing else, please, please
25 do not mix the metaphor. Such a twisted

1 formulation of comparative suffering is an
2 indignant into those who witnessed the Nazis,
3 the real Nazis in action. What happened in
4 Auschwitz was incomparable. Being a casualty of
5 communism is in no way the same thing as having
6 been a survivor of the Holocaust.

7 This court seems to be saying,
8 your Honor, that the very people who are
9 entitled to restitution, given what they
10 witnessed, given what they survived, given what
11 they lost, should instead look to Jewish
12 institutions for charity, while those who
13 properly should seek charity from Jewish
14 institutions instead are to receive restitution
15 from money that in all probability is not even
16 traceable to their losses.

17 THE COURT: Well, in all probability --

18 MR. ROSENBAUM: It's simply,
19 your Honor, unconscionable for those whose needs
20 are great who witnessed the worst and who are
21 now suffering from the consequences from what
22 they saw to be disallowed from receiving their
23 fair share of these restitutorial proceeds.

24 THE COURT: Well, I don't understand --
25 do you mean needy or just everybody?

1 MR. ROSENBAUM: No, I am specifically
2 talking about need.

3 THE COURT: Well, okay.

4 MR. ROSENBAUM: Anybody with need.

5 THE COURT: So, you're excluding a
6 substantial number. You're excluding, for
7 example, most of the neediest survivors in the
8 United States.

9 MR. ROSENBAUM: Yes, many, I would say
10 --

11 THE COURT: In fact, the studies that
12 have been relied upon by --

13 MR. ROSENBAUM: Well --

14 THE COURT: -- people supporting money
15 for "The United States" indicate that it's only
16 about one percent of the survivors who came here
17 before 1965 are in desperate need.

18 MR. ROSENBAUM: So, wait, are you
19 acknowledging then that the survivors in the
20 United States actually have serious medical and
21 economic needs?

22 THE COURT: The question is of degree.
23 Of course there are needs. But there are also
24 needs being met in New York where 55 percent of
25 the survivors in the United States live. There

1 is an extraordinary social safety net that
2 provides a substantial amount of support that's
3 simply not available elsewhere.

4 And for me not to take that into
5 account, to not to take into account what is
6 available because there are survivors living
7 essentially in a rich country and in a state
8 that has provided substantial social safety net
9 would be wrong.

10 The question is will you judge need by
11 what people have available to them and what
12 people have available to them in the United
13 States and in Israel is a substantial social
14 safety net.

15 MR. ROSENBAUM: But, your Honor,
16 restitution is not the same thing as charity.

17 THE COURT: It's not.

18 MR. ROSENBAUM: Restitution is legally
19 and morally very specific. You receive it for
20 what happened to you and what you lost at the
21 time the injury occurred. Restitution is not as
22 fungible and adaptable as you are envisioning.
23 It is not discretionary relief.

24 THE COURT: No, you have to understand,
25 part of your premisses are simply wrong. The

1 looted assets class is for people who lost
2 assets not for people who necessarily suffered.
3 It's a class of people who lost assets. If you
4 were a flight case and you ran from the Nazis,
5 you lost property.

6 MR. ROSENBAUM: For which --

7 THE COURT: And what that looted assets
8 class is intended to -- that particular class is
9 intended to compensate for is lost property.
10 Now it's impossible to recompensate everybody
11 for lost property. So, we've undertaken a
12 cypres.

13 But the fundamental flaw in your
14 reasoning is that somehow the looted assets
15 class is intended to compensate for sufferance
16 which it's not. It's intended to compensate for
17 loss of property. And because it's impossible
18 to compensate for loss of property because there
19 is simply not enough money available, we've
20 chosen the alternative of giving to the
21 neediest. So, the underlying premise of your
22 whole argument here today is totally and
23 completely flawed.

24 MR. ROSENBAUM: Well, I respectfully
25 disagree.

1 THE COURT: And to the extent that the
2 money now that we're talking about going forward
3 is coming from a deposited assets class, it's
4 coming from people who deposited assets and who
5 died. And that's the cypres that we're using.
6 Again, the test is not one of sufferance. I
7 don't want to minimize the degree of sufferance
8 that people underwent --

9 MR. ROSENBAUM: No, but --

10 THE COURT: -- particularly those who
11 were in the camps and we've heard some moving
12 stories here today but the underlying premise of
13 your argument that this is -- the fund here is
14 intended to compensate sufferance is simply
15 wrong.

16 MR. ROSENBAUM: Well, your Honor,
17 historically sufferance has always factored into
18 decisions for restitution purposes. And
19 secondly, in every other context --

20 THE COURT: Well, I mean, we're talking
21 restitution here in the context of a legal case.
22 I've always thought that it was a mistake to
23 have this all done in the context of a legal
24 case, that it would have been much better if
25 there were --

1 MR. ROSENBAUM: You may be right.

2 THE COURT: -- if it were done in
3 government to government negotiations and where
4 allocations were made without reference
5 necessarily to where the money was coming from.

6 MR. ROSENBAUM: But it's clear,
7 nonetheless, your Honor, of two things; one, it
8 strikes me that we haven't undertaken the kind
9 of efforts to find out, to trace the property to
10 where the people lived.

11 If you really believe it's a looted
12 stolen property assets case, then all efforts
13 should be made to try to find out where the
14 people are connected to that. This court
15 obviously believes that's not an important
16 enterprise because it's --

17 THE COURT: It's not a question of
18 what's important. It's a question of what's
19 practical.

20 MR. ROSENBAUM: But, your Honor, you
21 can't use money that derives from recovered
22 stolen property and use it to address post
23 Holocaust calamities. There is no question --

24 THE COURT: And the money comes from --
25 the only claims here that had any legal merit

1 were the deposited assets class. It came from
2 people who deposited money in Swiss bank
3 accounts and who never got the money because
4 they perished in the Holocaust and whose heirs
5 never got the money. And that's where it came
6 from.

7 MR. ROSENBAUM: Your Honor, just a few
8 more comments and I'll relieve my time.

9 Obviously, Russian Jews should be
10 included in this restitution process but not in
11 such disproportionate numbers that defeat the
12 claims of other survivors around the world who
13 have present needs and urgent circumstances.

14 THE COURT: Well, what about Russian
15 survivors who came to the United States and
16 Israel? Where do you put them?

17 MR. ROSENBAUM: It's not -- it's simply
18 -- look, your Honor, you've made this allocation
19 decision. I haven't. I would have made it
20 solely --

21 THE COURT: No, I'm asking where --

22 MR. ROSENBAUM: -- based on absolute --

23 THE COURT: -- you put them.

24 MR. ROSENBAUM: -- need.

25 THE COURT: I'm asking where you put

1 them, that's all. I want to know whether you
2 exclude them.

3 MR. ROSENBAUM: It doesn't matter where
4 you live. No, it doesn't matter where you live.

5 THE COURT: Okay.

6 MR. ROSENBAUM: If you have a
7 demonstrated need, you deserve and are entitled
8 to a seat at the table and to receive some
9 proceeds from the --

10 THE COURT: I agree with that.

11 MR. ROSENBAUM: -- regardless of where
12 you live, regardless if you're American, I am
13 not questioning what the American --

14 THE COURT: I agree with all of that.
15 Then we're in agreement.

16 MR. ROSENBAUM: Except that we may be -
17 -

18 THE COURT: And we're also in a
19 substantial agreement. When we first started --
20 not we, necessarily you and I, but when I first
21 had the first allocation hearing, the argument
22 was that we should only give money to survivors.
23 We shouldn't give money to organizations. That
24 was an argument that was made and made --
25 argument that was made, that was listened to and

1 is reflected in the special masters report. Up
2 until today, not a single penny has gone to any
3 organization other than to be distributed to --

4 MR. ROSENBAUM: That's good to hear.

5 THE COURT: -- directly to survivors
6 and the special masters report continues that.
7 So, half the argument that was made by people
8 like my friend, Leo Rechter, has been adopted.
9 And the only other -- the only issue in dispute
10 now in many ways, is a narrow issue. It's how
11 do we define survivors -- how would we define
12 needy survivors and how we define need and how
13 we give it out directly to survivors.

14 MR. ROSENBAUM: The legacy of the Swiss
15 banking case, your Honor, should not be
16 remembered ultimately as having allowed
17 desperate needy survivors to die in this court's
18 watch. Clearly, clearly, we all deplore the
19 dog-eat-dog dimensions of these proceedings. It
20 is unfortunate that it has come to this and you
21 are again in a truly difficult position and I
22 applaud what you said earlier, that it would be
23 better for this to have not to have been in your
24 courtroom at the outset.

25 But I urge you that whatever you do,

1 please do not trivialize and desecrate the
2 memory of those died in the most ghastly and
3 extraordinary ways by equating it with the post
4 war suffering that occurred in the Soviet Union.

5 If art, culture, politics and law over
6 the past 60 years has taught us anything, it is
7 that the concentration camp universe was
8 uniquely different, representing a new and
9 entirely more ferocious strain of inhumanity.
10 In these proceedings and elsewhere, the debt
11 demand that we do not mix our metaphors, let us
12 focus on the Nazi atrocity and not on the perils
13 of a far less evil empire.

14 Thank you for your time, your Honor.
15 I'm very grateful.

16 Do you have anything further of me,
17 your Honor?

18 THE COURT: No.

19 MR. ROSENBAUM: Okay. Thank you.

20 MR. SCHAECKER: Good afternoon,
21 your Honor.

22 My name is David Schaecter and I'm the
23 president of the Holocaust Survivors Foundation.
24 And I would like to point out to you the people
25 that will be speaking on the behalf of the

1 foundation; myself and there's a lady here by
2 the name of Raisa Horowitz.

3 THE COURT: I have the names, so I will
4 call them or you could call them whenever you
5 want. You don't have to waste time going
6 through them.

7 MR. SCHAECKER: Okay. But in any case,
8 I wanted to advise your Honor that there will be
9 five of us -- six of us here speaking on behalf
10 of the Holocaust Survivors Foundation.

11 Your Honor, I am a survivor myself, of
12 Auschwitz and Buchenwald. And my family, of
13 course, perished like everyone, most of the
14 people that have been taken into Auschwitz and
15 Buchenwald. And I am a lone survivor.

16 The Holocaust Survivors Foundation
17 elected representatives from amongst the
18 thousands of Holocaust survivors across the
19 country in the United States. We became
20 involved in the allocation phase of this case
21 because of the dire need of the poor survivors
22 in our midst whose existence seemed to have been
23 largely unknown outside of the circles of the
24 survivors.

25 Your Honor, we have taken on this task

1 and we have done it from the grass roots
2 survivor group that are part of our foundation.
3 We are very troubled because even though
4 thousands of survivors in this country have not
5 been receiving the home and health care they
6 need and even though some \$670 million is
7 available from the Swiss settlement and even
8 though these funds are negotiated and recovered
9 in the name of the victims of the Holocaust, we
10 fear that the survivors who live in the United
11 States will be maybe excluded from assistance
12 from these very Holocaust related funds.

13 Such as an outcome seemed impossible
14 for us to imagine when we withdrew the appeal,
15 your Honor, on May 2, 2002 at your Honor's
16 request. You said that you understood what we
17 wanted, help for the desperate survivors who
18 live in the United States and that you would be
19 -- you would not forget those unfortunate who we
20 are representing.

21 Nevertheless, your Honor, recent events
22 raise a great many questions and we respectfully
23 submit them to your Honor here and now in
24 person. As your Honor knows, we have been
25 deeply involved in attempting to educate and

1 sensitize the Jewish community and other
2 institutions such as the Claims Conference and
3 ICHECK and we have met and gathered with the
4 Jewish organizations such as the general
5 assembly of the Jewish organization s dating
6 back to 1999.

7 At the same time, your Honor, we
8 petitioned this court for assistance. We worked
9 with Commissioner Burt Goldberg and the
10 professionals in the National Jewish Family
11 Services.

12 THE COURT: I know but what
13 Mr. Goldberg gave me, if he had given that to a
14 foundation would have wound up in the garbage
15 pail. His statistics were soft. He couldn't
16 even say that the 4,000 he identified as
17 actually receiving healthcare actually needed
18 more. He couldn't identify what other sources
19 of money was available for them.

20 The only hard -- the problem with HSF-
21 USA, up until this point is while other
22 organizations, including Israel and the Joint,
23 have come up with statistics that are at least -
24 - that are useful, that one can take into
25 account in making allocations. HSF-USA hasn't

1 come up with them. The closest thing to any
2 meaningful statistic that I got was an affidavit
3 from the name of whom escapes me from Broward
4 County in which he says, "There are between 5
5 and 10,000 survivors in Broward County," which
6 is a big difference. Between 5 and 10 is
7 double. And of that, after an outreach program,
8 he said that there were 240 who needed
9 healthcare or related services in Broward
10 County.

11 Now if you extrapolate that to the
12 whole survivor population of the United States,
13 it comes to a relatively small number, assuming
14 his figures are accurate and the figures may not
15 be useful in extrapolating to the whole United
16 States because Florida has got one of the social
17 safety nets in the country. And it may not be -
18 - if you're looking to extrapolate from 10,000,
19 let's say giving -- taking the largest number,
20 230 out of 10,000 and you want to extrapolate
21 that to 122,000, it may over -- you may get a
22 number that's even higher than what's accurate
23 because of the fact that you're taking the
24 numbers from a county -- in a state that has a
25 very weak social safety net.

1 So, the basic problem here is that you
2 have not given me -- your organization has not
3 given me statistics that are worth anything and
4 that any responsible person allocating money
5 would make an award.

6 MR. SCHAECKER: With all due respect,
7 your Honor, we have --

8 THE COURT: You haven't.

9 MR. SCHAECKER: -- not reattempt --

10 THE COURT: No, you haven't. You
11 haven't.

12 MR. SCHAECKER: We have tried,
13 your Honor, (unintelligible).

14 THE COURT: You have given me this
15 piece of paper from Mr. Goldberg, who you
16 probably paid nothing for it and you got what
17 you paid for.

18 MR. SCHAECKER: Your Honor, I don't
19 like to malign people and I - the people who
20 volunteered to come to our aid, I'm always
21 grateful, just as I was grateful to your Honor
22 when we talked to you and when you had pleaded
23 with 19 of our members of the board and you had
24 promised us that if we withdraw the appeal, that
25 you, your Honor, would take care of us --

1 THE COURT: I'm not -- first of all --

2 MR. SCHAECKER: And that you understood
3 our pain.

4 THE COURT: I do.

5 MR. SCHAECKER: And our anguish.

6 THE COURT: I understand your pain and
7 what I want is hard information on how to give
8 out money. I'm not going to take a report that
9 is essentially worthless from one person in one
10 organization and give out money on the basis of
11 it. I told Mr. Dubbin repeatedly to get me the
12 hard information on which to give out money.
13 And I'm prepared to do that based on hard
14 information.

15 MR. SCHAECKER: Your Honor, Mr. Dubbin
16 has been taking information from us. He's been
17 given instructions by us to go ahead and act on
18 our behalf in this court. And the people that
19 we have reached out to to give us input, I feel
20 are honorable people and I have no reason to
21 brow beat them, your Honor.

22 THE COURT: I'm not brow beating them.
23 But all -- you know, you've got reliant figures
24 from the Jewish National Population study that
25 show that all the people who were questioned

1 about -- survivors who were questioned, assuming
2 you accept the reliability of this study which I
3 understand that you do, only two percent of the
4 survivors said that they could not make ends
5 meet.

6 MR. SCHAECKER: This is such an untruth
7 and I wish --

8 THE COURT: Well --

9 MR. SCHAECKER: -- your Honor would
10 make that --

11 THE COURT: I'm not --

12 MR. SCHAECKER: -- same statistics
13 available to us.

14 THE COURT: Mr. Dubbin is --

15 MR. SCHAECKER: And I would challenge
16 you.

17 THE COURT: Did you know that
18 Mr. Dubbin is going to call an expert here,
19 Mr. Sheskin, who says that I should rely on that
20 very study because he likes other parts of it?
21 The same study that you say is totally flawed
22 and the two percent figure --

23 MR. SCHAECKER: Your Honor?

24 THE COURT: -- that's inaccurate, we're
25 going to hear from Mr. Sheskin who has filed an

1 affidavit saying this is a reliable study.

2 MR. SCHAECTER: Your Honor, if the
3 government of the State of Israel were to tell
4 you that these numbers are not only correct but
5 they're very, very, very conservative, you would
6 not dispute the government of Israel.

7 THE COURT: I don't accept it face
8 value what anybody tells me.

9 MR. SCHAECTER: Why would you then
10 dispute the information that's handed to us?

11 THE COURT: I'm not. I'm relying on
12 the figure that I gave you about two percent
13 saying that they can't make ends meet, which is
14 an extraordinarily low number. It comes from a
15 study that your number six speaker, Mr. Sheskin
16 has defended in an affidavit.

17 MR. SCHAECTER: Your Honor?

18 THE COURT: Of course he ignored that
19 figure and he chose to rely on other parts of
20 that study.

21 MR. SCHAECTER: I will tell you how I
22 feel, your Honor. I have come here before you
23 feeling that I am a loser regardless.

24 THE COURT: You're not a loser
25 regardless. I have a tremendous amount of

1 respect for you.

2 MR. SCHAECKER: Your Honor, you have
3 legal --

4 THE COURT: And I've told you, I've
5 basically accepted the view that I think you
6 have and other survivors in the world have, is
7 that --

8 MR. SCHAECKER: Your Honor, you feel
9 that that's not so, your Honor.

10 THE COURT: -- is that every nickel
11 should go to survivors.

12 MR. SCHAECKER: You've labeled up --
13 you've labeled over 30,000 survivors as non-
14 entities.

15 THE COURT: When did I do that?

16 MR. SCHAECKER: You did that in a
17 report that you published. Not only that, your
18 Honor, you also called us irrelevant.

19 THE COURT: I did not call you
20 irrelevant.

21 MR. SCHAECKER: Your Honor, you did
22 that.

23 THE COURT: I said --

24 MR. SCHAECKER: This is why I came
25 here --

1 THE COURT: No, I think you're making -
2 -

3 MR. SCHAECTER: -- to plead my case
4 that I --

5 THE COURT: I think you're making a
6 mistake of identifying yourself with Mr. Dubbin,
7 who said --

8 MR. SCHAECTER: Mr. Dubbin --

9 THE COURT: -- and who I said whose
10 efforts in this case up until this point have
11 been irrelevant to the ultimate disposition of
12 money. And they've been irrelevant because
13 they've been inadequate because statistics have
14 not been supplied upon which any responsible
15 person could make an award of funds. And
16 because, you know, you could go out and hold
17 demonstrations in the street but they're not a
18 substitute for hard empirical evidence.

19 And your organization, not your fault
20 because you basically -- you're relying on
21 Mr. Dubbin --

22 MR. SCHAECTER: But my organization
23 (unintelligible) --

24 THE COURT: -- have not provided --

25 MR. SCHAECTER: You're attacking me,

1 your Honor.

2 THE COURT: That's not true.

3 MR. SCHAECTER: When you attack Sam
4 Dubbin you're attacking me.

5 THE COURT: Well, you could identify
6 with him but that's not true.

7 MR. SCHAECTER: And I can also tell you
8 this that it's a matter of public opinion. And
9 public opinion does not agree with you,
10 your Honor.

11 THE COURT: I'm not -- listen, you
12 know, one of the things you have to understand
13 here is that first of all, you know -- let me
14 tell you two things. I don't know what public
15 opinion is. That's number one. Number two, I'm
16 not an elected public official.

17 MR. SCHAECTER: I know that.

18 THE COURT: And number three, I have
19 life tenure and I'm beyond ambition and the only
20 thing that I'm interested in is doing the right
21 thing on the basis of sound information and I
22 don't care about "what public opinion is" even
23 assuming that you accurately portray it.

24 MR. SCHAECTER: Then I would like to
25 have your permission to challenge you when you

1 gave me your word, you personally, and you
2 assured me in --

3 THE COURT: I didn't give you any
4 personal word.

5 MR. SCHAECKER: And you appealed to us
6 in Yiddish and you spoke to us for two hours --

7 THE COURT: I did not give you any -- I
8 urged you not to hold up the distribution of
9 money to people who needed it. I didn't make
10 you any promises. But I am willing to adhere --
11 I'm willing to consider what you want if you
12 provide me with hard evidence. That's the basic
13 fact. And the basic fact is up to now, the only
14 thing approaching hard evidence that supports
15 your claim is an inadequate piece of paper from
16 this Mr. Goldberg. That's what it comes down
17 to.

18 There are people here who are arguing -
19 - the United Jewish Communities who are arguing
20 for funds for survivors in the United States.
21 You've got to provide me with hard evidence.
22 And when after you've provided me with hard
23 evidence on the basis of need, then I'm prepared
24 to listen.

25 What your organization has said is

1 THE COURT: And to the extent that we
2 can't make the awards and there's money left
3 over, then we want to give it to the people who
4 need it the most, the survivors who need it the
5 most. And the last speaker to whom you eluded
6 would basically exclude if you followed the
7 logic of what he's saying, most of the neediest
8 survivors in the United States who happen to be
9 from the Former Soviet Union, who he doesn't
10 think suffered enough during the war. That's
11 what his argument was.

12 MR. SCHAECKER: Your Honor, we are not
13 excluding and we're not trying to short change
14 any survivors. Every survivor, there are enough
15 funds, your Honor, there are enough funds for
16 you to make sure that every survivor in need gets
17 care period.

18 And I would like to touch one more base
19 with you, your Honor, you're going to have and
20 you have assigned an advocate, an advocate for
21 the survivors for the plaintiff. We have yet to
22 get input from Professor Newborne, although we
23 have gotten all kinds of promises, me personally
24 in letters, but we have yet to be advised or
25 have him fulfill the responsibility that you've

1 bestowed upon Professor Newborne.

2 And that is not fair and it's certainly
3 not fair for me to have to come before you,
4 your Honor, and argue with you because I have no
5 reason -- your position is a dignified position
6 and I surely am not trying to demean it.

7 THE COURT: You have a wonderful lawyer
8 who you say is here to argue for you.

9 MR. SCHAECKER: And all I ask before
10 you, your Honor, is that you because only you --

11 THE COURT: And I, frankly, don't
12 believe that Professor Newborne wouldn't take
13 your call or take your input. But that's
14 besides the point. Now you have a lawyer here
15 who is representing you and who is here to help
16 you.

17 MR. SCHAECKER: Then I would like to
18 request from your Honor that please, furnish us
19 with a list of what your missions are for us to
20 qualify and for us not to be called irrelevant.

21 THE COURT: I didn't call you
22 irrelevant.

23 MR. SCHAECKER: And for us not to be
24 called unidentified and meaningless.

25 THE COURT: I didn't --

1 MR. SCHAECTER: You, please, your
2 Honor, you please give me a list. I am the
3 elected in --

4 MR. SCHAECTER: I think it would be
5 useful if you started with a list of --

6 MR. SCHAECTER: -- of the organization
7 and I will personally go ahead and pursue it and
8 see to it --

9 THE COURT: Well, I don't --

10 MR. SCHAECTER: -- that all of the
11 qualifications that you're asking for.

12 THE COURT: It's not qualifications. I
13 think one has to have hard numbers. You have
14 equated need with home healthcare. The question
15 then becomes how many people need home
16 healthcare. And how much will it cost? And for
17 all these years, no hard evidence has been or
18 reliable evidence has been provided by your
19 organization. Assuming that to be first of all,
20 the principle criteria of need, as opposed to
21 other factors that the special master has
22 outlined, it's been a lot of noise. But not a
23 lot of hard statistical evidence about need.

24 Instead, as a substitute for evidence
25 about need, we've had this phony argument that

1 because 25 percent of the survivors in the
2 United States, since reduced to 20 percent and -
3 - 25 percent of the world survivors live in the
4 United States, therefore, I should take 25
5 percent of the money and distribute it to the
6 survivors in the United States. That's the
7 argument. That's the argument that Mr. Dubbin
8 has made on your behalf and that's the argument
9 that I reject.

10 MR. SCHAECKER: Your Honor, I can -- I,
11 as a survivor, have the right to stand before
12 you and reject your argument because --

13 THE COURT: You certainly do.

14 MR. SCHAECKER: -- you have told me and
15 told a whole bunch of people, your Honor, a
16 whole bunch of survivors, some of them are here,
17 that the Jewish community in the United States
18 is plenty rich.

19 THE COURT: Where did I say that? You
20 find the place --

21 MR. SCHAECKER: Let them take care of
22 the survivors. This came from your mouth,
23 your Honor.

24 THE COURT: It did not. You find a
25 place where I've said that.

1 MR. SCHAECKER: You said it to us while
2 we sat in your chambers, your Honor. And I
3 don't understand it. In other words, there
4 isn't anything at all, your Honor, that we do
5 that meets with your approval.

6 THE COURT: This is not true.

7 MR. SCHAECKER: Well, please tell me
8 what you don't like about me. Tell me what is
9 acceptable.

10 THE COURT: I love everything about
11 you.

12 MR. SCHAECKER: Well, your Honor, I
13 don't want to kill my -- the hour that has been
14 allotted to us but I would like to ask your
15 Honor to give me a chance --

16 THE COURT: I basically --

17 MR. SCHAECKER: -- to talk to you or
18 someone from your court and tell me what you
19 want me to do to right the wrongs that you say
20 that I've done.

21 THE COURT: But you haven't done
22 anything wrong. I mean, you're placing in this
23 in terms that are personal. I have a tremendous
24 amount of respect for you.

25 MR. SCHAECKER: I would like to leave

1 you with this one thought, your Honor.

2 THE COURT: There's nothing that I
3 dislike about you.

4 MR. SCHAECKER: I would like to leave
5 you with this one though.

6 THE COURT: Go ahead.

7 MR. SCHAECKER: You're an outstanding
8 jurist. You're a fine, fine, outstanding
9 citizen. And I think you're a great human
10 being. But I would like to tell you this that
11 the chances are that the people in the surviving
12 community here and everywhere, while you and I
13 argue here, are dying out. And this thing is
14 going to be dragged out for a long time. I know
15 that you don't want that on your consciences,
16 your Honor.

17 THE COURT: I don't. That's the --

18 MR. SCHAECKER: You don't want that on
19 your conscientious.

20 THE COURT: You're absolutely right.
21 And it weighs on me everyday.

22 MR. SCHAECKER: Your Honor, I thank you
23 and I respectfully thank you for allowing me to
24 express myself. And I stand by what I said,
25 your Honor, that I look to you for having

1 someone that you assign to tell me and show me
2 where I can improve my position with you.

3 THE COURT: Okay.

4 MR. SCHAECTER: Thank you.

5 THE COURT: Why don't you just tell me
6 your name.

7 MS. HOROWITZ: All right. My name is
8 Raisa Horowitz.

9 THE COURT: Okay.

10 MS. HOROWITZ: I work for an
11 organization but I am not representing any
12 organization. I work with survivors who come up
13 to my office on a daily basis. We're talking
14 about home care and you said there's a safety
15 net. If somebody gets \$750 a month social
16 security which sounds like a big amount, they
17 are not eligible for medicaid which the Judge
18 would probably know.

19 Therefore, they have no rights to get
20 their medicine. They cannot get a home
21 attendant. And they cannot get their -- they
22 can't pay their second insurance. So, they're
23 coming up every day asking how can you help me,
24 so we get some help. The claims does try to
25 help but they have a limited budget. The Med

1 Counsel (phonetic) tries to help. They send for
2 people before the holidays, \$25 to make the --
3 to make a seder.

4 We're coming -- on a daily basis, the
5 people are aging people. They're not getting
6 their medicines because they give me a choice;
7 should I buy food or should I buy medicine.
8 This is the safety net that you have here in the
9 United States, the minute they hit a certain
10 number with the social security. So, there is
11 no safety net for these seniors.

12 As we know, the Epic which New York had
13 until now is going to be discontinued. The new
14 discount Medicaid -- Medicare plan for the
15 medicines is not going to work for them.

16 I am coming to the Judge to ask him to
17 think about these people that are living in --
18 that I know, in Brooklyn. And they have -- they
19 can't survive. I have a \$92 year old man who is
20 taking care of his 88 year old wife and he can't
21 afford to get a home attendant because he gets
22 \$750. And he can't pay back the surplus because
23 his rent is \$800 a month.

24 I ask you to take that into
25 consideration. I have two survivors that just

1 want to make -- say a couple of words. Thank
2 you so much for your time.

3 MS. ROSENBERG: Your Honor, my name is
4 Helen Rosenberg.

5 MALE VOICE: We can't hear you.

6 THE COURT: You have to speak into the
7 microphone.

8 MS. ROSENBERG: My name is Helen
9 Rosenberg. I'm also one of the survivors, at a
10 very young age. And I just realized sitting
11 here that I am a double survivor or a triple,
12 unlimited because I have three children and I
13 survived and I married a survivor who was a
14 teenager when he was Auschwitz, et cetera. And
15 he died in 1965 and I was left with three young
16 children.

17 So, when I come together with my
18 children and they struggle. And my daughter,
19 when she had her 25th wedding anniversary stood
20 up and she said that I have suffered all of this
21 time because when I went to school, she said I
22 always felt that the children in the class are
23 nice to me because I had no father. And since
24 my double and triple and so on, survivor
25 surviving.

1 But I want to point out that I do get
2 social security which is minimal. And I do not
3 have enough to manage now for health, home
4 attendant, not really I don't even want a home
5 attendant. I just need someone to help me with
6 the house cleaning, et cetera. And I had a lot
7 of medication. Unfortunately, I had a hip
8 replaced and every part of my body is shook up.
9 Naturally, emotionally I don't have to tell you.
10 And I need help which I cannot get. I am not
11 entitled for Medicare, et cetera.

12 So, I was hoping -- and I come from a
13 very well do home in Europe. My father was a
14 professional, a dentist. I have a beautiful
15 home there. But we're not getting it back.
16 They're giving us a very hard time we should get
17 our property back in Slovaki.

18 My father, I was too young to know if
19 he had money in Switzerland or not. But since
20 he was a well to do man, he may have had. I
21 have no way to prove it.

22 THE COURT: Well, one way you could
23 check is to check the names. There are 22,000
24 names listed on the internet.

25 MS. ROSENBERG: We already tried it. I

1 don't (inaudible). I don't have the computer.
2 I know how to work a computer but I don't have
3 it nor do I have room to keep it. I live in a
4 one-bedroom apartment, et cetera.

5 So, I was going to enumerate the
6 medications I am on but I decided this is a
7 public place, no one has to know my private and
8 health conditions. So, I would appreciate if
9 you had the power to see to it that the people
10 in our community that are the elderly, by
11 today's standards, a person my age should be
12 healthy and so on and so on.

13 After everything that I have gone
14 through, it seems that I aged overnight. And I
15 do need help, physical help, medical help. I
16 have to go for therapies, et cetera.

17 So, I need that I should be able to get
18 if there is any money that I should be able to
19 be helped. I appreciate it. Thank you.

20 THE COURT: Thank you.

21 MS. MYER: Your Honor, my name is
22 Esther Myer. I am a child survivor. I come
23 from Bulgaria. And my word, your Honor, is the
24 (unintelligible) to the survivor. And in order
25 to get there, please (unintelligible). And we

1 have always, all the time and a (unintelligible)
2 be prepared on Purim and a -- they came through
3 different -- they had only one address, our
4 address. And we had always, always, our house
5 always is to worship.

6 I came here in the '60s and also with
7 my husband, Daksip (phonetic), died
8 (unintelligible). And I have no means right now
9 to live. And I run now to the Holocaust
10 survivors that's calling the club mission.
11 Mission because without that, we don't survive.
12 I go there and they have 650 member. Because of
13 my (unintelligible), my father was so much evil
14 in Kapolo (phonetic), so I make myself
15 (unintelligible) with the people. I ind out
16 that most of the people with 650 member, most of
17 them they have nothing to live on. They getting
18 so little from the Russian authority and they
19 have no money and they all are in their 80s and
20 85 and they are really, really very needy ones.

21 So, I am asking the Honor that you
22 should consider our situation and should be
23 very, very quick because we getting older and
24 older and we don't see anything. We don't get
25 any other (unintelligible). We don't get any

1 other. And when the (unintelligible) come, we
2 don't get restitution, we don't get pension. We
3 are not getting anything. We are live only on
4 social security.

5 And that also I am talking about also
6 of the oldest survivors who I know, I am in
7 daily contact with them. Thank you very much
8 and I hope your Honor will consider this thing,
9 as soon as possible, we could get something.
10 Thank you.

11 MS. MASKOWITZ: My name is Marta
12 Maskowitz. I am from the Czechoslovakia, born
13 there. And when the communist (unintelligible)
14 my country, I chose to leave. I am dissident
15 that would apply that they are from their own
16 choosing. Now they have the needy. And I ask
17 you -- most of the speeches were from
18 professionals. I'm not a professional. But I
19 understood that they have (unintelligible) to
20 get the funds.

21 They didn't have a very good life in
22 Russia but chose to stay there. It became
23 Russia after the war.

24 THE COURT: Chose?

25 MS. MASKOWITZ: I chose to leave on my

1 own will and I smuggled through borders. I swam
2 rivers. I crossed mountains and I came somehow
3 to the United States. I didn't find gold in the
4 streets that they professed to be. I am not
5 wealthy. I am not rich. I am poor. I am not
6 proud of it.

7 I am a poor Holocaust, true Holocaust
8 survivor that went through Auschwitz. I saw my
9 parents stuffed into the gas chamber in front of
10 my eyes and the rest of the family. My older
11 brother was slaughtered, shot before he was
12 forced to take dig own grave in the Ukraine when
13 the Ukrainians, the Fistians (phonetic), or
14 whatever the reason they are watched and left.
15 And one survivor came, it was not mine, and told
16 us what happened to him.

17 Another one was burned in Russian
18 ground when the Germans poured the gasoline on
19 his cabin. And he was on the way to survive --
20 ran out, forgot his shoes -- without shoes,
21 there is no surviving in Russia. He was
22 schlepping carrying the wagons of the soldier of
23 the Hungarian (unintelligible).

24 Now it comes to me why I am here but I
25 need money. I am on five prescription drugs. I

1 cannot pay for them. I don't pay for them. I
2 get charity for it. Not from organizations,
3 from people. In (unintelligible), I get a
4 little bit from an organization where they get
5 money from the Claims Conference.

6 The other, I don't get from anybody. I
7 am going home now and I will inject myself a
8 drug to survivor. I don't know what for. I
9 didn't survive German camps. I am still there.
10 I still live there. It never left me. One of
11 them said the Germans -- nobody leaves
12 Auschwitz, only through the chimney. That's
13 true, to my greatest sorrow. I thought I
14 survived. I didn't. I am there where I was. I
15 live at Auschwitz. And what my eyes saw in
16 Bergen-Belsen. I don't wish on anybody that
17 see that Auschwitz. In Auschwitz they did
18 quietly. In Bergen-Belsen they couldn't hide it
19 anymore. There were more corpses than anybody
20 can count. I don't know who could. Nobody did.
21 We couldn't dig in enough graves.

22 But why am I here? Why do I want
23 money? To buy medication. To buy -- I need a
24 home, too. I want to start living at least now,
25 I am too old, too. But maybe if I

1 (unintelligible) life enough left, I could at
2 least so far. Is it too much to ask from the
3 Court? I ask for help, financial help. Please
4 help me. I have heard Raisa Horowitz because I
5 came to cry on her shoulder, many, many, many
6 times. And she said she cannot help me. Here
7 she is. Let her say a word on my behalf if she
8 wants.

9 THE COURT: She's already spoken.

10 MS. MASKOWITZ: Thank you very much.

11 THE COURT: Thank you.

12 Who is next?

13 MR. MOSKOVIC: Honorable Judge Korman
14 and Special Master Gribetz, my name is Alex
15 Moskovic. My family lived in Soberance, Hungary
16 in the early spring of 1944. We owned a single
17 family home. My Uncle Marcus and my Uncle
18 Leopold and their families also owned single
19 family homes in the same complex.

20 My family also owned a building with
21 two stores, one was the family business and the
22 other was rental on the main street of
23 Soberance. In April 1944, we were rounded up,
24 14 of us from the same complex and the Hungarian
25 authorities promised if we lock up our homes and

1 leave the keys with them, our homes will remain
2 in the same condition as when we had left, on
3 our return after the war.

4 Later we were taken to Birkenau. I was
5 13 years old. I survived Birkenau for nine
6 months until I was death marched to Buchenwald
7 where I was liberated by the Americans.

8 Returning in July of 1945 to Soberance,
9 at that time it has become Czechoslovakia and
10 today it's Slovakia. I was the only survivor.
11 All the homes, the business, they had those
12 ripped out. And all that was left was the bare
13 walls. On July 16, 1999, I submitted an initial
14 questionnaire to the Holocaust Victims Asset
15 Litigation 96-cv-4849 to the U.S. District Court
16 for the Eastern District of New York. At that
17 time, I believed that a settlement would be
18 forthcoming as a looted asset class member.

19 To date, we are in 2004. The situation
20 has changed. How can anyone say to me as a
21 survivor that I do not have any legal standings
22 in the U.S. Courts to challenge how those funds
23 are allocated. Aren't the survivors in the
24 United States considered to be part of a
25 settlement in order to get the funds? If you're

1 a survivor, you have no legal standing to
2 challenge the Court's allocation for settlement
3 funds, then who does?

4 I would also like to talk about --

5 THE COURT: I want you to know that
6 you're here challenging it.

7 MR. MOSKOVIC: I thank you.

8 THE COURT: Okay.

9 MR. MOSKOVIC: I also would like to
10 speak to you about the Jewish Family Services
11 and the needy survivors. I am on the advisory
12 committee in two counties in Florida; one is
13 Broward County and another one is Palm Beach
14 County. And I just want to bring up one
15 incident that happened recently.

16 Recently, at the Federation in Broward
17 County, there was a county meeting of the Jewish
18 Family Services Survivors Advisory Committees to
19 the Jewish Family Services and the Federation.
20 And the subject was, of course, shortages of
21 funds from the Claims Conference. The first
22 allotment for home care to the needy survivors
23 are the same as in 2003, although the needs of
24 home care increased quite substantially because
25 the survivor population is getting older. And

1 well, they sent in a new budget.

2 However, the money did not come to us.
3 Mr. David Salzman from Miami said at this
4 meeting that at the present, his agency did not
5 have anyone on the waiting list. And, of
6 course, what does the waiting list mean? It
7 means that people, because now enough money is
8 coming into the Jewish Family Services, people
9 re pushed aside and put on a waiting list until
10 more money is coming in.

11 And he was very proud to say to us that
12 no one in Miami was on the waiting list which is
13 great. That's what I love to hear that no one
14 is on the waiting list. Because to me, when it
15 comes to whoever is on the waiting list, it's
16 one too many.

17 I questioned him. How did he
18 accomplish this feat but no one -- with no one
19 on the waiting list? Well, he just said very
20 simply, we just cut the hours where before the
21 hours per week for home care were eight hours,
22 he cut it to four hours and many of the
23 survivors were only receiving two hours a week
24 for home care.

25 At that point, I had another question

1 to ask and that question was what was -- what do
2 you do with two hours of service to needy
3 survivors. His answer was at least a client can
4 be helped to take a shower.

5 Again, that led me to another question.
6 Is this the way we have to look forward to, to
7 one shower a week?

8 Judge Korman, perhaps we should ask the
9 survivors in need and they're feelings regarding
10 the Swiss allocations. And then, of course, we
11 have already done with -- we asked the case
12 manager to come in here and let them talk
13 because they are the ones that are there with
14 the needy survivors day in and day out.

15 The other thing that I would like to
16 say is my point of view is different as far as
17 how this collector allocation will work out. My
18 feeling is this. It's a struggle between the
19 survivors and the established agencies who
20 control the funds to give it to them in the name
21 of survivors by the German Swiss businesses,
22 banks, insurance companies, last but not least,
23 the properties in East Germany of those who
24 perished and do not have heirs to whom to return
25 the properties.

1 These properties and funds derive from
2 the sole properties belong first and always to
3 the survivors. I'm sure that a lot of people
4 will not agree with that. I, as a survivor,
5 believe that. The survivors should make the
6 decisions, how and to whom all of these funds
7 should be allocated. We are asking for justice.
8 To ignore the dire needs of the aging and poor
9 survivors is unconscionable. We can not be
10 silent as we were in the past and our words must
11 be heard.

12 And I thank you, Judge Korman.

13 THE COURT: Who is next?

14 Mr. Mermelstein?

15 MR. MERMELSTEIN: Good afternoon,
16 your Honor. My name is David Mermelstein. I
17 was born in the town of Kivia, Czechoslovakia.
18 sixty years ago today, I was taken to Auschwitz
19 when I was 15. I went into Auschwitz but I
20 didn't know if I was coming out.

21 Last week, two weeks ago I was in
22 Auschwitz with over 200 children from Miami on
23 the march of the living and I knew I was coming
24 out. Then we went to Israel. Last night, I
25 came in and -- to be here this morning.

1 The area came under Hungarian
2 sovereignty in 1939. I was in several Nazi
3 concentration camps during the World War II but
4 I was (unintelligible) any member of my family
5 to survive the Holocaust. All of our family's
6 possessions were looted by the Nazis in the Nazi
7 friendly government of Hungary.

8 I am the elected president of the New
9 American Jewish Club of Miami which has been in
10 existence since the early '50s. At that time,
11 we were the only organization in Florida. Today
12 we have 14 organizations; the Coalition of The
13 Survivors of Florida and I'm president there.

14 I wrote about the history of the club
15 in an earlier affidavit to the Court. I proved
16 that again by helping fellow members and one
17 family, the father died, the children were
18 college age, so we helped them to send them to
19 college.

20 Over the years, we (unintelligible)
21 comes to help other survivors. Today we are
22 coping with the effect of our aging members and
23 their reduced economic well being. Today, a
24 surprising number of the club members are living
25 in the stress about their ability to obtain home

1 care health, emergency services and other basic
2 needs.

3 Despite how hard we have been trying to
4 get more money to help survivors from the Claims
5 Conference, there just isn't enough money to
6 help with so many survivors, everybody's needs.

7 Also, the Jewish Federation, they
8 provide some help. Can you give us enough funds
9 because of their other responsibilities in the
10 community, in Israel, in Argentina and in the
11 Former Soviet Union.

12 I also sat on this Survivor's Advisory
13 Board of the Jewish Community Services of Miami,
14 Dade County, there's never enough funds to
15 provide survivors with emergency care or supply
16 their needs or to pay for the medical or food or
17 rent they need and cannot afford.

18 No one gets nearly enough home care as
19 they need. I get calls sometimes from survivors
20 whose home care hours have been cut or are on a
21 waiting list or who tell me (unintelligible)
22 survivors who are in great need but do not seek
23 help.

24 I know personally of many individuals
25 who are members of the Non-American Jewish Group

1 and other groups of the coalition to endure a
2 tremendous amount of suffering and cannot get
3 help they need. I have discussed this with some
4 of them and they would prefer that I only use
5 their initials. Some of those initials are, I
6 sent them to you, your Honor, before and if you
7 want the full names, I could provide it but you
8 know Florida (unintelligible).

9 THE COURT: I take your word for it.

10 MR. MERMELSTEIN: Your Honor needs --
11 no, I said that.

12 They would benefit if the Court
13 provides (unintelligible) from the United States
14 from the looted assets class funds. I can also
15 tell you that many, many survivors do not seek
16 help because they are ashamed to do so or
17 because they know there is no money to help
18 them. There are people that HFS through
19 numerous survivors and survivor group members
20 have come to help.

21 Our group joined with other groups in
22 Florida to create a coalition of survivor clubs
23 in Florida and later we found Holocaust
24 Survivors Foundation, USA which I happened to be
25 vice president, to have a national voice.

1 Thousands of survivors join together because we
2 believe that survivors as opposed to non-
3 survivor organizations and other assisting in
4 the negotiating tables should have a direct
5 voice in decisions over the fate of our family's
6 properties. There is just (unintelligible).
7 That is what HSF is all about.

8 Your Honor, we are all members from the
9 looted assets class; all of us, those who cannot
10 work to take care of ourselves and those who
11 can. We all -- we had all of our possessions
12 stolen by the Nazis and consider ourselves to be
13 real actual class members whose right, we are
14 actually part of the lawsuit.

15 That is why we cannot understand why
16 some class members get help and some don't, just
17 because of where they live. If all these great
18 social safety nets were really available, then -
19 - there are many survivors in need. All we are
20 asking for is payments. We say that all
21 survivors should have access to assistance from
22 the settlement, not just sum.

23 If your Honor changed the allocation
24 formula, more of our members will get help they
25 need and deserve. But, your Honor, I am not

1 asking for myself. I do believe that since I am
2 a member of the class and the settlement is for
3 all of us, we all have a right to have a say
4 about how the funds are used.

5 As you have heard or will hear
6 overwhelming majority of class members believe
7 the funds should be allocated more evenly. No
8 one should be denied because of where they live.

9 After the Court adopted the special
10 master's initial recommendation in 2000, I asked
11 Mr. Dubbin on behalf of myself and on behalf of
12 the club and the coalition to appeal the
13 allocation because we all believe what's fair --
14 was unfair for survivors in the United States.

15 We debated but we go along with
16 Mr. Newborne's letter of support and rabbi
17 appeal. I personally spoke to you on the
18 telephone and I was here two years ago in your
19 chamber. Your Honor, if you remember, I asked
20 for two things; yushi (phonetic) and rachomins
21 (phonetic).

22 You listened, you speak to us in
23 Yiddish, we believed there would be payments for
24 our fellow survivors here and let -- the
25 allocation, but it hasn't happened. It's hard

1 for me to express the disappointment and they
2 failed the survivor in our club and the
3 coalition and the HSFP at this time.

4 Our club and the coalitions
5 (unintelligible) fully support allocation but
6 the need of the survivors in the Former Soviet
7 Union and Israel and believe they are sufficient
8 funds available in the settlement to help all
9 survivors in need.

10 We also believe that the survivors in
11 the United States as the looted assets class
12 members are entitled to fair share of funds from
13 the looted assets class settlement.

14 We don't understand, your Honor, how
15 Holocaust survivors who are members of the class
16 cannot have standing to object on these
17 allocations but appeal the allocation.

18 Also, we not believe that only needy
19 survivors have such a right, although there are
20 many, many need survivors among our members.
21 The days of survivors sitting in the sidelines
22 and watching other speak for us are over and
23 that is why I flew here today directly from
24 Israel, your Honor, because so many survivors in
25 this country need and deserve the benefit.

1 Thank you.

2 MR. DUBBIN: Wait a minute. We're not
3 done. I'm sorry, we're not finished.

4 MR. SHESKIN: Good afternoon and thank
5 you for this opportunity. My name is Ira
6 Sheskin and I am a professor at the University
7 of Miami and a director of the Jewish
8 Demographic Project at the Senior Leonard Miller
9 Center (unintelligible) at the University of
10 Miami.

11 And I would like to quickly address
12 four issues. First, as to my background, in the
13 past 22 years, I have completed or I am working
14 on 35 local Jewish demographic studies for more
15 than 30 U.S. Jewish federations. I also served
16 for 16 years on the United Jewish Communities
17 Committee that conducted the 1990 and 2000
18 national Jewish population survey.

19 I've published two books; one on
20 (unintelligible) and survey research and the
21 other a volume that compares the results of 45
22 Jewish demographic studies.

23 Second, I would like to present some
24 background on data collected on this subject.
25 In 1994, in Miami, a survivor group asked me to

1 estimate the number of survivors in Miami as
2 part of the Greater Miami Jewish Federation
3 Demographic Study.

4 This led to the first U.S. Jewish
5 demographic study to estimate survivors. I've
6 now produced estimates for six other Jewish
7 communities and was responsible for suggesting
8 the question about Nazi victims we asked as part
9 of the NJDS 2000.

10 That the issue of the number in need of
11 Nazi victims is now arisen to significant
12 importance is shown by the fact that a report on
13 survivor needs was one of the first special
14 topics reports published from NJDS 2000.

15 In addition to this years annual
16 meeting of the executives of the large Jewish
17 Family Services at which I ran a full day
18 workshop, the topic of the special needs of U.S.
19 Nazi victims was widely discussed.

20 Third, I would like to elaborate on
21 some points I made in an earlier memorandum on
22 the number of Nazi victims and the needs.

23 The number of NJDS report suggests that

24 120 --

25 THE COURT: I'm sorry?

1 MR. SHESKIN: Yes.

2 THE COURT: Memorandum where?

3 MR. SHESKIN: That I gave to Sam
4 Dubbin, I believe was forwarded to the Court.

5 THE COURT: Just recently?

6 MR. SHESKIN: Yes.

7 THE COURT: Okay.

8 MR. SHESKIN: It's one you've seen,
9 sir.

10 Third, I would like to elaborate on
11 some points I made in the earlier memorandum.
12 The NJPS report suggests that 122,000 Nazi
13 victims reside in the U.S. I have completed the
14 same analysis to confirm the 122,000. But
15 because survey research is not perfect, one must
16 sometime adjust results for known problems,
17 something that was not done in the NJDF report.

18 In a previous document submitted to the
19 Court, I presented evidence based upon my
20 knowledge of survey research and Jewish
21 demography, that 175,000 is a better estimate
22 than 122,000.

23 We now have eight local Jewish
24 demographic studies that have estimated Nazi
25 victims. The 2002 New York Jewish population

1 survey estimates 55,000 Nazi victims in New
2 York. And my studies documents an additional
3 19,000 Nazi victims in South Florida, including
4 by the way, 7,400 in Broward County.

5 Thus, we have about 75,000 Nazi victims
6 in New York and South Florida alone. This
7 confirms my belief that 175,000 Nazi victims
8 nationwide is probably closer to the truth than
9 the 122.

10 The NJPS report on Nazi victims
11 suggests that about 25 percent of Nazi victims
12 live below the poverty level compared to nine
13 percent of all U.S. Jewish elderly. Thus, about
14 44,000 Nazi victims live below the poverty
15 level.

16 The New York Jewish Population Survey
17 estimate that 21,000 poor Nazi victims live in
18 New York. My studies in South Florida estimate
19 that about 3,000 poor Nazi victims live in South
20 Florida. Thus, about 24,000 Nazi victims live
21 below the poverty level in these two areas of
22 the country alone.

23 It is also important to note that
24 federal poverty levels are based upon nationwide
25 economic conditions. But the vast majority of

1 Nazi victims who live in large metropolitan
2 areas where the cost of living is higher. Thus,
3 some researchers have used 150 percent of the
4 poverty level to estimate the needy population.

5 On this basis, we should add 40,000
6 poor Nazi victims to the number of Nazi victims
7 nationwide for a total of 84,000 poor Nazi
8 victims nationwide.

9 Likewise, we could add 8,000 poor Nazi
10 victims to the New York plus South Florida
11 numbers for a total of 32,000 poor Nazi victims
12 in these two areas.

13 As to the issue of whether more
14 reliable estimates of the real needs of Nazi
15 victims is solicited by an objective question on
16 income level or by a question which survey
17 respondents subjectively assessed their economic
18 conditions, it is my professional opinion that
19 the more objective question is to be preferred
20 since one respondent not making ends meet may
21 very well be another respondent just managing.

22 Even if one were to employ the
23 subjective measures, I would argue that many of
24 the respondents in the just managing category
25 may very well be not making ends meet but maybe

1 reluctant to indicate such on a telephone
2 survey.

3 In addition, someone who is just
4 managing --

5 THE COURT: Isn't that true about
6 asking about people about what their precise
7 income is? Is that any more reliable on a
8 telephone survey?

9 MR. SHESKIN: I think it is a bit more
10 reliable on a telephone survey. We have -- you
11 know, we've struggled for years on telephone
12 survey with the fact that not everyone will
13 answer the income question, okay? And the fact
14 is is that we have no evidence that people
15 inflate it or deflate it. We have no evidence
16 that it's people who are richer who are more
17 likely to turn it down or people who are poorer.
18 There is just no evidence to indicate what
19 direction that is because we just don't know the
20 answers from it.

21 But it is ma more objective answer from
22 people, is your income under \$15,000 and then if
23 they said yes, we ask them is it under \$9,000 if
24 they were a single person living alone. But
25 that's objective. My people --

1 THE COURT: Well, I'm not sure what --
2 it was never clear to me what that includes. In
3 other words, when you talk about it, the poverty
4 level in the United States, you're talking about
5 a level that's set by, I guess, the department
6 of commerce that includes certain items of
7 income and excludes other sources of income.

8 For example, Section 8 housing
9 subsidies would not be included. So, I don't
10 know --

11 MR. SHESKIN: There are --

12 THE COURT: I am actually not sure from
13 reading that National Jewish Population Survey
14 Study of what their -- how sophisticated were
15 these questions?

16 MR. SHESKIN: Well, unfortunately, you
17 know, this is a long questionnaire to get deeply
18 at the issue that we're talking about here would
19 have taken quite a number of additional
20 questions.

21 THE COURT: Well, I understand that but
22 the argument is that there are X number Jews
23 living below the poverty level. The poverty
24 level is a term that has a definition based on
25 certain sources of income and not including

1 others. And if you're going to make judgments
2 about need, you have to know what's encompassed.
3 And just saying that somebody is below a poverty
4 level without knowing what elements went into
5 the determination.

6 MR. SHESKIN: Into their thinking when
7 they gave the answers.

8 THE COURT: Right.

9 MR. SHESKIN: Exactly. And it gets
10 even more complicated than that. Someone who
11 lives in South Florida whose condominium is
12 fully paid off can get by on less income than
13 someone who is living in a home that's not paid
14 for. So, it is a complex thing to look at.

15 But if may go on, in addition, someone
16 who is just managing may very well be just one
17 medical problem away and a data shows that a
18 large percentage of Nazi victims have serious
19 medical problems from not making ends meet.

20 If we include those who are just
21 managing in our calculation of the percentage of
22 Nazi victims in need, then about 60,000 Nazi
23 victims may be said to be in need, compared to
24 the 84,000 estimated above, to be below 150 --

25 THE COURT: I know but the question

1 that I have is just managing is managing.

2 MR. SHESKIN: But --

3 THE COURT: And you could call -- you
4 know, they might be one step away or two steps
5 away but managing is managing. And not being
6 able to manage is not being able to manage. And
7 two percent, it's actually less than two percent
8 but rounding it out, two percent who responded
9 to a general question about their financial
10 condition said that they couldn't --

11 MR. SHESKIN: And people may be --

12 THE COURT: -- make ends meet and that
13 they were not managing. And the rest of them
14 were managing to a greater or lesser extent.
15 Now look, I'm not an expert in this. I'm just
16 trying to reconcile two figures that seem to me
17 to be totally at odds with each other, that 25
18 or 30 percent are below a poverty level however
19 you define it but the same study asking these
20 people how will you describe your financial
21 condition say two percent say they can't make
22 ends meet.

23 Now, there's something wrong with those
24 figures. Either the one -- the poverty level
25 figure is meaningless or inaccurate or it is but

1 that because of the social safety net that's not
2 calculated in determining whether or not people
3 are below a poverty level like section 8
4 housing, like food stamps, that don't count,
5 then the figure is meaningless.

6 MR. SHESKIN: Well, I'm not sure that
7 it's meaningless because --

8 THE COURT: And to take your example,
9 suppose it's 100 percent margin of error, which
10 you don't even agree that these -- you know, I
11 have, quite frankly, expressed doubts about
12 taking 145 people and extrapolating the whole
13 survivor population of the United States but
14 you've assured me that that's okay in your
15 affidavit, so that if that's okay, then the two
16 percent figure of people responding on the basis
17 of saying that only two percent can't make ends
18 meet or are unable to manage is a reliable
19 figure. But even if you double it, account for
20 100 percent margin of error --

21 MR. SHESKIN: But what I am saying is -
22 -

23 THE COURT: -- it's still extremely
24 small.

25 MR. SHESKIN: What I am saying is that

1 it's very easy to believe that a very reasonable
2 percentage of those people who say they're just
3 managing --

4 THE COURT: Are wrong.

5 MR. SHESKIN: -- are -- maybe they're
6 not just managing or maybe five years from now
7 they're not going to be able to make ends meet.

8 THE COURT: Well, but I understand
9 that. But we're dealing with now is what the
10 problem is.

11 MR. SHESKIN: I'm --

12 THE COURT: And the problem is trying
13 to get what amounts to reliable statistics. I'm
14 not -- you know, I am not necessarily vouching
15 for the Jewish population study but, you know,
16 there's no way of getting around what it says.
17 Now you could say well, just -- we have to
18 include people who say they can't manage or are
19 unable to manage with people who say they are
20 just managing and lump them together. Now, of
21 course, that substantially increases the number
22 of who would be described as needy but you know,
23 it's like being pregnant, you're either pregnant
24 or you're not. You know, you're either managing
25 or you're not managing. And the figures for

1 people who say they responded in that study that
2 they're not -- they were not managing is two
3 percent. And I give you 100 percent margin of
4 error, which you don't even acknowledge for that
5 and it's still an extremely low number.

6 MR. SHESKIN: But I would contend and I
7 guess this is where we differ, that some
8 percentage of the people who are just managing
9 are just saying that.

10 THE COURT: Well, you know, you could
11 say that about the rest of it, too.

12 MR. SHESKIN: And that -- well, that's
13 part of the problem with survey research.

14 THE COURT: And I note that in your
15 affidavit you didn't even deal with the issue of
16 the just managing, you just -- the two percent,
17 at all.

18 But go ahead.

19 MR. SHESKIN: Or can we say that the
20 needs of U.S. Nazi victims are as serious as the
21 needs of FSU Nazi victims? As someone
22 originally trained in economic geography, who is
23 has given much thought to cross cultural
24 comparisons of income and need, I offer the
25 opinion that it's difficult to compare needs

1 across societies. There are differences in
2 costs of living and in standards of living from
3 one society to the next.

4 THE COURT: That's true.

5 MR. SHESKIN: I'm reminded of an
6 incident that occurred after the rioting in
7 Miami in the late 1970s when a bus load of
8 reporters from less developed countries were
9 touring the slum area where the rioting
10 occurred. When the reporters saw air
11 conditioners in every apartment window, they
12 could not believe that we considered this to be
13 a slum area. In many countries, such housing
14 would have been considered middle class. Thus,
15 what is needed to live in dignity is totally
16 different from society to society.

17 I thank the Judge and the Court for
18 your time.

19 MR. RECHTER: Your Honor, thank you for
20 the opportunity to appear in this court. First
21 of all, and thanks for all these things from
22 other persons in the audience.

23 Before I continue, I would like to
24 reiterate the credentials of our organization
25 because many of the people here don't know. I

1 happen to be the president, elected president of
2 National Association for Jewish Holocaust
3 Survivors.

4 I was drafted in this job. You know, I
5 wasn't seeking it because when our previous
6 president passed away, I was asked to replace
7 him when nobody else wanted to replace him.

8 We have members in 16 states of this
9 country and we also formed an alliance with the
10 Holocaust Survivors Foundation which is later on
11 would be a separate organization.

12 We are (unintelligible) a bona fide
13 organization which is incorporated, which files
14 its 990 reports and I wish all the court
15 officers who would check into the background of
16 all these organizations which pretends to
17 represent survivors because we know we have
18 elections, we have an election committee and we
19 have ballots which go to the independent
20 committee.

21 Now I would like to continue the way I
22 intended initially. After World War II, as soon
23 as possible, survivors came out of the DP camps
24 or of their former hiding places and they left
25 blood stain soils of Europe. Many came to the

1 United States. They were not exactly received
2 with opened arms. Let's face it. Quite the
3 contrary.

4 In other societies, former prisoners of
5 wars are treated like heroes. But here in the
6 states we were treated with disdain, with
7 disrespect which persists until this day.

8 Some survivors manage not only to earn
9 a living but became quite affluent. But there's
10 a core of survivors who never quite made it.
11 they came here penniless. They came here
12 without skill, without language knowledge. They
13 never quite learned the ropes.

14 But rich or poor, unskilled or
15 accomplished professionals, we were never
16 allowed to take care of our own affairs. Larger
17 organizations decree that they know better than
18 we do what is best for us; disrespect and shame.

19 Regardless of the Holocaust
20 (unintelligible) in our use until this date to
21 raise funds for all kinds of projects. But the
22 actual victims have been getting crumbs and
23 still we are being told that others know better.

24 Your Honor mentioned before \$53 billion
25 that came to the United States.

1 THE COURT: No.

2 MR. RECHTER: I think --

3 THE COURT: 53 to everybody -- to all
4 the survivors in the world.

5 MR. RECHTER: Okay.

6 THE COURT: \$14 billion came to the
7 United States.

8 MR. RECHTER: And a large percentage of
9 it to the United States.

10 I think this is misleading because this
11 amount results from the (unintelligible) having
12 been received by a valid minority over many
13 years. The majority of the survivors in our
14 organization never received anything. Nothing.
15 Until recently, some of them started receiving
16 Article II. And the Article II requirements are
17 just as strict as the CF Requirements in the
18 Former Soviet Union.

19 And when the Former Soviet Union
20 recipients are getting 135 Euro per month,
21 compared to 270 Euro per month for the United
22 States survivors, then they're actually
23 receiving far more because as was testified
24 before, the Euro in the Former Soviet Union buys
25 five times as much as over here.

1 Many of those who never quite made it,
2 were falling further ad further behind because
3 they never quite saved enough because of
4 inflation, because of the enormous rise of
5 rising costs of medications and healthcare.
6 Thousands have to make painful choices between
7 buying medication or food.

8 You can find some of the healthier ones
9 lining up in the evening at Entemanns to buy day
10 old bread, here in the United States, the
11 richest country on earth. And also, they're
12 bedridden in some parts of the country cannot
13 get more than a few hours of home care per week,
14 like my friends Max Factor -- Zevv Factor
15 testified some of them need diapers, need
16 something really to save their dignity and they
17 cannot get it.

18 We thought we were part of this
19 lawsuit. We were invited to be members of this
20 looted assets class. We were asked to fill out
21 very lengthy questionnaires. Those that did not
22 know how to fill out those questionnaires were
23 directed to social agencies or to attorneys.

24 The attorneys got paid, the social
25 workers got paid. The looted asset class

1 members in the United States got so far next to
2 nothing, zilch. Now we are being told that all
3 of our horrible experiences come for nothing.
4 All of our (unintelligible) properties have to
5 be listed on questionnaires to get a settlement
6 but after they were listed, we have no voice in
7 the settlement.

8 THE COURT: It was settled before the
9 questionnaire. The purpose of the questionnaire
10 was to try and give us an understanding of how
11 feasible to allocate money. I mean, the
12 questionnaire came after the settlement.

13 MR. RECHTER: I know. We know. If we
14 knew everything that was going to happen
15 subsequent with this, we might have filled it
16 out differently. Others are still not better
17 than the survivors themselves. The money is
18 being used to practice selective charity
19 according to perception of some non-survivors.

20 THE COURT: Mr. Rechter, I mean, I am
21 willing to let you speak but selective charity is
22 an unfair term only because the proposal of HFS
23 USA is a form of selective charity. If you
24 accept the premise that 30 percent of the
25 survivor population in the United States are

1 living below the poverty level and therefore, in
2 need, the plan that was submitted would only
3 have helped 4,000 of those, maybe 6,000, maybe
4 8,000. But if what you call charity is simply
5 drawing a distinction between people because of
6 assessments of need, then your proposal is a
7 subject to the same criticism that you level on
8 ours.

9 Now, I'm not -- I don't mean to
10 interrupt you but I think you have to weigh --
11 somebody will some day come along, assuming you
12 get what you want, and say you're giving out --
13 you're creating this charity that you shouldn't
14 be doing. You're giving out money based on
15 charitable principles. But yours is the same.
16 You don't propose, your organization did not
17 propose that I should give money to all the
18 needy survivors in the United States.

19 But the proposal that was submitted
20 that was prepared by Mr. Goldberg was a proposal
21 to provide home care to a relatively small
22 number. So, even under your proposal, you're
23 drawing distinctions. You're not proposing to
24 give money to every -- you may be, I don't know,
25 but the HFS USA proposal --

1 MR. RECHTER: No, what we have --

2 THE COURT: -- is not proposing to give
3 money to all of the survivors who are living
4 below the poverty level in the United States.
5 You are making distinctions.

6 MR. RECHTER: What we had proposed, we
7 knew -- we accepted the cypres principle because
8 we knew there were insufficient funds available
9 which we all agree upon.

10 THE COURT: Right.

11 MR. RECHTER: Far from sufficient
12 funds.

13 THE COURT: Exactly.

14 MR. RECHTER: And, therefore, we agreed
15 to the cypres principle that the neediest should
16 be taken care of first.

17 THE COURT: Exactly.

18 MR. RECHTER: And our proposal as
19 your Honor knows, was that there should be a
20 committee established from -- supervised by
21 several Holocaust survivors, by Jewish Family
22 Services or other social agencies
23 representatives, by an officer of the Court and
24 by an officer from the Claims Conference. And
25 that committee should decide who the neediest

1 are, so we are really in favor of the neediest
2 getting first because there aren't sufficient
3 funds available. That was our proposal.

4 But when I talk about selective
5 charities --

6 THE COURT: No, but I know -- yes, but
7 the selective charity part is what I am
8 challenging you on because to say that I should
9 only give to people who need home care and not
10 to others who are living below the poverty line
11 --

12 MR. RECHTER: No.

13 THE COURT: -- is subject to the charge
14 of selective charity, as well.

15 MR. RECHTER: We did not say that. We
16 -- then I misunderstood. I think that we have
17 to help every needy person, whether he needs
18 homecare or whether he needs medication or
19 whether he needs utilities being reinstated
20 because they have been shut off.

21 So, all needy person, depending on the
22 need and we have -- it is a very difficult task
23 before we have to decide within sufficient funds
24 who to give it to first.

25 THE COURT: Exactly.

1 MR. RECHTER: Exactly. Which we do not
2 feel it is fair to compare a situations in other
3 countries including non-survivors with the
4 situation here in the United States.

5 The post World War II experiences are
6 getting -- what I am -- are a greater priority
7 now than the actual horrors and the damages for
8 physical and psychological of the Holocaust
9 itself. Who are the people who are afraid, now
10 playing God and deciding that Holocaust
11 survivors who are hungry, some for health, have
12 greater rights than those that are hungry or
13 whether they're here or those that have to
14 choose between medication, food in the Soviet
15 Union or anywhere else, have to make it a
16 priority than over here.

17 We think everybody should get it, in
18 the Former Soviet Union, too, not just over
19 here. They also should be getting it. There
20 are sufficient funds available between the
21 Claims Conference and the \$650 million that are
22 left over, that there should be no Holocaust
23 survivor in need who should be left out of the
24 deposit and has to live off the rest of his life
25 in pain.

1 Over 55 years have passed and the
2 survivors are no longer uninformed. We have in
3 our ranks doctors, professionals, psychologists,
4 bankers, engineers, certified financial planners,
5 but we have no voice. Disrespect once again.
6 After four long years, over \$650 million are
7 left over and we are trying to get some
8 assistance immediately for the most needy
9 amongst us. And we are trying to get it as soon
10 as possible but we have no voice, no contract,
11 no oversight.

12 Thousands are dying each year but the
13 time is not right to help them. We have to wait
14 a little longer. Assistance for fellow
15 survivors in need, both they and us are being
16 deluded of our dignities. This settlement was
17 supposed to be about assets taken from us, both
18 of the bank accounts and of our other properties
19 that we have (unintelligible). Now we are being
20 told that we have no standing. It was supposed
21 to be about the Holocaust, not about communism
22 and not about flawed economic policies of
23 communists and post communist governments.

24 There are (unintelligible). Give some
25 relief to all genuine Holocaust survivors,

1 wherever they live to make their final days a
2 little more bearable. No needy survivor should
3 be excluded because of where they live. No
4 survivor should be excluded because he happens
5 to live in the United States or because he came
6 to the United States and if he remained
7 somewhere else, he would have gotten help.

8 All survivors in need should get fair
9 share with local supervision by survivors
10 themselves. And the people they choose, they
11 trust, not persons sent by an organization with
12 its own agenda. This is supposed to be a
13 Holocaust related settlement.

14 THE COURT: There is no organization
15 with its own agenda involved here.

16 MR. RECHTER: No, I --

17 THE COURT: And I maybe -- I don't talk
18 about anywhere else, but there's no
19 centralized --

20 MR. RECHTER: I beg to differ. You
21 need an organization we recognize it. But in
22 the Former Soviet Union, it's the Reced
23 (phonetic) organization.

24 THE COURT: I know but that's --
25 they're not making, you know -- they're getting

1 the money to give to other people.

2 MR. RECHTER: Yes, but still they have
3 no differences with the (unintelligible)
4 survivor population.

5 This is supposed to be a Holocaust
6 related fund not a general debate fund, not the
7 communism relief fund, not the Jewish renewal in
8 hostile soil. Let every deserving former Nazi
9 victims have his fair share. Thank you.

10 And as far as the flaws in our studies
11 are concerned, I would like to say, your Honor,
12 I recognize relative needs. You should also
13 have recognized relative financial power to
14 create those reports. You know, we don't have
15 the kind of funds available to other
16 organizations who can spend their money or
17 rather our money in order to prepare reports and
18 find it more credited (unintelligible).

19 Thank you.

20 MR. DUBBIN: My name is Sam Dubbin. I
21 represent the Holocaust Survivors Foundation,
22 USA, Inc., as well as the leaders of the group,
23 the group members and the individual members.

24 I will try to address some of the
25 points that have been made along the way by the

1 Court, as well as some of the other speakers.
2 But fundamentally, my client's object to the
3 special masters recommendation. They object
4 about the timing issue, about the indefinite
5 delay about letting more money be available for
6 looted assets. And they object to the
7 allocation formula.

8 I would like to begin by respectfully
9 disagreeing with Mr. Berger about the existence
10 of remaining legal issues. He says there are
11 none left. My clients, the HFS, disagree. We
12 believe that legal principles continue to govern
13 in the case, that that's why they appealed the
14 Court's March 9 decision and that's why we are
15 formally objecting today to the special masters
16 recommendation.

17 I, too, as Mr. Berger --

18 THE COURT: I don't think he meant he
19 to suggest that there were no legal issues.
20 What I think he meant was that I've decided them
21 all and unless they're reversed on appeal --

22 MR. DUBBIN: Fair enough. I was struck
23 by his comments --

24 THE COURT: I think that --

25 MR. DUBBIN: -- because, of course, we

1 (unintelligible).

2 THE COURT: No, I think he said he
3 spoke about my decisions that I've outlined as
4 being the law of the case. Well, they're the
5 law of the case until a higher court changes it.
6 But there's no point in arguing them here
7 because I've already decided them.

8 MR. DUBBIN: Your Honor, I mean, I
9 understand and I'm going to try to hit the major
10 points and then get out in the time that we
11 have. Because like Mr. Berger, I too have
12 devoted a great deal of my personal life outside
13 of the practice of law to Jewish community
14 organizations that were forced with distressing
15 budgetary constraints. But we don't agree that
16 the principles of pure philanthropy can be
17 equated with principles of justice. And in a
18 class action case, the law cannot be transformed
19 to --

20 THE COURT: Aren't you doing the same
21 thing? I don't understand. You don't propose
22 to give money, as I understand your position, to
23 every needy survivor who is living below the
24 poverty level in the United States. That wasn't
25 your proposal.

1 MR. DUBBIN: When we began --

2 THE COURT: Your proposal was limited
3 to a discreet group of people, a small fraction
4 of the needy based on home care.

5 MR. DUBBIN: Your Honor, when we first
6 objected and then appealed, the belief was at
7 the time that sufficient funds might be
8 available to purchase an insurance contract for
9 every single survivor. And that --

10 THE COURT: I know but that was based
11 on nothing. And when it turned out that you
12 couldn't do that, your proposal was to provide
13 funding for at least 4,000 known people --

14 MR. DUBBIN: But --

15 THE COURT: -- which is roughly, you
16 know, a fraction of those people living below
17 the poverty level. So, I don't know what you're
18 talking about when you criticize what we've done
19 as some sort of impermissible philanthropy
20 because you're proposing precisely the same kind
21 of philanthropy.

22 MR. DUBBIN: I respectfully disagree,
23 your Honor. Again, the principle was that every
24 survivor had a right in the looted assets plan
25 to assistance. When it became apparent that

1 sufficient funds would not be available to do
2 that --

3 THE COURT: Right.

4 MR. DUBBIN: -- in consultation with
5 Professor Newborn, lead counsel, we acquiesced
6 the most efficient way to meet the needs, the
7 fairest way to meet the needs would be to
8 utilize the existing Jewish Social Service
9 structure and the Jewish Family Services because
10 that's where the people --

11 THE COURT: I know but --

12 MR. DUBBIN: -- who can't otherwise get
13 access to --

14 THE COURT: -- the proposal that you
15 provided was to provide health care for 4,000
16 people.

17 MR. DUBBIN: Your Honor, I --

18 THE COURT: And maybe home care and
19 maybe with outreach, possibly you would be 8,000
20 or possibly you would be 12,000. That was the
21 concrete proposal that you made.

22 MR. DUBBIN: Respectfully, Judge, the
23 proposal speaks for itself. It included home
24 care. It also included medical -- emergency
25 services which run the gamut of issues that

1 Mr. Rechter addressed.

2 THE COURT: Well --

3 MR. DUBBIN: Medication in a rent
4 subsidy area --

5 THE COURT: I know. It's home care --
6 it was 4,000 people.

7 MR. DUBBIN: Your Honor?

8 THE COURT: That was what the proposal
9 was. You wanted \$30 million a year for 4,000
10 people and for an outreach that might, according
11 to Mr. Goldberg, reach as much as 8,000 or
12 12,000 which is considerably less than the
13 number of needy survivors if you define need by
14 living below the poverty level.

15 MR. DUBBIN: Your Honor?

16 THE COURT: You're engaging in
17 philanthropy.

18 MR. DUBBIN: Your Honor, may I? I
19 would like to state my position because you are
20 the judge. You've spoken in your March 9 order.
21 My clients asked me to come and state our
22 position with respect to (unintelligible).

23 THE COURT: I understand that but I am
24 free to ask you questions.

25 MR. DUBBIN: Of course. I would just

1 like to -- if I could state my position, I
2 realize I may not change your mind today and I'm
3 more than happy to engage in the dialogue. I'm
4 mindful of the time limits that were set for us.
5 I know you've also taken some of the time.

6 THE COURT: Have I cut off anybody?

7 MR. DUBBIN: No, sir.

8 THE COURT: Everybody from your group
9 spoke who wanted to.

10 MR. DUBBIN: The proposal, your Honor,
11 speaks for itself is what I am trying to say.
12 It identified that 4,000 --

13 THE COURT: Right.

14 MR. DUBBIN: -- survivors were
15 currently getting home care from Jewish Family
16 Services.

17 THE COURT: Right. And you wanted \$30
18 million a year.

19 MR. DUBBIN: Your Honor, please, let
20 me --

21 THE COURT: No, I think you have to be
22 accurate.

23 MR. DUBBIN: I will. Let me --

24 THE COURT: You asked for \$30 million a
25 year to fund 4,000 people, 40 percent of that

1 \$30 million would actually go to search for
2 other people and maybe according to
3 Mr. Goldberg, he would find another 4,000 to
4 8,000.

5 MR. DUBBIN: With all due respect,
6 your Honor, that is not an accurate --

7 THE COURT: That's what it says.

8 MR. DUBBIN: -- characterization of
9 what we filed. The document will speak for
10 itself.

11 THE COURT: It does.

12 MR. DUBBIN: But we did, in fact, and
13 Mr. Goldberg, contrary to what you stated to my
14 clients earlier, he specified based upon surveys
15 of his members in the Jewish Family Service
16 system, the number of 4,000 who were not getting
17 adequate care.

18 THE COURT: Every --

19 MR. DUBBIN: And he did a model of what
20 it would cost to get those individuals not
21 getting adequate care, the care they needed.
22 Okay. He also --

23 THE COURT: He specifically had -- he
24 had a disclaimer there saying that he couldn't
25 actually say how much care these people were

1 getting and I quoted it in my opinion. And
2 that's basically it. It would turn out that
3 even the 4,000 number, as he defined it, was
4 soft because he put a caveat in there in which
5 he says I can't tell whether these people --
6 this is what they're getting now from us, I
7 can't tell in effect what they're getting
8 elsewhere or from some other place.

9 MR. DUBBIN: Well, you see, but,
10 your Honor, this is one of the points that I
11 need to emphasize. You're suggesting that the
12 people we identified in that study, in that
13 proposal were the only needy survivors who lived
14 in the United States.

15 THE COURT: I am not saying that.

16 MR. DUBBIN: Well, no because when you
17 --

18 THE COURT: That's what you were
19 saying.

20 MR. DUBBIN: No.

21 THE COURT: No, listen to me,
22 Mr. Dubbin. Your proposal was for \$30 million a
23 year to pay for the health care and related
24 costs of 4,000 identifiable people and to spend,
25 my recollection may be about 14 or \$15 million

1 of that in an outreach program which
2 Mr. Goldberg thought based on talking with
3 people would generate another 4 to 8,000.

4 MR. DUBBIN: Your Honor, the document
5 will speak for itself.

6 THE COURT: It will.

7 MR. DUBBIN: Let me summarize from my
8 perspective what we requested. And I believe
9 the document will bear me out. That to meet the
10 unmet needs of the 4,000 people who were
11 currently in the system which he said were --
12 over half of them were getting less than half of
13 what they needed, would be \$10.5 million, number
14 one.

15 Number two, for emergency services for
16 the 21,000 survivors in the system who were in
17 the system by and large because they're poor,
18 another \$3 million. That's the rent subsidies,
19 the utilities, the dentures, the walkers that
20 Mr. Rechter's talking about.

21 For transportation for yet other
22 survivors in the system who can't afford it but
23 who might have insurance but they can't get a
24 ride to the doctor, that was another \$3 million.
25 Now, he said \$3 million a year to conduct

1 outreach and \$10 million on average to meet the
2 needs of the people who the outreach would bring
3 in. That was the proposal.

4 THE COURT: So, that's 13 -- that's how
5 many million dollars?

6 MR. DUBBIN: Well, you said to conduct
7 outreach but the \$10 million of that was to
8 serve them, was them to give them health care.

9 THE COURT: Assuming he found them. He
10 wanted me to allocate money based on an
11 assumption that he would find them and that
12 assumption that he would find them is totally
13 and completely unsupported. But that's besides
14 the point.

15 All I am saying right now is you
16 proposed what you would describe as a charitable
17 philanthropic program that would not help all of
18 the needy survivors in the United States.
19 That's what it comes down to, if need is based
20 on who lives below the poverty level.

21 MR. DUBBIN: We disagree and here is
22 why. Our position is that if you can't give
23 every looted assets class member the health they
24 are entitled to because of their status of
25 having their property taken, that they, the

1 class members, have the right to determine what
2 happens with that money. And that's what the
3 leaders of the HSA have set forth. They're
4 survivors. They're members of the looted assets
5 class. They are elected leaders of survivors
6 organizations who have taken the position,
7 your Honor --

8 THE COURT: That was in the last
9 submission that you gave.

10 MR. DUBBIN: Well, I'm making -- again,
11 my objection as I filed a document today stands
12 on --

13 THE COURT: That was in your motion for
14 an immediate distribution which was filed
15 relatively recently.

16 MR. DUBBIN: Well, but here's why,
17 Judge. When I filed the Goldberg proposal in
18 September 2002, I was told by Mr. Newborn
19 (phonetic), who was aware of what I was doing,
20 (a) that it was a workable plan and (b) that the
21 Judge loved the plan. Now, that's what I was
22 told. Now, that was September 2002.

23 Nothing happened until September 2003
24 and the reason it didn't, you know, I don't
25 think Mr. Newborn would disagree with this. We

1 kept asking when money would be available on a
2 subsequent allocation. And there was no
3 information, no information, no information.
4 And it was at that point and we had conferences,
5 as your Honor knows, because my clients were,
6 indeed, frustrated having submitted a plan which
7 at that point in time, we had no reason to
8 believe the Court didn't believe that it
9 satisfied what had been requested of us.

10 Mr. Newborn did write to members of the
11 class and said Mr. Dubbin did -- submitted a
12 plan in July 2002. We supplied it in September
13 2002 but we were never -- it was never suggested
14 to us, and I'll go back to the record, that it
15 was inadequate. And it wasn't until the fall of
16 2003 when Mr. Newborn did respond on the record,
17 he conceded that we identified substantially
18 greater needs that previously had been believed
19 to exist. But his fault with the plan wasn't as
20 detailed. He said we hadn't satisfactorily
21 rebutted the demographic data of comparative
22 need.

23 Now, this is what he said in the
24 declaration. It's a matter of record. Our
25 position is if we submitted a plan, if you go

1 back and look at what the JDC submitted to
2 your Honor in April 2001 after the special
3 masters recommendation, I would submit to you
4 that the Burkover (phonetic) proposal we filed
5 in September 2002 was as detailed as the JDC's
6 plan which was simply ground numbers of the
7 kinds of monies of the countries to which the
8 money was going to go.

9 THE COURT: They had hard numbers.

10 MR. DUBBIN: So, with respect to that,
11 your Honor, that's --

12 THE COURT: They had hard numbers of
13 people they were going to serve. But go ahead.

14

15 MR. DUBBIN: Whatever. That's what was
16 in the record and I submit to you that our
17 proposal was up to that level of sophistication.

18 And unfortunately, Mr. Goldberg also
19 admitted in that document that this was the
20 first serious effort that had ever been
21 undertaken in the Jewish community in this
22 country to assess the home and health care and
23 emergency needs and transportation needs of
24 Holocaust survivors.

25 So, with all due respect as Mr. Rechter

1 pointed out, we're not a professional
2 organization. We're not a heavily funded
3 organization. We don't have access to communal
4 funds or restitution funds or settlement funds
5 to pay for major studies.

6 We work with the people in the Jewish
7 Family Service organization. Some of them sat
8 down with me to come up with the best numbers
9 available which we did.

10 THE COURT: Well, whether you have --

11 MR. DUBBIN: It was never objected to.

12 THE COURT: Whether you have the money
13 to do it or not, if it doesn't get done, it
14 doesn't get done and I can't make awards based
15 on --

16 MR. DUBBIN: But -- I --

17 THE COURT: -- your best efforts.

18 MR. DUBBIN: My point simply is is that
19 it was up to the same standards of what the JDC
20 proposed in April 2001. Mr. Newborn after, you
21 know, for over a year and a half never objected
22 to the quality of the information or the quality
23 of the plan. He did, after a year and a half,
24 disagree that he -- he said we hadn't
25 satisfactorily addressed the question of

1 relative needs which respectfully, I was never -
2 - the charge that was given to us at the time we
3 drew up the appeals, from the time we continued
4 to try to work something out over the next year
5 and a half. That's my point.

6 And I do not believe -- and I'll say
7 one thing that is equally important, the numbers
8 that the UJC and the New York City Federation
9 submitted on January 30 are based on the very
10 same numbers from Mr. Goldberg's organization
11 and they more than confirm exactly what
12 Mr. Goldberg said. And they lament the fact
13 that the Judge is not interested or the Court's
14 not interested or the special master has not
15 acknowledged that outreach is an appropriate way
16 to spend the money.

17 THE COURT: I didn't say that.

18 MR. DUBBIN: My clients are suffering
19 from a disadvantage.

20 THE COURT: Nobody said that outreach
21 wasn't the way to spend the money at the time.
22 The question was how do you make a judgment
23 about how to spend \$10 or \$11 or \$12 million
24 based on somebody saying we think we'll find
25 more people.

1 MR. DUBBIN: Your Honor, it was a plan
2 that nobody objected to as detailed. I submit
3 that it was the same as the JDC's and it was
4 good enough for the UJC and the New York
5 Federation to rely upon and they're finding more
6 than document, the degree of need that
7 Mr. Goldberg said exists. That's the point as
8 far as that the -- my clients demonstration of
9 need.

10 And the aggregate poverty data with
11 that the NJPS has reported sufficiently
12 documents --

13 THE COURT: No, it doesn't.

14 MR. DUBBIN: Your Honor, again, that's
15 --

16 THE COURT: It doesn't. It says --

17 MR. DUBBIN: The level of -- let me
18 give you another example. You said --

19 THE COURT: It doesn't document it.

20 MR. DUBBIN: Can I --

21 THE COURT: Two percent said they can't
22 make ends meet.

23 MR. DUBBIN: Okay. You then went back
24 to David Takin's (phonetic) affidavit and you
25 said if they've got 5 to 10,000 survivors and

1 only 245 are now getting care --

2 THE COURT: Well, that was all you gave
3 me, so I relied -- I went through it and
4 analyzed it and said well, what inferences could
5 draw from that. That was the only hard evidence
6 that you provided.

7 MR. DUBBIN: Today, you said that that
8 was the extent of the needy survivors in Broward
9 County.

10 THE COURT: I didn't say that.

11 MR. DUBBIN: Your Honor, with all --

12 THE COURT: I said to the extent that
13 you equate need with the need for home health
14 care and related services, which is what you've
15 been doing, then that was all you gave me.

16 MR. DUBBIN: Judge, we're talking about
17 unmet need. But there is something of a sort of
18 a safety net in this country and some Americans
19 have access to it. We're not disputing that.
20 But the New York City Federation study and the
21 poverty study of those survivors makes it
22 extremely clear that a large, large number of
23 the poor survivors in this community do not have
24 access to many of those social safety nets. Now
25 that's --

1 THE COURT: Well, I mean, I am not sure
2 that that's --

3 MR. DUBBIN: And so, I respectfully
4 submit that you can't draw the conclusion --

5 THE COURT: -- the case.

6 MR. DUBBIN: That's documented in the
7 record in the New York City's Federation
8 submissions. So, it's unfair to those survivors
9 who are in need who are not getting access to
10 the social safety nets to say that because of
11 the existence of these social safety nets for
12 the society in general that they are penalized
13 for having access to the Swiss bank settlement
14 funds.

15 THE COURT: They're not. They're not
16 penalized. To the extent that people have
17 available a social safety net, then they're not
18 -- the social safety net counts in determining
19 whether a particular person is in need or not.
20 If they don't have access to a social safety
21 net, then that doesn't count in determining
22 whether they're in need. But I don't think you
23 could ignore the social safety net that's
24 available, particularly here in New York where
25 most of the needy survivors live.

1 MR. DUBBIN: Again, the New York City
2 Federation study does not agree with your
3 Honor's conclusion that the social safety net is
4 accessible to all the survivor's needs.

5 THE COURT: I didn't say that it was
6 accessible to all. I said that to those for
7 whom it's accessible, you can't in determining
8 the extent of their need. And to those for whom
9 it's not accessible, then obviously you don't
10 count it in determining the extent of their
11 need.

12 MR. DUBBIN: And if you have a --

13 THE COURT: But one of the things that
14 may explain why only two percent who responded
15 to the Jewish population survey that they
16 couldn't make ends meet, only two percent, is
17 because one of the things that suggest that --
18 that explains that, even though 30 percent or 25
19 percent may be living below the poverty line is
20 the presence of the social safety net --

21 MR. DUBBIN: And in the --

22 THE COURT: -- that helps people who
23 otherwise couldn't make ends meet.

24 MR. DUBBIN: But, your Honor, with all
25 due respect, we submit that the data in the

1 record as Mr. Sheskin testified and the level of
2 poverty in the New York City poverty
3 (unintelligible).

4 Now, I will say the following. I
5 (unintelligible) the question, comprehensively
6 speaking as to the extent to which social safety
7 nets do or don't protect survivors in this
8 country. If Bert Goldberg's proposal of two
9 years ago, your Honor, was the first ever to
10 comprehensively assess what the needs of
11 survivors are --

12 THE COURT: It didn't comprehensively
13 assess anything. But go ahead.

14 MR. DUBBIN: It was the most and the
15 first. And if there's anything better than that
16 or prior to that, your Honor, I would like to
17 see it. I mean, he is in charge of the national
18 organization that managed -- that oversees the
19 (unintelligible) insurance.

20 THE COURT: And he said how many people
21 are getting services from his organization. He
22 didn't -- he wasn't even prepared to say that
23 the only -- his organization was the only source
24 of those services.

25 MR. DUBBIN: Well because that they're

1 not. I mean, in New York City they're not.

2 THE COURT: Well, I understand that.

3 MR. DUBBIN: In other places they're
4 not.

5 THE COURT: So, you're making my point.
6 Let's go.

7 MR. DUBBIN: Okay. My point simply is
8 our position is that the aggregate poverty data
9 substantiate the degree of unmet need that has
10 been documented both by our proposal and by the
11 UJC and by the New York City Federation and the
12 other individual social service organizations
13 that makes submissions to your Honor. And that
14 the assumption that the social safety net
15 eliminates the poverty level, we don't believe
16 is well founded. That's our position.

17 We do also object to the special
18 masters recommendation with respect to the
19 timing and I would like to just reiterate, in
20 essence, the argument we made in our motion for
21 immediate allocation. We believe that based
22 upon the fact that it has been five years since
23 the deposited assets class processing took
24 place.

25 THE COURT: Well, it's not five years

1 but, you know, to the extent that it begun, I
2 think it's more like two and a half years. But
3 keeping that in mind, to the extent that we
4 possibly could, we made additional distributions
5 both to the slave labor and to the looted assets
6 class, to the point whereas of this moment, as
7 if you heard some of the speakers who spoke
8 earlier, that as of this moment, the slave labor
9 class and the looted assets class have actually
10 gotten more than the deposited assets class.
11 And we've been able to do that because of
12 legislation that was enacted with the help of
13 some of the members of the plaintiff's class
14 that it exempted the income that was being
15 earned from taxation and because of the income
16 that was earned.

17 And so, we've kept that in mind to the
18 point where there was a substantial increase in
19 the amount allocated to the other classes to the
20 point whereas of this moment in terms of money
21 distributed, those classes have actually gotten
22 more than the deposited assets class.

23 MR. DUBBIN: I mean, look, I would just
24 remind the Court that we are in favor of the
25 deposited assets class getting their money. We

1 said to the Court back in May 2002 that the
2 recent revelation at the time about the initial
3 failure of the (unintelligible) to publish
4 15,000 names was a problem. And we urged the
5 Court at the time make that happen right away
6 and we specifically predicted and I won't go
7 through a reading, your Honor, because the time
8 I know is running short, that the delay in the
9 dealing with the 15,000 was going to end up
10 delaying allocations for what might be available
11 in residuals.

12 So, we regret the fact that this wasn't
13 addressed, you know, two years earlier when we
14 first brought it to the Court's attention
15 because sure enough, we have people suffering,
16 we have people dying without help. So does
17 Israel and so does the former Soviet Union. And
18 we believe and it's based on the same principles
19 that we've asserted in the motion for an interim
20 -- immediate interim allocation that if you took
21 \$200 million today and put it to work for the
22 next two or three year period all over the
23 world, that you would save lives, you would
24 restore dignity, you would help people who were
25 entitled to it because they're legitimate looted

1 asset class members.

2 And I strongly doubt after the tens of
3 millions of dollars that have been paid to
4 arbitrators and accountants and others over the
5 years that this has been going on, that you
6 would threaten the bank account claimants for
7 which about \$400 or \$450 million which remain.
8 I read carefully the deposit assets special
9 masters report and again, \$400 million for those
10 potential claims should be sufficient.

11 And during -- and if you put that money
12 to work to help people who are looted assets
13 class members and members of the class and
14 they're entitled on a fair basis in the next few
15 years, you then do what I think everybody
16 believed this lawsuit was about, which is
17 helping Holocaust survivors get help and dignity
18 and access to the property that was generated as
19 a result of their litigation.

20 THE COURT: The lawsuit was about bank
21 account holders.

22 MR. DUBBIN: Again, we -- our objection
23 to the special masters recommendation, your
24 Honor, is that any further allocations be made
25 for the benefit of the looted assets class

1 members is that we again suggest that \$250
2 million --

3 THE COURT: That's basically what he's
4 recommended although that's not necessarily an
5 inevitable alternative. The monies -- this is a
6 cypres from the bank account class. But you
7 should understand in terms of all the arguments
8 that we may have had is what there is agreement
9 on. There's agreement on all monies going to
10 survivors and what's left going to the neediest
11 survivors. And that is three-quarters or 80
12 percent of an area where we have agreement on
13 and there is an element of disagreement about
14 how you determine need.

15 But on two critical principles that
16 gets us to the dispute that we have about the
17 last, what I would call, 25 percent is that the
18 notion that all monies go to survivors and that
19 monies from the deposited assets class go to the
20 neediest survivors as well. That, I don't have
21 to tell you is not the only cypres that could
22 have been employed here.

23 MR. DUBBIN: Speaking of agreement, I'm
24 of the position with agreeing with the JDC with
25 respect to the need for immediate funds to be

1 devoted to the looted assets class. And I'm in
2 agreement with the Israelis who favor a delay on
3 the bank accounts but who, you know, object to
4 the allegation form. But let me address the
5 allegation form, your Honor.

6 As you know, my client's position is
7 the looted assets funds should be allocated to
8 survivors in need wherever they live. And that
9 due to the substantial needs that exist in the
10 US, the FSU and Israel, that the only allocation
11 formula that satisfies Rule 23 in our view and
12 one that benefits of the class as a whole is one
13 based upon each's country's relative share of
14 the survivor of Nazi victim population. That
15 way, class members in need in each society would
16 have access to settlement funds with respect to
17 this class.

18 THE COURT: That just fundamentally
19 makes no sense. Under your theory, just to take
20 a ludicrous hypothetical but that proves the
21 point, if there were one needy survivor in the
22 United States but there were 25 percent of the
23 survivors in the world or 20 or 15 lived in the
24 United States, then that one person would get
25 all of that money.

1 MR. DUBBIN: Judge, that's not our
2 position. If you read the --

3 THE COURT: But that takes it down to
4 its extreme.

5 MR. DUBBIN: Your Honor?

6 THE COURT: But that's basically what
7 you're saying.

8 MR. DUBBIN: You can't recharacterize
9 my position.

10 THE COURT: Sure I can.

11 MR. DUBBIN: Our position is our
12 position. We have filed it with the Court.
13 It's a plan we submitted on January 30 and we
14 said --

15 THE COURT: Your position is because 25
16 percent of the world Jewish population lives in
17 the United States, I should allocate 25 percent
18 of the money regardless of whether 25 percent of
19 the neediest live in the United States.

20 MR. DUBBIN: That's --

21 THE COURT: I'm not doing it.

22 MR. DUBBIN: I understand, your Honor,
23 but just to make sure it's clear on this record,
24 our position as we proposed on January 30 is
25 that given the level of documentation of need

1 that has been made both by the Family Service
2 Association, the UJC, the Federation of New York
3 and others, given the aggregate poverty data,
4 demonstrating that there are a lot more poor
5 survivors in this country, that the need is
6 sufficient in this country, that there are
7 sufficient people in need to allocate the U.S.
8 survivor's prorated share --

9 THE COURT: So, why don't you just rely
10 on those figures?

11 MR. DUBBIN: Can I please just finish
12 what my position is, Judge?

13 THE COURT: Go ahead.

14 MR. DUBBIN: If you allocated the U.S.
15 survivor's prorated share for the looted assets
16 class to this country and allowed the
17 institutions in this country that screen people
18 based upon those needs and deliver services to
19 survivors, you would not encounter the situation
20 you're describing where the existence of one in
21 needs are there.

22 THE COURT: No, one that --

23 MR. DUBBIN: The needs are there, that
24 is clear.

25 THE COURT: That is a hypothetical that

1 basically takes --

2 MR. DUBBIN: It's not a hypothetical.

3 THE COURT: It is.

4 MR. DUBBIN: It's a fact. The needs
5 are there. The UJC -- we documented in
6 September of 2002 --

7 THE COURT: Look, I'm not arguing about
8 what needs are there or are not there. The
9 question is what percentage of the neediest
10 survivors live here, what percentage live
11 elsewhere, not what percentage of the world
12 survivor population in general lives in the
13 United States, a figure which you've overstated
14 at 25 percent. You've now gone to 20 percent.

15 MR. DUBBIN: Well, it's interesting
16 that you bring that up, Judge, and here's why,
17 okay? Because no one had particularly -- no one
18 had any real data to speak up.

19 THE COURT: So, you just make it up.

20 MR. DUBBIN: No, that's not true, okay?
21 If you looked at what -- if you looked at the
22 distribution under the Swiss needy allocations,
23 30 percent to the United States.

24 THE COURT: What does that prove?

25 MR. DUBBIN: If you looked at what

1 happened -- well, Judge, I didn't just make it
2 up.

3 THE COURT: What does that prove?

4 MR. DUBBIN: 30 percent of the money
5 that went in the looted -- in the slave labor
6 case from Germany went to people in the United
7 States. That was a significant number.

8 THE COURT: What does that --

9 MR. DUBBIN: So, there were variations
10 in the 25 percent number was a fair estimate
11 given that the other source of information that
12 existed and by the way, if you looked at
13 Mr. DellaPergola's information, he will tell you
14 that 29 percent of the camp survivors lived in
15 the United States.

16 So, I am not -- it's unfair. We have
17 acquiesced, your Honor, several important
18 imperatives that came from the bench including
19 the initial allocation formula, including
20 allowing the -- dropping the appeals so those
21 funds could go out to help the people who, I
22 understand, your Honor, have felt very, very
23 strongly about helping.

24 The broader definition of who is a
25 member of the class and who should have access

1 to funds is one that we have accepted. We're
2 not challenging that. The data is very old.
3 We can --

4 THE COURT: Then I don't know how you
5 could challenge it because most of the neediest
6 survivors in the United States are from the
7 former Soviet Union and that who is being
8 challenged at the outset.

9 MR. DUBBIN: Well, as we said in our
10 January 30 document, a survivor in need is a
11 survivor in need.

12 THE COURT: I know but that wasn't your
13 first --

14 MR. DUBBIN: And we feel the United
15 States --

16 THE COURT: That was after you found
17 out that most of the survivors in need in the
18 United States were from the former Soviet Union.
19 Before you found that out, you were only
20 conceding it for the purpose of argument. And
21 that the people from the former Soviet Union
22 were people who should be deemed to be
23 survivors.

24 MR. DUBBIN: Judge, may I? I
25 respectfully disagree with that. We said it was

1 arranged. We believe the 25 percent at the time
2 was a reasonable range based upon the other
3 data. We submitted a plan that went to serve
4 those people who the Jewish Family Service
5 organizations determined were in that level of
6 need. So, I respectfully disagree.

7 It's true that we have differences.
8 WE're a democratic organization. Members of our
9 group have differences of opinion about who
10 might be more entitled under one paradigm or
11 another but our court documents which were, you
12 know, requested on my clients, unanimously
13 approved by my clients, is our client's official
14 position.

15 And we believe there are enough funds
16 available to provide substantial assistance to
17 class members in need everywhere in the near
18 term. And again, during this time the bank
19 account claims can be proved, other sources of
20 Holocaust restitution funds such as insurance
21 proceeds, such as proceeds of the insurance
22 property, can be accessed to augment the Swiss
23 funds that be made available to date.

24 We find it ironic that the existing
25 distribution paradigm takes into account past

1 flows of reparations and the availability of
2 other social safety nets in various societies
3 but is not asked the simple question of what
4 other Holocaust restitution funds might be
5 accessed today and in the future to meet the
6 needs of survivors.

7 So, the admission of the other possible
8 sources leads to what paradigm that justifies
9 taking the Swiss funds, putting them in a
10 pipeline for the benefit of certain class
11 members to the detriment of other class members
12 in need. My clients object to that paradigm
13 because it strangely posits that current
14 suffering will be tolerated while some of the
15 funds sit in the bank to be available for future
16 needs in other places.

17 Why not help those in need today with
18 the funds available today? Class members in
19 need should not be denied assistance just
20 because of where they live while the funds are
21 stockpiled for the needs of others.

22 THE COURT: There were people here
23 today who took a contrary position who said
24 until I was absolutely certain about how much
25 money was available, I shouldn't give out

1 anything.

2 MR. DUBBIN: Not members of my
3 organization, your Honor.

4 THE COURT: No, not members of your
5 organization but I think that they were
6 responsible voices.

7 MR. DUBBIN: This is -- my clients are
8 taking this position. They're class members.
9 You know, among the other major objections is
10 Mr. Rosenbaum eluded to, with regard to the
11 allocation formula is the reliance on post
12 Holocaust experiences and phenomenas to justify
13 the use of funds for people in one geographic
14 area as opposed to another.

15 In other words, we object to the
16 combining of property restitution such as
17 occurred here with these concepts of post war
18 reparations with Germany. It does create a
19 moral disposalance (sic) between the way human
20 beings were being treated by the Nazi's
21 Holocaust with what happened in communism.

22 THE COURT: No, it doesn't. I mean,
23 we're talking about who got what when and for
24 what reason.

25 MR. DUBBIN: But in a lawsuit over the

1 --

2 THE COURT: People living in the former
3 Soviet Union got no reparations. Therefore, if
4 they didn't get the \$14 billion that the
5 survivors in the United States got, then they're
6 down \$14 billion.

7 MR. DUBBIN: And what does that have to
8 do with the Swiss bank from the Jewish people
9 during the Holocaust?

10 THE COURT: Well, first of all, what it
11 has to do with is making a determination of who
12 is in need. And number two, in responding to
13 your arguments that somehow that in general
14 survivors in the United States have gotten the
15 short end of the stick when they've actually
16 gotten the long end of the stick.

17 MR. DUBBIN: Well, again --

18 THE COURT: That's what it has to do
19 with --

20 MR. DUBBIN: Again, we respectfully
21 disagree, your Honor. I want to address that
22 briefly because I addressed the fact that the
23 poverty data demonstrates a much larger number
24 than the 7200 survivors in the United States who
25 lived in great need which was the figure

1 your Honor posited as justifying on a
2 mathematical level the 18.75 to 1 ration. We
3 think that --

4 THE COURT: I also said a mathematical
5 level was unnecessary but since you wanted to
6 engage in it, I would take you up on that
7 analysis.

8 MR. DUBBIN: Again, our position,
9 your Honor, and our position to the special
10 masters recommendation is that the data
11 satisfies the test that you met.

12 You mentioned previously and this is
13 important, that there's no looted assets
14 subclass composed of U.S. survivors. But the
15 division of class members into countries where
16 they live today for purposes of getting benefits
17 from the looted assets class is precisely what
18 the special masters original report recommended
19 and that the Court approved.

20 It's true that there was no notice in
21 advance that that's how the looted assets class
22 funds were going to be divided up. That's what
23 happened. In fact, I would say that if you
24 examine the special masters looted assets class
25 allocation recommendation, the defining

1 attribute of his allocation plan and the
2 subsequent recommendations, is that it creates
3 subclasses as my --

4 THE COURT: No, it doesn't. It doesn't
5 create any subclasses.

6 MR. DUBBIN: It creates the --

7 THE COURT: It looks to where the
8 neediest people and it happens that because the
9 neediest people are in one particular place,
10 they get a larger share of the money. You could
11 phrase it in geographic terms. But that wasn't
12 the --

13 MR. DUBBIN: And that's what the
14 special master did. I mean, the report --

15 THE COURT: Well, no.

16 MR. DUBBIN: I mean the report defined
17 -- the allocation plan and the subsequent
18 recommendations creates subclass by country of
19 current residence and allocates settlement funds
20 by differentiating among the plaintiffs within
21 the same subclasses based upon factors unrelated
22 to plaintiff's Holocaust experience such as
23 where they live today, such as what social
24 safety nets are available today, such as where -
25 -

1 THE COURT: Well, if you --

2 MR. DUBBIN: -- Germany made reparation
3 payments.

4 THE COURT: If you're going to do it on
5 the basis of need, you have to see what people
6 get in terms of a social safety net and have
7 gotten before. Otherwise, how do you determine
8 need, if you're talking about where the neediest
9 survivors reside.

10 All of those factors, what they've
11 gotten and what is available in terms of the
12 social safety net go to the ultimate issue of
13 need.

14 MR. DUBBIN: And our position on that,
15 your Honor, is spelled out in our January 30
16 plan.

17 You made reference in your order that -
18 -

19 THE COURT: This is not a motion to
20 reargument of my order.

21 MR. DUBBIN: No, I --

22 THE COURT: You made an untimely motion
23 for rehearing. You filed an affidavit of
24 Mr. Sheskin late.

25 MR. DUBBIN: Your Honor, that's on

1 appeal to --

2 THE COURT: It was not included in your
3 motion for rehearing and the purpose of this is
4 not to have another argument on a motion for
5 hearing.

6 MR. DUBBIN: I'm not --

7 THE COURT: I would suggest that what
8 you should do is file a motion for an
9 accelerated appeal in the Court of Appeals which
10 I bet you won't.

11 MR. DUBBIN: Your Honor, we also object
12 to the rationale that justifies the looted asset
13 formulates on the basis that U.S. survivors
14 would receive 29 percent of the overall
15 settlement funds.

16 THE COURT: It doesn't justify it.

17 MR. DUBBIN: Your Honor?

18 THE COURT: No, I told you. I said it
19 before to I forget who. It's not a question of
20 justifying it. It's a question of putting out
21 all of the facts to indicate exactly how much
22 United States survivors have gotten in response
23 to an argument again, a demagogic one that the
24 survivors in the United States have gotten the
25 short end of the stick.

1 MR. DUBBIN: Our position, Judge --

2 THE COURT: It doesn't justify
3 anything. It simply a response to an argument
4 that's predicated on demagoguery --

5 MR. DUBBIN: Your Honor, the --

6 THE COURT: -- to lead people to
7 believe that somehow they have gotten nothing
8 from the Swiss bank settlement when they've
9 gotten a significant part of it for different --
10 not the looted assets class but the slave labor
11 class, the refugee class and --

12 MR. DUBBIN: My client's position is
13 that every subclass should stand on its own when
14 the settlement proceeds are allocated.

15 THE COURT: I understand. But all I am
16 -- I don't disagree with that.

17 MR. DUBBIN: What value is it,
18 your Honor --

19 THE COURT: I'm just saying that the
20 reason for citing those figures about what
21 percentage has gone to survivors in the United
22 States is to rebut an argument, a demagogic
23 argument, that you make repeatedly that some --
24 and anyone reading it on a superficial level
25 would think that the only thing that the

1 survivors in the United States have gotten from
2 the Swiss settlement fund is 4 percent of the
3 money. And that --

4 MR. DUBBIN: I take great umbrage,
5 your Honor, that you would cite how other people
6 might characterize they read about in the
7 findings in court as being indicative of our
8 position. That's not our position.

9 THE COURT: It's not.

10 MR. DUBBIN: We have said all along
11 that it is an (unintelligible).

12 THE COURT: You show me where you've
13 stated it correctly anywhere.

14 MR. DUBBIN: Your Honor?

15 THE COURT: Anywhere.

16 MR. DUBBIN: In every single document
17 I've filed we've said that this is about the
18 allocation of the looted assets class fund
19 period.

20 THE COURT: I understand that.

21 MR. DUBBIN: Of what value is it to a
22 looted assets class member to someone else that
23 the deposited assets class would receive
24 compensation for their bank account.

25 THE COURT: Well, first of all, there

1 are people who got money from slave labor and
2 from the other class -- and deposited assets who
3 are also in the looted assets class. I mean,
4 you know, this is fundamentally an artificial
5 division that's being made up. There are people
6 who are slave laborers who are in a looted
7 assets class.

8 MR. DUBBIN: Either the looted assets
9 class is --

10 THE COURT: You could argue that the
11 bank accounts are looted assets in a sense.

12 MR. DUBBIN: I didn't plead the case,
13 your Honor, but I was asked by the class member
14 to represent their interest in connection with
15 the allocation of the looted assets class.

16 THE COURT: Fine.

17 MR. DUBBIN: It was a -- there was a
18 defined class from the case and our argument
19 throughout has been solely and singularly
20 predicated on the looted assets class allocation
21 to the point where we didn't even object to the
22 special masters adding \$450 to the original
23 slave labor payments because, you know,
24 whatever. That was -- you know, so I strongly
25 disagree with the mischaracterization of the

1 claims that we filed.

2 To the extent the diluted assets funds
3 are now being used as sort of an equalizer with
4 respect to other set of classes, we contend
5 that's a violation of Rule 23 because those
6 looted asset class members will receive no
7 consideration for the compromise of their claims
8 in violation of (unintelligible) and the auction
9 on this case. And the argument, which I
10 understand has been advanced in the special
11 masters recommendation is your argument, as
12 well, is your order --

13 THE COURT: That would be true by the
14 way under your plan because you don't propose to
15 give money to every member of the looted assets
16 class either, assuming -- you know, like I went
17 through this in my opinion but basically, every
18 legal argument that you've made to try and shoot
19 this down applies to whatever you've done.

20 MR. DUBBIN: The looted assets class
21 member --

22 THE COURT: Do you propose to give
23 money to every member of the looted assets
24 class?

25 MR. DUBBIN: We propose --

1 THE COURT: That can be answered yes or
2 no. Do you propose to give money to every
3 member of the looted assets class?

4 MR. DUBBIN: No, sir, we do not.

5 THE COURT: No.

6 MR. DUBBIN: But --

7 THE COURT: And so the people who
8 you're not giving money to, they will have
9 gotten under your theory, no consideration for
10 their release.

11 MR. DUBBIN: Your Honor?

12 THE COURT: Isn't that true?

13 MR. DUBBIN: No, people have a
14 responsibility to stand up and express their
15 position with regard to a case which they're a
16 part of. My clients have done that. They are
17 class members. They have objected. They have
18 objected to the fact that members of the looted
19 assets class who have needs who live in this
20 country have gotten no benefit from. That's our
21 position. And that's what the appellate court
22 is going to decide.

23 But the argument that after the fact
24 that the looted assets claim would have been
25 dismissed doesn't permit the result because you

1 --

2 THE COURT: But your proposal suffers
3 from that same flaw, assuming it's a flaw,
4 because you would propose a plan that does not
5 give money to every member of the looted assets
6 class and, therefore, it suffers from the same
7 defect that you claim what's been authorized up
8 to now.

9 MR. DUBBIN: I respectfully disagree,
10 your Honor.

11 THE COURT: Well, you can disagree.

12 MR. DUBBIN: I've stated what our
13 position is.

14 THE COURT: I know you have.

15 MR. DUBBIN: But the class members have
16 the right to determine how their money gets
17 spent. The argument, for example, that those
18 receiving the bulk of the looted assets class
19 didn't have access to Swiss bank accounts and
20 didn't seek refuge in Switzerland and that many
21 were not slave laborers, you know, proves the
22 Rule 23 violations didn't work because it the
23 differentiates between --

24 THE COURT: No, it doesn't. Look, you
25 take --

1 MR. DUBBIN: -- looted assets class
2 members based on whether they might have had
3 claims under one of the other subclasses because
4 not only does it differentiate among members of
5 the class but thousands of survivors who now
6 live in this country did not have access to
7 Swiss banks, did not seek refuge in Switzerland
8 and didn't do slave labor. Why should those
9 individuals be denied access to funds from the
10 looted assets class simply because others who
11 live here might have access to Swiss bank
12 accounts or who have been slave laborers.

13 The shortcomings, we believe, of the
14 allocation plan or the formula that's been
15 recommended by the special master illustrated by
16 the State of Israel WJRO's memorandum of law,
17 because they argue that Israeli's of north
18 African origin should be counted for purposes of
19 measuring the degree of neediness among Israeli
20 Nazi victims because, they say, it would be a
21 great act of historical justice to acknowledge
22 the subjection of these Jews Nazi persecution.
23 And they argue, "Many of these victims are also
24 very needy. Victims not only of the Nazis but
25 of the Arab-Israeli conflict."

1 HSF contends that such reasoning
2 vividly illustrates the shortcomings of the
3 current formula. The Arab-Israeli conflict is
4 indeed a reason, a vital reason for Jews to
5 support Israel in all of its facets but it has
6 nothing to do with class members who had
7 material losses during the Holocaust.

8 Similarly, recognition of the
9 victimization of Jews from North Africa may well
10 be a historical imperative but what relationship
11 is there between their experiences and the Swiss
12 banks? And the criteria being applied,
13 your Honor, opens the doors for these kinds of
14 arguments about who is indeed, in terms of
15 needier.

16 Let me just conclude, your Honor, by I
17 think what I have -- we talked about standing,
18 your Honor, did we -- I don't believe the law
19 requires class members who object who
20 demonstrate individual standing but in addition
21 to our prior argument, I have here several
22 hundred individual consents of Holocaust
23 survivors, looted assets class members who are
24 members of the HFS organization who specifically
25 have authorized through to challenge the

1 recommendation in this appeal process. I filed
2 it in court and I just wanted to make sure the
3 Court was aware of them. I'll give Mr. Newhorn
4 this service copy rather than (unintelligible).

5 Thank you, your Honor.

6 THE COURT: Okay.

7 MS. EVRON: My name is Yehuda Evron.
8 I'm the president of Holocaust Restitution
9 Committee, an organization for many years is
10 trying to recover the properties of the
11 survivors in Poland.

12 Honorable Judge Korman, I would like to
13 express my support and appreciation for you and
14 your staff taking on the work on this difficult
15 and complex task, for distributing the Swiss
16 accounts fund.

17 We all hope that this will bring -- you
18 will bring this issue to a just and fair
19 conclusion soon. As a survivor who lives in the
20 United States, I would like the Court to see the
21 maximum possible allocation for the survivors
22 who live here. I also consider myself an
23 Israeli who lives in New York and therefore, I
24 would like to see the same kind of allocation
25 for the survivors in Israel.

1 Hearing about the terrible situation of
2 the survivors in the Former Soviet Union, we
3 understand they cannot be neglected. It is
4 clear that each country wants the most for its
5 survivors. The problem is that in order to
6 allocate and satisfy the percentage that every
7 country is requiring, you will need 100 percent
8 or 200 percent of the funds.

9 Therefore, the criteria for the kind of
10 decision should be the information and the
11 research that come from you and your staff and,
12 of course, your personal judgment. If some
13 people of the organization have some additional
14 reliable information that might influence your
15 decision, they have to meet with you or your
16 staff and present it now.

17 And a matter of fact, a few of us have
18 submitted to Professor Newborne a suggestion to
19 meet with the survivors' representatives from
20 the three countries, review all of the
21 information and submit the common recommendation
22 that is acceptable to all of us.

23 We think that this is more appropriate
24 way to solve this problem than demonstration,
25 the legal appeals, that might only delay the

1 allocation of funds that needy survivors are
2 waiting for so long. Needy survivors are sick
3 and old and they cannot wait anymore.

4 And now a few words for my friends, the
5 survivors. While the (unintelligible) take so
6 much effort in how to distribute existing
7 achievements, I think that we are neglecting
8 additional achievements that are coming to us.

9 I say to my friends the survivors that
10 we need demonstration, we need demonstration but
11 not in front of the court. We need
12 demonstration in front of the Germany embassy,
13 to demand home care for the survivors. Home
14 care that is given to ex-Nazi officers in
15 Germany. We need demonstration in front of the
16 Swiss embassy to demand immediate release of all
17 the survivors bank accounts, so that
18 Judge Korman can permit the payment of those
19 survivors for all cash accounts.

20 And we need demonstration in front of
21 the Polish, Hungarian, and other Eastern
22 European countries that refuse to return
23 properties to the survivors.

24 Let's start some action that will bring
25 some positive results for the survivors. And I

1 would also like to you ask you about another
2 report that was submitted to you, the Florin
3 Blatt (phonetic) report and some of us worked
4 with -- to collect the data and see if this
5 report was approved, accepted or what is the
6 situation of this report.

7 THE COURT: I don't know. I believe
8 that that's the UJC proposal.

9 MS. EVRON: Yes, Florin Blatt's.

10 THE COURT: Yes, it's been filed.

11 MS. EVRON: But I understand that one
12 report was rejected by Korman. What about this
13 one?

14 THE COURT: I don't know.

15 MS. EVRON: The report was --

16 THE COURT: I'm not sure. You know,
17 why don't you check with the special master.

18 MS. EVRON: Okay.

19 THE COURT: He is sitting right there.

20 MS. EVRON: Okay. Thank you very much.

21 THE COURT: Hanka Hirshaut.

22 MS. HIRSHAUT: Judge Korman, this is
23 the second time that we meet face to face. I
24 remember two years ago and one thing remained in
25 my memory, when I said, "You're very patient."

1 You said, "I have all the time in the world."
2 It seems that you follow the same thing today
3 because anybody would go already bananas.

4 I thank you for allowing me to speak
5 today to address the Court. And I speak on
6 behalf of survivors in Queens. I'm president of
7 the Queens Chapter of Holocaust Survivors but
8 also a member of the American Gathering Warsaw
9 Organization and also I'm on the advisory board
10 of the Claims Conference.

11 I'm not a lawyer. I'm not a lobbyist.
12 I just speak and I am not paid for anything that
13 I do. I am in the movement of causes of
14 survivors since 1945. 1945. I sat down at the
15 desk of just liberated part of Warsaw and I
16 started to work registering survivors. And I
17 never stopped for one day to help or to work on
18 behalf of the survivors. I worked in Poland,
19 France and then the United States.

20 I survivors the horrors of the
21 Holocaust. I lost my entire family. I was the
22 only one to survive from both sides, any side,
23 nobody survived from my father's side, my
24 mother's side, nobody. I also lost a baby in
25 the ghetto, was killed.

1 When I came to the United States, I
2 watched the survivors and watched out myself how
3 people were starving. They came with nothing.
4 They never asked for helps. Survivors were
5 never on welfare. Survivors didn't take any
6 charity. And by their own means, they worked
7 themselves up, brought up this beautiful second
8 generation and never asked for anything.

9 However, ask I watch this population
10 that I meet at our organization and elsewhere, I
11 see the way this thing evolves now. They are
12 getting -- we are getting old. We are getting
13 sick, disabled and even in these United States,
14 yes, people are in dire need of help.

15 They, many times, they -- you have
16 statistics of how many poor are in New York.
17 I'll elaborate on that. But we have cases, they
18 will not tell us or they will not tell anybody
19 that they need help.

20 And if I suggest something, they said I
21 don't want to be on welfare. I don't want to be
22 on charity. And when I suggest Meals on Wheels
23 they said no because what will the neighbors
24 say. They're proud, they still keep their
25 dignity and they don't want to be classified as

1 destitute and poor.

2 Now, we had a meeting with Israel
3 Singer and other people and I presented the
4 situation of homecare. Yes, in New York there
5 is Medicaid. Thank God for those that need it.
6 But Medicaid you have to be totally destitute to
7 qualify for Medicaid. You cannot have any
8 assets. You cannot have nothing.

9 So, then there are the rich that don't
10 need anything. They can manage and they manage
11 pretty well, thank you. But there is that
12 middle class or lower middle class who worked
13 hard, saved a few dollars. They don't qualify
14 for Medicaid and they break and hip or something
15 else or they get colon cancer like I now -- many
16 cases. And they don't have any help from
17 anybody because as Rabbi Singer said, they
18 aren't there. The ones in the middle because
19 they don't qualify for the charity and they
20 cannot get any help from anybody.

21 Now, as far as numbers are concerned, I
22 got last week a letter from the Metropolitan
23 Council and Policy, and they claim in that
24 letter that they are 325,230 needy survivors,
25 low quality lief. And this struck me kind of

1 and I called them up and I said, Could you give
2 me an idea of how many survivors are in among
3 them?" Out of three -- and this is only New
4 York. They say the biggest poverty among Jews
5 is in New York. It is also in Florida. I know.

6 So, they couldn't get me an answer
7 immediately but then somebody called me from the
8 executive board and told me that you can say
9 more or less 15 percent. 15 percent out of
10 325,000 would be what? About 40,000 people who
11 are below poverty line.

12 And these people have to be helped.
13 They are survivors. And where do they go? I
14 remember two years ago when we were sitting and
15 discussing the whole money that was coming then
16 from another source, that I suggested that we
17 wait, don't pay a penny to the survivors. Let's
18 form a foundation and from this foundation we
19 will be able to get either universal help --
20 home care insurance for all survivors or have
21 grants.

22 And I remember, I have the letter that
23 you wrote to me because I corresponded with you,
24 and you said "It almost went through. If it
25 could not have been for some things that went

1 through." And I'm not going to divulge this.

2 So, yesterday, just by chance,
3 yesterday I was a meeting for the board of
4 special -- of emergency funds and our duty or
5 our work is to review the cases. Yesterday, we
6 had about 49 cases. And your Honor, if you
7 would see the horrors, the poverty they live in
8 and the emergency funds now, it is already
9 (unintelligible), it used to be \$1,500 a year,
10 now they can get \$2,500.

11 So, yesterday we were debating if the
12 people who get -- who need immediately for rent
13 or Medicare or some other -- or a man, who is --
14 now he needs an air conditioner and these people
15 are begging for help. I don't know sometimes
16 what is happening now. Survivors more and more
17 are alone. They're getting old. Their brother
18 or whoever, you know there was no family to
19 begin with, so -- but those that were lucky to
20 have a brother or a sister, they died.

21 If they have children, some children
22 live around but some children live very far and
23 they are alone. I got a telephone call that a
24 woman 92 years old, she don't need any money,
25 please, but she needs somebody to call. She's

1 all alone.

2 And every day, we are faced with this
3 problem. Survivors in New York are in need in
4 New York and in the U.S. are in need of health
5 now. They are dying in staggering numbers. We
6 were at the commemoration of Temple Emmanuel.
7 Speaker after speaker spoke about how much time.
8 It was very sad but this was the truth, how much
9 time we have left. Until now we're talking
10 about ten years, now they talk about six years.

11 So, in six years everybody is going to
12 be freed from this burden of caring for Holocaust
13 survivors. I hope I die before I need any help
14 from anybody. I'm not rich and if God forbid a
15 situation would arise that I need home care, I
16 would be in big trouble.

17 And what I am proposing here is if you
18 take \$100 and you send it and you say we're
19 going to give \$100 to each survivor, the \$100 in
20 New York will buy you 24 hour care, if you take
21 it from an agency. It's \$12 an hour.

22 In Israel -- in the Former Soviet
23 Union, it will buy you health for a month. So,
24 the money when it's allocated, should be taken
25 in this context. We're going to send the value

1 of what they need, whether it's food, rent or
2 whatever. Yes, we live in the richest country
3 in the world but we pay a price for it.

4 We pay very high rents. We pay
5 fortunes for our medications. We pay fortunes
6 for doctors and we pay fortunes for food because
7 it's expensive. So, here is a thing that has to
8 be taken under consideration. How we allocate
9 the money, not only how many people are there
10 but how much money these people need to meet
11 their needs while in America, they will need ten
12 times more.

13 THE COURT: I agree with you.

14 MS. HIRSHAUT: And also now, I was
15 sitting here the whole day and just marveling
16 because you didn't even get up from your chair
17 and move. Unbelievable. And I was thinking
18 that we have to come to a decision -- you have
19 to come, unfortunately everything is on your
20 shoulder but I would suggest if I may, in my
21 humble knowledge of law or whatever, that maybe
22 a commission should be formed that you call on
23 the representatives of Israel and the Soviet
24 Union and the USA and sit down and decide how
25 are we going to solve this problem? You need

1 Solomon's wisdom and you probably have it, you
2 can take it all.

3 THE COURT: I don't. No, I don't have
4 it.

5 MS. HIRSHAUT: Yes, you have it. And
6 so, you know, in those -- yesterday, when we
7 reviewed those cases, there were people who were
8 homeless. There were people who were scarred
9 psychologically that they wouldn't go in an
10 Access-A-Ride car because it had the police
11 decal and she said, "I'm not going to go in that
12 car." That's how affected they are and that's
13 how sick they are.

14 And people who don't remember what they
15 ate today, they have their own memory of the
16 Holocaust and they are scared now more than
17 ever. They are suffering. And I spoke to a
18 psychologist. They're suffering from, you know,
19 delayed stress -- whatever you call it, delayed
20 stress syndrome but this is what is coming now
21 to haunt them with all of the things that's
22 happening, with Israel with all the things.
23 People who should have lived now in peace and
24 the word dignity is very much used, too much, I
25 think. These people now need help, right now,

1 not tomorrow, not in a month, today.

2 And if we wait and I had one who said
3 to me she was operated for colon cancer, she
4 said, "Do you think I'll still get the second
5 part of the slave labor because maybe I am not
6 going to live?" And then one who called the
7 other day who is legally blind and who also has
8 cancer, she said to me, "I have a Hungarian
9 woman. She's Hungarian. I cannot pay anybody
10 else but my money is running out. What will I
11 do? How will I manage?" And she started to
12 cry. She said, "I don't have long to go. I
13 want you to know, the doctor said."

14 I said, "Viola, we will see what we can
15 do, just let us know."

16 We don't have the money. Our
17 organization is totally non-profit and we don't
18 have any funds whatsoever. But we will try to
19 get her some help. Either through the Claims
20 Conference, to give it Yom Paira (phonetic) who
21 is a wonderful man and to others. I trust that
22 we will get it.

23 So, I am going to end, I think enough
24 is enough with -- to appeal to you to take all
25 of those things under consideration; the amount

1 of money will buy here or can buy there and this
2 way, survivors will get money.

3 And I'm going to finish with something
4 that maybe not be very well received by some
5 people but I say something else. The Former
6 Soviet Union Jewish survivors had a chance to
7 leave, like I left my country, left everything
8 behind, never got a penny for what I left there.
9 Those were looted assets. They didn't have that
10 much in the Soviet Union, as far as looted
11 assets. They had nothing. But they could have
12 left for Israel or for the United States or
13 wherever. I was working and demonstrating for
14 free the Soviet Jewry. But they chose to stay.
15 And now the problem is here.

16 So, I think that all of these things
17 with forming a group of representatives and
18 weighing all of these things, that something
19 good will come out of it. And I trust you,
20 Judge Korman.

21 THE COURT: Thank you.

22 Ramsey Clarke.

23 MR. CLARKE: Good afternoon,
24 Judge Korman.

25 THE COURT: I'm glad to see it's not

1 anything more serious than a broken leg.

2 MR. CLARKE: Well, actually that's the
3 least part of but everything seems to be
4 healing. I got hit by a car in the middle of
5 Fifth Avenue.

6 THE COURT: I didn't know that. I'm
7 sorry.

8 MR. CLARKE: I say it jokingly I
9 totalled the car but I received some collateral
10 damages and it's take quite a battle already to
11 enable me to even be here.

12 But it's always a pleasure to see you
13 and I would like to thank you and Special Master
14 Gribetz, Professor Newborne and the lawyers who
15 worked so hard on this extremely important
16 issue.

17 And I would make a few observations
18 about the application of the United
19 (unintelligible) Education. Romani have been
20 the forgotten people for 1,000 years. They've
21 been aliens wherever they have lived. There
22 numbers are enormous. They're at least 15
23 million around the world. As has been the case
24 for 400 or 500 years, the majority of that
25 entire people is, after having migrated, they

1 are living in Eastern Europe --

2 MR. CLARKE: Russia, throughout Poland
3 and down through the (unintelligible).

4 THE COURT: I know you weren't here
5 earlier but we had a very moving presentation
6 earlier this morning. In fact, on the screen
7 were pictures of Romani in need by the
8 International Organization of Migration.

9 So, you know, we've gone through that
10 earlier. I will give you all the time you want
11 but I just want you to know that we did have it.

12 MR. CLARKE: Well, we're very aware of
13 that organization and the U.S. organization and
14 we appreciate its efforts.

15 I do want to remind the Court that the
16 Romani were a major victim of Nazi extermination
17 and specifically designated in 1939. And we
18 believe between 1 million and 1.5 million lost
19 their lives. It was noted to you before that
20 (unintelligible) less emotional time, 1967,
21 wrote that half of the -- they called us
22 gypsies, everybody did in those days, population
23 in Europe and not just Eastern Europe were tied
24 to the hands of the Nazis.

25 They're harder to count. They've

1 always been harder to count. They're harder to
2 count today. They're -- those killed during
3 1939 to 1945 by the Germans are hard to count.
4 Most were probably not killed in extermination
5 camps. They were shot on site. They were
6 identified. They were killed in highways and
7 forests and caravans along the roadside but
8 their numbers were vast and their deaths were
9 swift, certainly, if they were found.

10 They have had no organization. The
11 special master noted a couple of years ago that
12 you couldn't find a current single organization
13 that was working Romani -- for Romani. There's
14 still very few although there's some new blood
15 and new feeling that there's potential for a
16 better future. But even today, we've sent you
17 newspaper articles from time to time about the
18 terrible discrimination and assaults, the World
19 Bank last week reporting that Romani education,
20 the children are left out of education, that
21 there's no hope for the Romani people. Their
22 children are left out education. They may get
23 to school or not at all and many of them do go
24 to special schools. They're taught there
25 (unintelligible).

1 Their ability to participate in many
2 programs that have been available for survivors
3 has been a difficult, fierce opposition to them.
4 I mean, cities like Munich and (unintelligible)
5 in the last decade excluding them from the city
6 and things like that, every where. It's hard to
7 find a friend.

8 And there's so many classes of claims
9 here, they're vastly under represented in each
10 class in terms of their -- the lower estimates
11 of their population and not two percent of the
12 claims for looted assets as I recall.

13 Every Romani who died lost assets.
14 They didn't do much with the banks. They don't
15 have much in bank deposits in all probability
16 although there were some rich, you know, in
17 Romani and Poland and elsewhere.

18 They did wear gold and they kept their
19 assets in the gold because it was -- they could
20 hang on to it and protect it and they lost all
21 of that.

22 Even in refugee and slave labor,
23 they're vastly under represented because they're
24 hard to find. And you have a fair allocation of
25 what's available across the board, obviously, to

1 all of the victims and those survivors who are
2 victims, not just survivors of the Holocaust,
3 that the allocation be fair because on that
4 depends any hope for reconciliation. I mean, we
5 see what's going on now in Rwanda and too many
6 other places where groups are killing each other
7 and there's no fairness among them. So, it's
8 important to reach out to every group.

9 Now, this fund, it's fair to say, I
10 think except for what you might call the
11 technical people, the lawyers, the accountants,
12 is all reliant. It's headed by first what I
13 would consider the preeminent Romani leader in
14 the world. He has spent his life on that
15 matter, pretty much. I mean, he served a term
16 on the Holocaust Memorial, the U.S. Holocaust
17 Memorial.

18 The board is made up of Romani leaders
19 and heads of Romani organizations. And they
20 come overwhelmingly (unintelligible) the oldest
21 Romani from a gypsy organization in existence in
22 the world today from Poland.

23 THE COURT: Can I ask you really a
24 basic question because it's getting late and I
25 don't have any quarrel with the bona fides with

1 the organization. I mean, this is a dispute
2 that applies to Jewish victims, as well or
3 disagreement.

4 This morning a very moving case was
5 made for the needs of, desperate needs, of
6 Romani that are being met in a small way by --
7 we've given over \$20 million for that person.
8 And if we have money left over to give out to
9 make a further allocation, the question is is
10 between the people who are in desperate need of
11 the bear necessities of life and the proposal
12 that you've made, how do we choose?

13 MR. CLARKE: That's exactly what I was
14 trying to get to, your Honor. The Romani
15 leadership that's on this board accused a
16 distribution for the future.

17 THE COURT: But I don't understand that
18 under the law they can. And I basically have to
19 be the one who has to make that decision.

20 MR. CLARKE: But the --

21 THE COURT: And I can't delegate the
22 distribution of money from a class action
23 settlement in this way. And the question then
24 becomes if I have to make a decision, how does
25 one balance a need to save people who are --

1 with limited funds? We hardly have enough to
2 provide, you know, unlimited funds. But with
3 limited funds available, if the choice is, you
4 know, feeding people who we saw were living
5 under the most desperate conditions and
6 providing for the educational program that
7 you're arguing for, which do we choose?

8 MR. CLARKE: Let me say first that the
9 Romani people have lived in desperate conditions
10 for a thousand years, overwhelmingly. And
11 certainly they do today. They're not as
12 desperate in the past. They're in proportion to
13 others. They have lost ground since World War
14 II. Their clans and families are very tight.
15 They support their elderly to the end.

16 If Jack London had known the Romanis,
17 he couldn't have written this short story, "The
18 Law of Life" in which eskimos leave a father to
19 be eaten by wolves because they can't carry him
20 anymore because they're tired and they have to
21 get on. They would have fought the wolves and
22 carried the father with them. That's the way
23 they are. That's their culture and that's their
24 tradition and to dissipate.

25 That's what this leadership can't do.

1 It can't control the thoughts of all the people.
2 And I think that you would find very, very few
3 real survivors of the Romani. It's very
4 difficult to find more than a few of those who
5 actually survived who would want a small payment
6 now, some firewood, some food, a little shelter
7 or something. And they wouldn't leave their
8 clan anyway, if they were real Romani because
9 that's the way they have lived for a thousand
10 years. And they would say let's work for the
11 future. Let's try to break out of this cycle.

12 We have very little chance and right
13 now, we're going down hill. Our children aren't
14 getting educated. We need leadership. We need
15 people who could be trained. And here, there
16 are several multiple abilities that we list.
17 You get far more than just some young people and
18 not so young because we're not that easy to find
19 Romanis going to college. You get major study
20 centers for Romani, space free, professor free
21 in major universities, where they can develop
22 centers if they have the money to operate them.
23 If they can bring in some students who are
24 Romani because it's imperative that these
25 educational funds be spent on Romani. They're

1 not going to go off on their own and try to get
2 rich. But they're going to devote themselves to
3 learn more about their past and their people and
4 helping their people come out of the thousand
5 years of constant alienation around the world.

6 Now if you want to rely on the judgment
7 of the people who represent the Romani in all
8 these countries and that's where the money will
9 go, it will go for higher education, this body
10 is about as good to represent you as you can
11 get. And they think it is their best chance to
12 break out so the conditions are gone forever.

13 And to have this little opportunity in
14 terms of money for people that may or may not
15 have been survivors and it doesn't matter too
16 much who need it, they all need it. They'll
17 always need it. They will need it always unless
18 they can get out. And this is how they see
19 their opportunity to get out.

20 And, your Honor, they don't know their
21 own history. The opportunity to bring together
22 their own history to help with their languages.
23 They've got two or three languages and to help
24 them make reasonable determinations as to
25 whether they're going to integrate and the

1 degrees they're going to integrate, whether
2 there's some credible culture. And it's
3 fascinating history but history with people that
4 have never had the courage or the goodness to
5 reach out to try and help them. I mean, they're
6 famous doctrine and literate in every place else
7 but you try to find a friend of the gypsy, it's
8 pretty hard to do.

9 And this is a golden opportunity. It
10 may not come again. And it's something that the
11 leadership believes can work and it would reach
12 all of the areas where the greatest needs are;
13 an important center in Russia, in Poland, in
14 Hungary, in Bulgaria and Belarus and in the
15 Czech Republic, (unintelligible) Slovenia,
16 Romania and the benefit will roll out.

17 We think as we said in our proposal
18 which was based on an assumption there might be
19 \$200 million left over, if \$25 million we could
20 have not just 1,000 people that got degrees from
21 it but we would have several thousand more who
22 study in college and more than that, we would
23 have these fertile centers growing and
24 subsidized in a way. And there's a ten year
25 limit on it. It's expressed in there. These

1 funds will be used in ten years because time has
2 been enough already.

3 But they hope to generate new funds and
4 build something that can grow and last and
5 finally bring the Romani into the human family.
6 Thank you.

7 THE COURT: Okay.

8 MR. CLARKE: Thank you.

9 THE COURT: Thank you.

10 Mr. Eli Zborowski.

11 MR. ZBOROWSKI: Your Honor, I am both
12 privileged and hurt to be here today.
13 Privileged because for the past sixty years I
14 have dedicated my life to a three fold mission;
15 to the survivors of the Shoah, to the
16 consequences of the victims and to the history
17 of the Holocaust.

18 Burdened because representing all three
19 involved, a delicate balance of apparently
20 competing concerns. I hope to show today that
21 these are not competing but rather complimentary
22 concerns.

23 We appear before you, your Honor, to
24 speak about the just distribution of the Swiss
25 funds. But before we could speak of the

1 distribution, there had to be a just settlement
2 with the Swiss banks. And for this, we have
3 your Honor to thank.

4 All sides freely applaud the
5 accomplishment of obtaining this commitment.
6 This accountability for an attempt to make the
7 victims of the Holocaust victims yet once again.
8 I know we all appreciate the difficulty your
9 Honor faces in the determining how the
10 restitution funds shall be allocated. But
11 nothing can diminish the noble service performed
12 in the establishment of responsibility.

13 That settlement is a historic
14 achievement. The world at large recognizes its
15 importance and the survivors will remain forever
16 thankful to you for your Honor's leading role.

17 I am a survivor of the Holocaust but
18 like all survivors, I am also a victim. Our
19 lives have been forever scarred by the
20 experience. There is not a survivor who did not
21 lose family in the Holocaust, further
22 victimizing us and also giving us a share in the
23 fate of the murder.

24 My response to this dual citizenship, a
25 citizen of the living and of the dead, has been

1 to set forth on national and international
2 survivors organizations and as chairman and
3 founder of the American and International
4 Society for Yad Vashem.

5 Your Honor, I know that you have
6 received numerous representations proposing
7 allocations for (unintelligible) and I do not
8 wish to burden you with a repetition of the acts
9 and presentations made by these Holocaust
10 related organizations.

11 I come here today to represent another
12 constituency. I submit, your Honor, that it is
13 the most relevant constituency. It is the dead
14 Holocaust victims whose funds you are about to
15 distribute.

16 Do not think that these Shoahs
17 are not here with us. The money you are
18 safeguarding represents a significant part of
19 their lives. They worked and earned and saved.
20 They stored a part of their existence in the
21 Swiss Banks. What are you distributing is not
22 cash. It is the lives of victims of the Shoah.
23 These victims have no burial place, entire
24 families perished and thousands of communities
25 have been erased from the place of their birth.

1 But their presence is here with us today and
2 calls out for remembrance.

3 Shortly after the founding of the State
4 of Israel, Israeli parliament established the
5 National Remembrance Authority Yad Vashem. Yad
6 Vashem transcends all other Holocaust memorials
7 in scope and size. Through 50 years of research
8 and teaching, this unique institution has become
9 in fact the home of the 6 million souls that
10 have no burial place.

11 Yad Vashem's international school for
12 Holocaust studies is still preeminently sought
13 for teaching about the Shoah. Educators from
14 around the world attend seminars there. And
15 experts from Yad Vashem travel far and wide to
16 disseminate knowledge about the Holocaust.

17 At Yad Vashem, the world's largest
18 repository of authentic Holocaust documentation
19 is where this court can fulfill the victim's
20 last wish, that all remember.

21 To appreciate this commandment, we need
22 to understand the Jewish view of death. Death
23 is not an end like falling off the edge of the
24 earth. It is rather another passage. The soul,
25 which survives the body demands that its

1 identity be preserved.

2 This is where your Honor comes in.
3 Because the lives in this room have no other
4 marker, they did not go to their rest in a
5 Jewish cemetery. They do not have a stone to
6 mark their existence. If their souls are to
7 have an identity, it would be in remembrance.
8 Remember us, they cry out. Remember how we
9 lived and how we died. Do not let the memory be
10 erased.

11 To remember how they died is to
12 remember the Shoah. And to remember the Shoah
13 is to teach its history and its lessons in every
14 generation.

15 Education is the memorial stone of the
16 Holocaust victims. It is also our best hope
17 that nothing like the Holocaust will happen
18 again.

19 Today, as I said, it is a rising
20 (unintelligible) in New York, in Canada, in Asia
21 correlates with the events leading up to the
22 Holocaust are clear and unargued. The memory of
23 the Holocaust is our foremost barrier against
24 this crime. We need to bring the lessons of the
25 Holocaust to bear on current events or God

1 forbid, we will have to learn them again.

2 If there is one request of the victims
3 who stand before you today, (unintelligible)
4 remember me, it is never again. The Jewish
5 community has traditionally allocated 20 percent
6 of restituted funds to the cause of remembrance
7 and Holocaust education. I implore you in the
8 name of the victims whose funds you have secured
9 and now must distribute, please consider
10 dedicating a significant portion to their memory
11 through education.

12 By your decision today, you can secure
13 their memory for generations to come, where they
14 have a place and assure that the Shoah will
15 never happen against.

16 Thank you, your Honor, for your time
17 and attendance so far.

18 THE COURT: Fira Stukelman.

19 MS. STUKELMAN: Your Honor, I brought
20 this picture from Jewish Week. This year, sixty
21 years, we were liberated from Pieta (phonetic)
22 and the concentration camp.

23 THE COURT: Just pull the microphone in
24 a little bit.

25 MS. STUKELMAN: I'm sorry.

1 THE COURT: I couldn't hear you.

2 MS. STUKELMAN: I'm sorry.

3 THE COURT: That's okay.

4 MS. STUKELMAN: I brought this picture.

5 This picture here is Ann Frank and Hitler, why I
6 brought this picture and why we have this stuff,
7 this means what happened to us, what was a
8 disaster.

9 My parents were killed in front of me.
10 I was only eight years old. Today, I represent
11 Holocaust survivors from Former Soviet Union who
12 lives in America in New York. Our people are
13 proud to be in America. Our people are proud to
14 be in the best country. In the meantime, it's
15 not easy to live because we are, today, the
16 lowest class in New York, in America, too.

17 This is -- UJ Federation and they do a
18 special analysis, how lives the Jewish people
19 from Former Soviet Union. We receive \$600 in a
20 month and rent today, to pay rent, \$900, \$800
21 and more. It's not easy. Our people, 75 years,
22 70 years, 80 years, they go to clean apartments
23 to have a little money because they cannot
24 afford it.

25 Your Honor, it's not easy. Please,

1 help our people have to receive money who belong
2 exactly to Holocaust survivors, not to Jewish
3 organizations, not to Yeshiva. They belong to
4 us because we lost everything. I lost my
5 parents. I don't have anything. I came to the
6 country who helped me. We need more help.
7 Every day we have funeral. Every day I receive
8 many calls from people telling me we need help.
9 People live alone, they don't have anybody. I
10 do not talk a lot. Today I am sit from 9
11 o'clock a.m. (sic) and I hear a lot, a lot for
12 help. Please, don't forget all Holocaust
13 survivors. Do your best for our people.

14 Thank you.

15 THE COURT: Avraham Berkowitz.

16 MR. BERKOWITZ: Your Honor, my name is
17 Avraham Berkowitz and I serve as the executive
18 director of the Federation of Jewish Communities
19 in the Former Soviet Union.

20 We recognize that the funds are not
21 sufficient, not a lot of funds are available to
22 the Court and they're limited primarily to those
23 that have unclaimed bank account holders that
24 have still not received their claims. And,
25 therefore, we also demand by the Swiss to give

1 the Court all the bank accounts that still have
2 not been claimed because they are the first that
3 should receive the money.

4 I flew in from Moscow today after
5 reading the recommendation of your
6 Special Master Judah Gribetz and his deputy
7 master. And we support the allocation of funds
8 and the possible unclaimed residual funds for
9 the tens of thousands of needy survivors in the
10 Former Soviet Union.

11 I know that presentations were made
12 earlier today describing the desperate need of
13 those. I am standing before you as a witness to
14 the daily suffering and the need, the desperate
15 need that these people have.

16 Through our work in the Former Soviet
17 Union we estimate that even though many -- a
18 million and more have left for Israel and the
19 United States, close to two million Jews remain.
20 Among those two million Jews, hundreds of
21 thousands of them are elderly and desperate
22 about any care, without medicine, no food, as
23 was ascribed earlier in the Court today. And
24 over more than half of these people are
25 Holocaust survivors.

1 There's a change happening in the
2 Former Soviet Union. In the last ten years,
3 Jewish communities and their leaders have come
4 together, supported by leadership of Hava
5 Lubavitch rabbis in 200 cities that have set up
6 permanent residence there to rebuild Jewish
7 communities, the reach -- and the Jews that are
8 coming forward that never had any connection --
9 there was no community, that are now telling
10 their stories and coming forward, grow every
11 single day, they are building and providing for
12 many areas of Jewish life.

13 We're committed to rebuilding religious
14 life, cultural Jewish life and education. But
15 that is not why we're standing here today
16 because the most important and desperate need of
17 our organization of our work is the humanitarian
18 aid of the Holocaust victims that we serve.

19 Across the street from my office in
20 Moscow is one of the soup kitchens -- one of the
21 many soup kitchens we run together with the JDC
22 and I walk in there a lot and I see the people
23 that are getting their one meal a day. It's a
24 meager meal. It's known that the survivors in
25 the Former Soviet Union do not have food,

1 Medicaid, even though they're very desperate.
2 They don't have food stamps. They don't have
3 social security. All they have is the hot soup
4 kitchen where they get their one meal a day.

5 And I sometimes watch these elderly
6 people walk out and they look so frail and so
7 thin. It's unbelievable to believe that -- and
8 they're receiving help and this is Moscow. And
9 we're talking about cities that reach all the
10 way to Vladivostok and Berelijung and Orshan
11 Belarus, Statlok and Ukraine (phonetic). There
12 are thousands and thousands of survivors that
13 cannot stand here and speak today and we're
14 there to help them.

15 We understand the need that wherever
16 there is a Holocaust survivor in the world, they
17 must be helped but the Jews, the victims in the
18 Former Soviet Union and it was mentioned many
19 times, their suffering and what they've gone
20 through, everything -- ever dollar sent to them
21 to help them to sustain themselves today is
22 helping them survive for another year, another
23 day.

24 After the Holocaust, there was no
25 chance for Jewish life to revive in the Former

1 Soviet Union because of the repression of
2 communism and there was absolutely no
3 possibility to build a community.

4 I stand before you, Judge Korman, today
5 to request funding that should go only to the
6 neediest Holocaust victims that was ascribed
7 before by the JDC. But at the same time, I want
8 to say that we have seen and when the elderly
9 victims are taken care of by the local Jewish
10 community without even investing one more dollar
11 in Jewish education or in community, these same
12 dollars are rebuilding Jewish life. The reason
13 is because today we have in our Federal of
14 Jewish Communities over 3500 professionals and
15 volunteers and youngsters that have joined the
16 service of the community. And they visit the
17 homebound and the elderly and they bring them
18 food every day. We have Meals on Wheels.
19 They're the truck drivers. They're the nurses
20 in the clinics. They spend the time every day
21 to serve them.

22 So, what's happening is these survivors
23 that never had a chance to tell their story for
24 50 years and today we -- even though many of
25 them were left alone because others had

1 immigrated to Israel and stayed behind, these
2 youngsters today that are becoming part of the
3 Jewish community, just by bringing them food and
4 being a part of this huge operation of the
5 social service center, we are building a
6 community again together with these survivors.

7 And I stress again that we're not
8 asking for any residual funds to go to the
9 youngsters or the education, even though it's
10 important, but just by providing the money
11 that's desperately needed to give basic food and
12 substance to the survivors in the Former Soviet
13 Union, you are also rebuilding a historic start,
14 something that you'll never go in but the
15 community that was destroyed is now being built
16 because of the incredible spirit and connection
17 with -- the victims have with the younger
18 generation.

19 The Lubavitcher Ever Rabbi Menacham M.
20 Shernson (phonetic) taught us that the first
21 thing you need to do is help a fellow man in
22 humanitarian aid and then everything else comes
23 after that. There was no one that cared more
24 for Russian Jewry and the Chief Rabbi of
25 England, Rabbi Jonathan Sachs (phonetic) once

1 said about the rebbis work in the world,
2 particularly for Soviet Jewry and I quote, "He
3 has undertaken the most daring initiative of
4 post Holocaust error by searching out every
5 single Jew in the world with love, just as the
6 Jewish people were once hunted down in hate by
7 the Nazis." And that is what we're doing in the
8 Former Soviet Union.

9 We find in every single town and
10 village across 15 countries, the most difficult
11 places, we find the Jews and we give them the
12 sustenance that they need. These people, as you
13 heard, don't have pensions. It's extremely
14 important to remember the harsh winters in the
15 Former Soviet Union and I heard today many
16 moving stories of the desperate need of
17 survivors here and they should be helped.

18 But I know because I witnessed from the
19 places that I visit every single day in my work
20 and the cities that I go to that the desperate
21 need there is more than intolerable. It's
22 desperate beyond words. I never -- you would
23 never see the living conditions of people that
24 don't have mattresses on their beds and barely
25 have food to eat and only one meal a day, the

1 only place they turn to is the centers,
2 humanitarian aid centers supported mainly by the
3 JDC that receives its funds from this court.
4 And if we do not continue to receive the funding ,
5 from the JDC that's getting the money from this
6 court, these people will die before they were
7 supposed to.

8 We are a witness every single day to
9 thousands of these people. Our communities --
10 we get letters every single day from people in
11 our offices in 400 cities. If I would show you
12 the staggering amount of requests for funding
13 that -- humanitarian assistance to elderly
14 survivors, you would understand how great and
15 how much more is needed to help these people in
16 their desperate plight.

17 There are many stories to be told. I
18 don't want to take too much time but just to
19 give an example to understand it, many people
20 will say they had a choice to leave and why did
21 they stay. Everyone has a different story. I
22 was in Sumara (phonetic) a few months ago in
23 Russia visiting our community and whenever I am
24 in the city I make an effort to visit the
25 homebound because it's enough that they come to

1 the soup kitchens, those that can walk, but what
2 about those that are -- the thousands of them
3 that are at home that are receiving benefits and
4 food only again because of the community's
5 support at agencies that the funds are coming
6 through the JDC and claims conference from this
7 court.

8 I met a woman in her home in a
9 dilapidated apartment, I must say. Her name was
10 Verta Solonova Herdashovo (phonetic). She was
11 born in 1922 in Herminski, Ukraine. And during
12 World War II in front of her very eyes, her
13 entire family was killed. She was lucky enough
14 to escape death and she trekked and escape to
15 Berabaijan (phonetic) which at the time was
16 supposed to be the autonomous region for the
17 Jewish people. She found her husband there, got
18 married and because he was an engineer, moved to
19 Sumara. There years later she had a daughter.
20 Her daughter Ella was living with her in this
21 apartment. When she was five years old,
22 developed a medical problem and because of lack
23 of medication became mentally retarded. A
24 little while later, her husband died. This
25 woman was left to care for her mentally retarded

1 daughter with a meager pension of \$50 a month.
2 And she herself has terrible back pains and she
3 needs to choose between taking care -- giving
4 herself -- splitting food between herself and
5 her daughter or leaving herself with her pain.

6 And then the Jewish Community came into
7 the picture and this Jewish -- the Jewish
8 Community in Sumara headed by
9 Rabbi Shlomo Deitsch and his wife Dina, changed
10 her life and I speak as one example but it's
11 thousands of others. First of all, she now
12 receives food from the soup kitchen delivered to
13 her every single day at home. It's more than
14 just the food that she receives. It's the love
15 that she gets from the people that give it to
16 her. We have Jewish day schools that are being
17 built on the communities. And that city in
18 Sumara, the Jewish day school started a program
19 where every single kid -- family adopts above
20 years 80, a survivor and they go to them and
21 they hold their hands and they give them a hug.

22 Now, Verta never had the possibility to
23 become a grandmother and today she looks in the
24 eyes "Because of the children in the school, I
25 am a grandmother. I am the Jewish bubbi

1 (phonetic). And I never had a choice. If I
2 could move to Israel or the United States
3 because this is my life. I have to care for my
4 daughter and I have no choice to leave." We
5 know the situation. It continues to grow. The
6 needs are great.

7 And therefore again to conclude, I want
8 to say that we support when there will be -- if
9 there will be residual funds, we support the
10 recommendation of your
11 Special Master Judah Gribetz not to forget the
12 hundreds of thousands of -- over 150,000
13 survivors that remain and need your support.

14 Those proposals that you heard directly
15 for the support from the JDC and from others,
16 should be recognized and I stress it again, it's
17 not to an organization. We will uphold our duty
18 and responsibility to the victims around the
19 world that whatever money is received will go
20 directly and only to survivors in order to
21 survive.

22 Thank you very much.

23

24 THE COURT: Mr. George Klein.

25 MR. KLEIN: Judge Korman, I thank you

1 for allowing me to address you this morning in
2 court. I want to thank you and I want to thank
3 Special Master Judah Gribetz for the
4 extraordinary work that you've done in trying to
5 resolve this very difficult problem that has
6 been raised before this court today and before
7 you.

8 I am here representing the
9 International Committee for the Preservation of
10 Jewish Material Memorial Sites. I come to the
11 Holocaust through two paths; one my father,
12 bless his memory, was the chairman of the
13 (unintelligible) during the war and spent a year
14 in Europe in 1946 in the DP camps and arranged
15 for over 12,000 to come to the United States
16 (unintelligible).

17 Never once did one of those 12,000 Jews
18 ever ask or were required to be funded. They
19 were survivors. They came. They built their
20 lives and they what had to be done.

21 I am the founding chairman of the New
22 York Holocaust Memorial (unintelligible) Bob
23 Morgenthau. We're trying to build in New York a
24 memorial for the victims. Sitting here these
25 last two hours, I don't envy the position that

1 you are in trying to be a Solomon to allocate
2 funds that may come about for the claims that
3 were made as related to bank accounts that were
4 held by the Swiss and probably all of the money
5 that has come out of Switzerland should be paid
6 to the victims of the fraud that was perpetrated
7 by the Swiss.

8 But I believe that the real victims of
9 the Holocaust are the 6 million Jews who were
10 killed. Survivors and how they survived is a
11 miracle in itself and whenever I speak on behalf
12 of the (unintelligible) or on Holocaust matters,
13 to me I still cannot fathom how survivors were
14 able to rebuild their lives in this country or
15 everywhere else and the fact that they are still
16 in desperate need.

17 There is no question that if funds are
18 available, the survivors should be taken care of
19 here, in the United States, in Israel in the
20 Soviet Union, wherever it is feasible.

21 But the victims of the Holocaust are
22 the ones who were killed. They were the ones
23 that their assets were removed. And they asked
24 only two things; one to remember how they lived
25 and number two, how they were killed.

1 There are mass graves and cemeteries
2 all over Eastern Europe that are completely
3 disappearing. They are the cemeteries of the
4 victims of the Holocaust. They lie there with
5 no dignity, with no marker, with no ability to
6 educate who they were or what they were.

7 And the requests that we're asking of
8 the Court is not for survivors, it's not for the
9 needy, it is to try to give something to the
10 victims. They lie there in these mass graves.
11 We need funds and we've created an organization
12 in the past few years with the World Jewish
13 Congress, and other organization
14 (unintelligible) and others to try and find out
15 where these graves are, to try build some kind
16 of a fence, to try to do some effort on behalf
17 of their dignity.

18 If there are some funds available,
19 since there is an aspect of education as relates
20 to some of the assets of the funds that may be
21 available and for a memorial, if we could find
22 some way, some funds to be used to help us to
23 find these graves, mark them and create a
24 lasting dignity for the victims of the
25 Holocaust.

1 Thank you.

2 THE COURT: I'm just going to take a
3 two minute recess. I'm ready to go for another
4 three hours after that.

5 (Recess)

6 THE COURT: Suzanne Sommer.

7 David Zwiebel?

8 MR. ZWIEBEL: Yes.

9 THE CLERK: Your Honor, here is Susan
10 Sommer.

11 MS. SOMMER: I'll just grab this.

12 THE COURT: Okay.

13 MR. ZWIEBEL: Your Honor?

14 THE COURT: I know. I called her first
15 and she was outside, so she came back in.
16 You'll be next.

17 MS. SOMMER: Thank you, your Honor.
18 Sorry to delay.

19 I am Susan Sommer of Land of Legal
20 Defense and Education Fund. I represent the
21 Pink Triangle Coalition which is advocating on
22 behalf of gay victims of the Nazis who were
23 persecuted because of their homosexuality and
24 continue to be criminalized and stigmatized
25 after the war. And so have remained largely

1 hidden and silenced to this day and unable to
2 participate effectively in the settlement.

3 We're thankful for the opportunity to
4 address the Court and I'm not going to repeat
5 the arguments and discussion in the papers we
6 filed but rest on them.

7 The coalition has tremendous respect
8 for the difficult task the Court faces in
9 attempting to mete out justice today against the
10 backdrop of the unspeakable horrors of the Nazi
11 regime and the poverty of many survivors today.
12 And we share the world's sorrow in the suffering
13 of millions of victims, Jewish, Romani,
14 Jehovah's Witness, disabled and gay people among
15 them.

16 I just have a couple of points to add
17 to what we have already submitted. First, I
18 just want to make clear that the Pink Triangle's
19 Coalitions proposal was intended to address not
20 only the unique problems faced by gay victims in
21 participating in the looted assets class and in
22 cypres distribution in connection with that
23 class, but also with respect to participation in
24 any of the other classes, deposited assets,
25 slave labor refugee, in which those victimized

1 because of their homosexuality might be
2 included.

3 It's now virtually impossible to
4 identify more than a small handful of survivors
5 of the Nazi persecution of gay victims. These
6 victims are largely lost in the historic records
7 and to meaningful inclusion in the claims
8 process and this class action. For this reason,
9 we've sought a cyprus allocation of a very
10 small, modest amount of funds left over after
11 all things are paid without (unintelligible) to
12 go to those in dire need.

13 To appropriately address here the
14 losses of the homosexual victims who cannot or
15 will never be able to come forward to claim
16 participation in not just the looted assets
17 class but in other classes as well, we submitted
18 a letter to the Court on April 15 addressing a
19 very small aspect of our proposal that will not
20 be addressed in the Court's April 2 order but
21 that we felt might not have been addressed.

22 THE COURT: I know I didn't get a
23 chance back to you but I would be happy to give
24 you the meeting that you wanted to discuss that.

25 MS. SOMMER: Well, I thank you,

1 your Honor.

2 THE COURT: If you want, you could talk
3 about it now but I think -- you could have your
4 choice.

5 MS. SOMMER: Well, I will say very
6 mindful of the five minutes that were originally
7 allotted to me just a sentence or two but I
8 would like to take up your Honor and have that
9 meeting.

10 We are asking for just that very small
11 portion of the proposal be for the coalition to
12 distribute humanitarian financial assistance
13 consistent with the Court's priority of using
14 cypres funds to help those in need, the seven
15 needy gay survivors who have been identified
16 world wide after all of these years, only seven
17 men left who would qualify as needy who can even
18 be found.

19 We think it appropriate that the
20 coalition -- members of which have already been
21 working to assist and to document these
22 experience of these men should be given
23 responsibility for this.

24 And we can explain more in a meeting
25 with you but it would be done with little or

1 absolutely no administrative costs and we think
2 would be the most comfortable and appropriate
3 way for these men to be helped by those gay
4 advocacy organizations that have already been
5 reaching out to them and attempting to have them
6 participate in the (unintelligible).

7 Finally, the Court pointed out in April
8 2 -- your April 2 opinion that portion of Jewish
9 Romani and Jehovah's Witness victims were no
10 doubt gay and, therefore, there have been no
11 doubt participation in the claims process by
12 individuals who were victimized not because of
13 their homosexuality but who turned out to be
14 gay. Now while this is certainly no doubt true,
15 given the statistical likelihood that there are
16 gay people in any population, this really
17 doesn't address the specific inclusion in the
18 settlement of those who were targeted for
19 persecution because of their homosexuality,
20 those who were singled out to wear the pink
21 triangle.

22 While some who may be gay may receive
23 some participation in settlement funds targeted
24 for those victimized because of their
25 participation in other groups, other identities,

1 this doesn't account for the tremendous
2 dichotomy between the number of people
3 victimized because of their sexual orientation
4 and absence, the other absence of claims filed
5 by individualized -- individuals victimized for
6 their homosexuality.

7 I would like to conclude by trying to
8 at least in this context give voice to the
9 silenced gay victims of the Holocaust. In 1995
10 eight survivors, eight gay survivors, eight pink
11 triangle survivors finally had the courage to
12 step forward after years of silence and hiding
13 because they had continued to be criminalized
14 and persecuted following World War II and issued
15 this declaration.

16 Sadly, of the eight men, only three are
17 still living, two of whom have submitted
18 affidavits to the Court. They wrote, "Fifty
19 years ago, allied troops did liberate us from
20 Nazi concentration camps in prison but the world
21 we had hoped for did not happen to come true.
22 We were forced to hide again and faced ongoing
23 persecution under the same Nazi law that was on
24 the books since 1935 and stayed on the books
25 until 1969. Raids were frequent. Some of us

1 just tasting their new freedom were even
2 sentenced to long term prison again. Although
3 some of us tried courageously to gain
4 recognition by challenging the Courts up to the
5 West German Supreme Court, we were never
6 acknowledged as being persecuted by the Nazi
7 regimes. We were excluded from financial
8 compensation for the victims of the Nazi regime.
9 We lacked the moral support and sympathy of the
10 public. Today, we are too old and tired to
11 struggle for the recognition of the Nazi
12 injustice we suffered. Many of us never dated
13 to testify. Many of us died alone with our
14 haunting memories. We waited long but in vain.
15 We know that still very little is taught in
16 schools and universities about our fate, even
17 Holocaust museums and memorials many times don't
18 mention the Nazi persecution of homosexuals.
19 Today, fifty years later, we turn to the young
20 generation and to the all of you who are not
21 guided by hated homophobia. Please support us
22 in our struggle to memorialize and document the
23 Nazi atrocities against homosexual men and
24 lesbian women. Let us never forget the Nazi
25 atrocities against Jews, gypsies, Jehovah

1 Witnesses, Free Masons, the disabled, Polish and
2 Russian prisoners of wars and homosexuals. Let
3 us learn from the past."

4 We ask the Court at this or if not now
5 at another appropriate juncture to consider the
6 absurd circumstances of individuals victimized
7 because of their homosexuality, silenced
8 following the war. Consider that they have been
9 silenced and hidden, unable to step forward in
10 this or other processes and provide the right
11 justice that could be achieved through your
12 protocol.

13 And I look forward to another meeting
14 with your Honor. Thank you so much.

15 THE COURT: Mr. Zwiebel, you were next.

16 MR. ZWIEBEL: Good afternoon,
17 your Honor, just barely but congratulations
18 to --

19 THE COURT: Well, has the sun set?

20 MR. ZWIEBEL: -- as the sun sets; no,
21 not yet.

22 My name is David Zwiebel and I am
23 executive vice president for governor of public
24 affairs and the general counsel for Agudath
25 Israel of America which is a national orthodox

1 Jewish organization.

2 And I'm here primarily to speak in
3 support of the submission that was given to the
4 Court on behalf of Agudath Israel World
5 Organization which is an international
6 confederation of orthodox Jewish groups and
7 constituencies in a number of countries across
8 the world.

9 But preliminarily though I would like
10 to note that many of our own constituents here
11 in the United States are survivors. Many of
12 them reside in Brooklyn, which is probably the
13 largest concentration of survivors anywhere and
14 surely, we would support efforts to find ways of
15 funding projects that would directly benefit
16 these survivors, whether they be through the
17 Beper Cholom (phonetic) Organizations that have
18 submitted proposals or through assisted living
19 quarters. We believe these are very worthy
20 causes.

21 Many of our constituents and truly all
22 survivors of all constituencies have ancestors
23 who are buried in Eastern Europe and certainly
24 the point that Mr. Klein made earlier with
25 respect to the mass graves of the Nazi victims

1 themselves is something which I believe deserves
2 consideration and careful consideration by the
3 Court, efforts to support and preserve the
4 cemeteries or the ancestors of the survivors are
5 themselves buried is an extremely important
6 point.

7 But as I mentioned earlier, I am here
8 primarily to make a case, I think, a moral case
9 or perhaps a legal case on behalf of a group
10 that to this point, at least, has been totally
11 ignored in this settlement and also more
12 generally in the entire restitution process.
13 And the group that I am speaking about are those
14 institutions of Jewish learning and of Jewish
15 communal life that were sought to be destroyed
16 by the Nazis and have since been recreated and
17 rebuilt in various parts of the world, whether
18 in the United States or in Israel or in the
19 countries of destruction themselves in the
20 Former Soviet Union and Eastern Europe.

21 And while, of course, we support and
22 believe there is an extraordinary moral claim on
23 behalf of survivors themselves to receive
24 substantial allocations to help make their final
25 years on this earth more comfortable, more

1 pleasant where the special master has pointed
2 out very correctly in his report in many cases,
3 livable all together. It's not just a question
4 of comfort but it's life itself. And it's no
5 question that they have a very substantial moral
6 claim on restitution assets generally and on
7 Swiss Bank funds specifically.

8 But there's also a moral claim on
9 behalf of the institutions here. The settlement
10 specifically spoke of victims who were targets
11 of Nazi persecution as including not only
12 individuals but also any community,
13 congregation, group organization or other entity
14 which was persecuted or targeted for persecution
15 by the Nazi regime because they were or were
16 believed to be Jewish for various other groups.

17 And this recognition builds directly
18 into the settlement agreement, thus far at
19 least, has not achieved any tangible recognition
20 as the settlement process has moved forward.

21 It was interesting just to note the
22 evolution of the special master's suggestions
23 with respect to this type of group. In the very
24 first proposed plan of allocation and
25 distribution, the special master said that there

1 may come point in time when there would be a
2 stage two of payments at which time it may be
3 possible to allocate a portion of the remaining
4 settlement fund to some of the proposed cultural
5 memorial, or educational projects that have been
6 submitted to the special master.

7 Then in October of this past year,
8 2003, when the special master filed his interim
9 report, the wording started getting a little bit
10 weaker and it said, "In accordance with these
11 suggestions and depending upon the amount of the
12 residual, if any, the Court may wish to consider
13 a modest distribution to communal remembrance
14 and/or educational programs.

15 "And now, in the most recent
16 recommendations of the special maser, even that
17 suggestion of a modest proposal seems to have
18 been eliminated and we appreciate the special
19 masters having stated the need for a
20 commemoration, remembrance and research is great
21 and the losses sustained by communal
22 organizations immeasurable.

23 "However, as Judge Korman's April 2,
24 2004 order makes clear, it would be
25 inappropriate to fund these programs when the

1 needs of Nazi victims remain so overwhelming."

2 So, we seem to have progressed to the
3 point where at least with respect to the
4 recommendations of the special master and
5 perhaps in your Honor's language itself, there
6 seems to have been some definitive determination
7 that, in fact, an entire category, an entire
8 group that is part of the class will be excluded
9 from any benefits under the settlement.

10 And while I am not here to discuss
11 whether legally that's appropriate, whether that
12 fits within the notion of a fair, reasonable and
13 adequate standard for class action settlements,
14 we may wish to supplement the record with some
15 submission on that point, your Honor.

16 But I think that there's just an
17 important point to consider on amoral basis
18 which underlies ultimately why these groups were
19 included in the class action settlement category
20 as a victim or target of Nazi persecution.

21 And that is, I think to myself
22 sometimes, what would the 6 million themselves
23 be advocating for if they could speak? And of
24 course, it's presumptuous of me to pretend I
25 have any beginning of an answer to that question

1 but I think it's an intriguing question and one
2 that should occupy our minds.

3 And certainly, they would say help our
4 children, help our neighbors who managed to
5 survive, who managed to get out of the inferno
6 of Nazi Germany. Help them as they reach their
7 senior years and face all kinds of difficult
8 problems. No question that they would say that.
9 No question that they would say focus on those
10 who are in the greatest need.

11 But I would suspect they would also say
12 in addition to think about our children and
13 think about our neighbors, I suspect they might
14 also say think about the Jewish future. Think
15 about the fact that the Nazis sought to
16 exterminate not only our bodies but also our
17 entire people and our entire way of life. And
18 is there some way of finding a way to perpetuate
19 that Jewish future. And I believe that that is
20 a fair, important legally cognizable and also
21 morally incumbent question to consider at this
22 time.

23 Thank you very much.

24 THE COURT: Let me ask you, I asked the
25 same question to Ramsey Clarke. I mean, the

1 human needs are so extraordinary that even with
2 the wildest amount of money left over, let's say
3 it was all \$600 million, it's the human needs
4 are sufficient to absorb all of that and how
5 does one make a -- put the legality aside for
6 the moment and how does one deal with it on a
7 pure moral level. In these communities, these
8 communal organizations many of them are in many
9 ways private. They have incredibly survived the
10 destruction and the effort to destroy them and
11 as communal organizations, they live.

12 But here we have people who, setting
13 aside the United States, Russia, Israel, but
14 basically extraordinary need and how does one
15 deal with that?

16 MR. ZWIEBEL: It's a profound question,
17 your Honor, and frankly I'm delighted I'm
18 sitting at this side of the table rather than on
19 the other side. But I would just point out that
20 we have been blessed, to some extent, by the
21 fact that the world has recognized that enormous
22 crimes were committed against the Jewish people
23 and others. And that those crimes include
24 crimes of the demand in economic response, as
25 well. And the Claims Conference and other

1 sources have been doing wonderful work in
2 recognizing the needs of survivors.

3 The Swiss settlement fund, I think
4 needs to be on (unintelligible) when we speak of,
5 the amount that may be remaining and the
6 residual funds in this particular settlement, I
7 think that needs to be considered as part of a
8 larger network of restitution funds that are
9 being made available, particularly when we are
10 not in any way trying to trace directly the path
11 from the Swiss Banks to the ultimate
12 beneficiaries of these funds. But rather, we
13 are speaking about under the cypres doctrine, we
14 are speaking about some sort of an equitable
15 type of approach towards this entire issue.

16 With respect to that entire pictures
17 and I understand you're only the boss over one
18 part of the picture, but with respect to the
19 entire picture, for example, within the Claims
20 Conference and this was something that was put
21 to a vote recently and has been reaffirmed
22 several times, there's a recognition that the
23 large majority of the funds should indeed go to
24 survivors but there should be something set
25 aside, particularly the Yeshivas and the

1 communal institutions that the Agudath Israel
2 World Organization has argued on behalf of has
3 to thus far been beneficiaries even under that
4 set aside. But at least within the Claims
5 Conference there has been some recognition that
6 with the needs, with the enormous human needs
7 that exist on behalf of survivors, nonetheless
8 for historical purposes and for very tangible
9 real purposes, it's important to touch also
10 issues that relate to the Jewish future.

11 And that, I believe, ought to be part
12 ultimately of what this Court recommends or not
13 recommends but that decides in terms of
14 allocating these funds.

15 I would just -- the bottom line on that
16 is that I think you need to see and the world
17 needs to see that there is a recognition of the
18 very many multi-faceted aspects of restitution
19 that ought to exist on a moral plain.

20 THE COURT: Thank you.

21 Stamford Streiber.

22 MR. STREIBER: Your Honor, I represent
23 Sabilla Goldstein (phonetic), her siblings, who
24 are the descendants, of Nathan Katz. Tonight or
25 throughout this day and I think through the

1 night, too, your Honor, you have heard much
2 compelling testimony from individuals concerning
3 what under the cypres doctrine should be done
4 with the residual monies.

5 I speak to you now not at cypres but of
6 individuals who have a direct nexus to
7 Switzerland who were overlooked in the original
8 settlement, who three years ago as they sat in
9 your chambers with Professor Newborne presented
10 to you direct evidence that was not -- was only
11 recently released from the secret files of our
12 own government sixty years later which
13 demonstrated that valuable assets belong to
14 Nathan Katz were taken through the auspices of
15 the Swiss to gain entry to Switzerland.

16 And I think that that sets aside -- I
17 mean, there's no way we can rally measure the
18 moral issues and say, you know, and all of these
19 other things you've heard today, but for these
20 individuals who for sixty years have gone same
21 as the asset class, who have gone and searched
22 for their assets.

23 Mr. Goldstein, Ms. Katz's -- Sabilla
24 Goldstein's wife -- husband, has for forty years
25 gone to every single location he can when his

1 trade was in international marketing, he visited
2 art museums, he visited records to try to locate
3 the assets that were taken away and taken his
4 efforts resulted in the release of the documents,
5 that were shown to you.

6 So, I think that there is a direct
7 nexus and in Professor Newborne's own words, in
8 a letter that he wrote after the meeting, there
9 should be a place for -- within a secondary
10 distribution for those who have a nexus to
11 Switzerland, for those who can show with
12 documentation that they were -- had assets taken
13 away by the Swiss, through the Swiss and should
14 be reimbursed by monies that come from the
15 Swiss.

16 Your Honor, the settlement itself and I
17 did write you, you did spend me a copy of your
18 decision and asked for me to comment on it from
19 a legal perspective of why these individuals,
20 these claims and those like them, and I think
21 there are probably very few people in the world
22 like them, we are not opening up Pandora's box,
23 as I read the comments that came on the website,
24 I believe the letter I wrote on Mrs. Goldstein's
25 behalf and Mrs. Goldstein's own letter her

1 behalf, were the only ones submitted within this
2 small group of people. There may be others who
3 have documentation

4 The settlement -- the heart of this
5 settlement was the bank's settling not only the
6 asset class but also seeking to resolve legal
7 claims against the Swiss government and business
8 entities, that's within your own decision,
9 your Honor. That's the heart. That is their
10 claim. In your recent decision, you said with
11 only limited exceptions, however, the current
12 historical records simply does not permit
13 precise determinations even as to the material
14 losses in total, much less the nature and value
15 of the loot traceable to Switzerland or Swiss
16 entities.

17 Your Honor, these are the exceptions.
18 Those people as the asset class individuals,
19 where we can identify that they had assets that
20 were taken by the Swiss should be entitled to
21 receive compensation. It is the only
22 compensation they will ever receive for these
23 assets that were taken away from them 60 years
24 ago. These will not surface. These will not
25 come back in the 60 years of hard search.

1 There is a nexus. They should receive
2 something out of this \$800 million. It is
3 recommended by plaintiff's lead counsel. It is
4 neglected, however, your Honor, in the special
5 master's report. There's not even a footnote to
6 this issue. Although the claim was submitted
7 timely and the request pursuant to this Court's
8 request.

9 I don't blame Special Master Gribetz
10 for not including -- you know, for not thinking
11 about it. He had some very worldly issues. But
12 silence of the Swiss to this issue is what
13 brought us here today. Silence of the banks has
14 brought us here today. We should not continue a
15 silence to these people and those like that.

16 THE COURT: I understand your point.
17 Thank you.

18 MR. STREIBER: Thank you, your Honor.

19 THE COURT: James Pallachia (phonetic).

20 MR. PALLACHIA: Thank you, your Honor,
21 for granting me time to speak. On behalf of
22 Jehovah's Witness Holocaust Era Survivors Fund,
23 which is staffed entirely by volunteers and the
24 dear survivors that we represent, I express
25 appreciation to the Court and to you,

1 Judge Korman and Special Master Judah Gribetz
2 and Deputy Special Master Sherry Reed and
3 Professor Newborne for the diligence they have
4 shown to the interest of the survivors.

5 Although a small group, Jehovah's
6 Witnesses were among the first targeted for Nazi
7 persecution in 1933. After the fall of the
8 Hitler regime, Witness survivors in the Soviet
9 block went on to suffer again for their faith.
10 Hence, while the Swiss Banks funds do not seek
11 to redress that latter wrong, it is clear that
12 survivors in FSU countries remain locked in deep
13 need.

14 But with the help of IOM, 2,000 elderly
15 and needy survivors in Eastern Europe have been
16 provided with heating fuel, medicine, food,
17 winter clothing and other necessities. The
18 beneficiaries appreciation can be noted from
19 their following comments.

20 From the Ukraine, "We are happy to
21 inform you that we have received the second
22 payment of humanitarian aid according with the
23 program carried out by IOM for Jehovah's
24 Witnesses who suffered during Nazi persecution.
25 We are thankful to IOM for this gracious deed

1 and express our gratitude for the humanitarian
2 aid accorded to us Jehovah's Witnesses during
3 this economically critical time for the Ukraine.
4

5 From another group in the Ukraine, "We
6 who sign below express our gratitude to Jehovah
7 God and IOM officers, that is, on behalf of the
8 Court, who found it fitting to give financial
9 assistance to us who are Jehovah's witnesses.
10 Since all of us are well advanced in age, having
11 little and material way, and our health is poor,
12 we benefitted greatly from the financial
13 assistance. Please accept our thankfulness."

14 Once again, we thank all of you for
15 your kind assistance to the survivors and it's
16 our hope that all of the truly needy survivors
17 of Nazi persecution may receive the aid they
18 sorely need.

19 THE COURT: Alice Fischer.

20 MS. FISCHER: My name is Alice Fischer.
21 I am a Holocaust survivor from Czechoslovakia,
22 what became Hungary, occupied by Hungarian.

23 I am the only one survivor of my
24 family. My nine year old brother and mother
25 were thrown into the gas showers in Auschwitz

1 and my father and other brother in Mauthausen
2 Concentration Camp on the death march. They
3 were killed March 7, 1945.

4 I am sure, your Honor, Judge, that you
5 heard many stories today about the Holocaust and
6 I am surprised that you can really sit all day
7 and listen to all of these. And believe me, the
8 ocean cannot be filled with what the soul --
9 those stories cannot be finished. I don't want
10 to tell you now about horrors of concentration
11 camp. I would rather talk about my experience
12 with the Swiss authorities, banks.

13 It is just one little story I am going
14 to tell you because in Bergen-Belsen
15 concentration camp, a very short one, we just
16 prayed to God. We didn't want to live anymore
17 in this condition. We just prayed that somebody
18 should survive to be able to tell the world
19 because no one would believe this. And we carry
20 all this with us.

21 The graves of my parents and my
22 brothers, I carry in my heart because I have no
23 graves. We are talking about the parents of a
24 70 plus woman. My mother was 39. My father,
25 45; young people, my nine year old brother. Now

1 that I hear from the denial stories, my nine
2 year old brother, what was he guilty of? They
3 take (unintelligible) babies and the screams
4 what was on in one bunk near me, I cannot
5 forget. The most beautiful and the nicest that
6 they looked young, the ladies, they were taken
7 there and their blood was practically drained
8 because they needed plasma for the German
9 soldiers. They died in their own blood. And
10 those screams, I will never forget. A woman
11 doctor that went in there once came out and she
12 couldn't take it.

13 So, after the war in the ghetto, but
14 they only started the ghetto only in April '44.
15 In the ghetto, my father was taken out twice by
16 the Germans and beaten up. It is on their
17 system. Before their deportations, they took
18 out all the rich people and interrogate them,
19 torture them. They shoot them and then they
20 took the money.

21 My father was taken out twice and came
22 back bloody. I don't know, perhaps under
23 duress, perhaps he gave them the bank account.
24 I know that my father made several trips to
25 Switzerland in a year, all our life savings

1 since we became Hungarians in '38 and '39, our
2 political situation and wasn't safe and all the
3 rich Jews put their life savings in Swiss banks.
4 We thought that all the Swiss, we can trust
5 them. Now we know that they were Hitler's --
6 they financed the (unintelligible) in '44. They
7 prolonged the war with one year. And all the
8 Hungarian Jews were killed in the last seven,
9 eight months of the Holocaust.

10 This is why I became so active. I
11 wanted to expose the Swiss for what they -- I
12 say they're really responsible for -- the
13 Hungarian Jews could have been spared.

14 And in '96, I was sent to the house of
15 the house of a (unintelligible) Lubabovich by
16 the Jewish Congress. I went with a delegation
17 with them. Senator D'Amato and the Jewish
18 Congress found documentation that the Germans
19 after the war -- after the Holocaust came to
20 Swiss banks and they stole Jewish money.
21 Because by torture, they, under duress, many
22 Jews gave them the bank accounts. And then they
23 shredded the records. So, no wonder today they
24 cannot find any records.

25 After the war, I went to Israel. I did

1 not get help. No help in Israel from the
2 government. I never claimed it. I never
3 claimed compensation money from the Germans and
4 I don't get it. I did not want blood money.
5 They killed the parents and the brothers and
6 they are going to pay me for this?

7 I did not get compensation. I did not
8 claim compensation. In Israel, I did never get
9 any money from the government. I never claimed
10 any duress. I would have been ashamed.

11 We were raised to be proud on our work
12 and not to depend on others. You pray to God
13 every day not to depend on others.

14 This is account that we are talking
15 about this money is really our money. Because I
16 know my father in the back ghetto used to tell
17 us after the war, we have a future in
18 Switzerland. So, after the war, really I could
19 not afford it. But in the '70s and in the '80s,
20 I heard about two very good lawyers, one in
21 Bosnia and one in Zurich. I know that my father
22 went to those two cities. I hired two lawyers.

23 THE COURT: Could you step back from
24 the microphone a little bit. You're talking
25 into it and it's hard to hear. Just --

1 MS. FISCHER: So, I hired those two
2 lawyers, one in Bosnia, one in Zurich. I sent
3 them power of attorney and lawyer's fees. I
4 invested the lawyer's fees and every bank -- I
5 corresponded with three banks in Bosnia and
6 three banks in Zurich. And every bank requested
7 500 franc for information and I paid them. And
8 then they did not give any information and they
9 did not give me back the money either.

10 And after a few years of
11 correspondence, the lawyers sent me back the
12 power of attorney with a letter in a year or so
13 and a letter that he cannot ask for any more
14 money because the banks hide under the law of
15 secrecy. So, that was it.

16 And then in '96, I started again being
17 active in this. So, compensation, I did not
18 claim and this money is not compensation. It's
19 not even any payment. It's our account that I
20 am sure -- do you think, Honorable Judge, if I
21 could not be sure that we have that, I would
22 have invested? It wasn't easy for me to invest
23 so much money in bank fees and lawyers fees.
24 And I provided all of this information, copies
25 of all my correspondence, even the death

1 certificate of my father is very -- they say is
2 required to the banks. And I sent it to the
3 tribunal and I didn't hear anything yet.

4 Now I am very surprised that we have to
5 sit here today and have a hearing of what to do
6 with this money. Three years ago, over three
7 years ago, I was sitting in Mr. Hevesi's (sic)
8 office when we finalized the settlement. I am
9 sure you remember this. They got from \$600 to a
10 billion and a quarter because Mr. Hevesi
11 threatened to sanction the banks.

12 Many years -- a few years, many people
13 don't have for the settlement. Finally, the
14 authorities here received an envelope with our
15 name on it and we're still waiting for this.
16 And we have problems and our father's worked
17 hard that we should have an easier life. And in
18 our age, it's not easy to wait such a long time.
19 And now we are discussing what to do with left
20 overs? I did not see a penny of the money yet.
21 And I also just -- your Honor, you wanted to say
22 something?

23 THE COURT: No, I just wanted to say
24 well, this is just --

25 MS. FISCHER: Yes.

1 THE COURT: -- it's somewhat premature
2 but it's in the event that there's money left
3 over after we finish because the needs are so
4 great, that I don't want to go through this at a
5 later point. I would rather do it now so that
6 we can move quickly at a later point. But
7 we're not finished.

8 MS. FISCHER: Well, I -- sorry.

9 THE COURT: Go ahead. I don't mean to
10 interrupt you.

11 MS. FISCHER: No, go ahead, Judge.

12 THE COURT: No, I'm finished.

13 MS. FISCHER: Okay. As I understand,
14 this money that's accounted -- it belongs to
15 somebody, is not distributed by the needs.

16 THE COURT: No.

17 MS. FISCHER: It has to be first by
18 those that -- you think that they had reasonable
19 proof that they had accounts.

20 THE COURT: Right.

21 MS. FISCHER: Right?

22 THE COURT: Right.

23 MS. FISCHER: And I am very surprised
24 that most of the speakers here is that -- I
25 asked a few times, are they really talking about

1 the Swiss accounts or all funds? Because if you
2 talk about Swiss accounts, how can the speakers
3 consider asking -- the taking away of money that
4 belongs to somebody else if the old have to feed
5 the hungry of the world? So, why from the Swiss
6 accounts? Why should it be the burden only of
7 those that have the Swiss accounts?

8 My father worked very hard to provide
9 his family, children and grandchildren with an
10 easier life and he had to struggle to get.
11 Don't think, Honorable Judge, that there are no
12 needs are. I get phone calls, many phone calls
13 from all over the United States from people
14 because they knew that I was active in this.

15 And I, myself and people can't afford
16 to pay medication, there is great need here
17 also. But perhaps other places the people are
18 louder and can request and demand. But we
19 cannot. We are raised really that's ashamed to
20 received public assistance. For some people,
21 it's an achievement.

22 I, myself, resent to be called needy
23 Holocaust survivor. I am not rich and I'm needy
24 but -- and my children and my grandchildren we
25 all struggle and I come from a very rich hall --

1 a very rich house. But I resent to be reduced
2 to Holocaust -- to be called needy because this
3 is really like insult to injury.

4 And you don't hear our cries because we
5 are not loud enough because we are ashamed to
6 ask. I don't think I have to beg for my
7 father's account. This is what I understood.
8 This is not -- the compensation, I didn't find
9 any receive -- but this money, I was waiting for
10 these monies and I thought, I don't know if I
11 can live to see the end of it.

12 Now I hear many speakers, how can they
13 -- but conscience doesn't bother them? The
14 organizations, the people, that talk about they
15 have needs? I need charity and I work for -- I
16 made memorials in two synagogues, my son's
17 synagogue and our synagogue for my parents.
18 They don't have graves, so I made them all kind
19 of memorials.

20 And I lecture. I teach in a school for
21 44 years, the same school. I retired four years
22 ago. We have -- this is a Yeshiva. We don't
23 get any pension. And now I work only part time.
24 I teach in junior high, the whole time about the
25 Holocaust. I lecture in (unintelligible) the

1 Holocaust. The week before the Yom Shoah (sic)
2 I go to public schools and I lecture. I do my
3 part and I know that many Holocaust survivors do
4 this. And I need charity.

5 But please, don't, don't check --
6 Honorable Judge, don't take away from us the
7 freedom of choice what to do with our money. We
8 are now treated again like the -- I don't mean
9 to say like in concentration camps -- we have no
10 freedom of choice. Others decide what to do
11 with our money.

12 All those people that talk now, they
13 want to dip into this money. This is not Hesed,
14 you know about the program Hesed? Hesed means
15 kindness and charity when you give from your
16 own, not when you take somebody else's bank
17 accounts. I don't think we --

18 THE COURT: I know. But we're only
19 talking about it and we have to move on because
20 there are a lot of people.

21 MS. FISCHER: Yes.

22 THE COURT: We're only --

23 MS. FISCHER: And the last thing, I
24 don't want -- I don't think even that you have
25 to talk about that. Please forgive me for

1 saying this --

2 THE COURT: I understand.

3 MS. FISCHER: -- and due respect to
4 this institution and to the Honorable Judge and
5 to the master because you are -- all this money
6 that the master so widely allocated for
7 Holocaust survivors and you, Honorable Judge,
8 defended this amount all the time. I know you
9 protected it. Please continue protecting it and
10 give it out only to those that you think that
11 have reasonable doubt -- reasonable proof that
12 have accounts. Even what is left to the --
13 also, in my opinion, be given out to those at
14 least that you are in doubt then send away to
15 those that you are sure that have no income.

16 THE COURT: I understand.

17 MS. FISCHER: This is what I want to
18 ask you. And I thank you for your time and for
19 your attention to this matter.

20 THE COURT: Rabbi Chaim Stauber.

21 Menachem Lubinsky.

22 MR. LUBINSKY: Good afternoon. I'm
23 Menachem Lubinsky, the former president of
24 chairman of the board for the Metropolitan New
25 York Coordinating Counsel on Jewish Property, an

1 agency of UJA Federation of New York and the
2 leading citywide agency addressing the needs of
3 the Jewish needy.

4 Your Honor, I was born just a few short
5 years after the Holocaust. The parents who
6 experienced the horrors of Treblinka, Auschwitz
7 and Bergen-Belsen. I was in a fifth grade class
8 in the Yeshiva and there were only two of 32
9 pupils had grandparents.

10 I experienced first hand the agony and
11 frustration of my late mother's plea to live her
12 later years independently and proudly. These
13 are the same pleas that I hear over and over
14 again from many of the 30,000 survivors who live
15 in Brooklyn.

16 I am here this afternoon in support of
17 helping see an assisted living facility in
18 Borough Park, Brooklyn, home to a significant
19 number of the survivors. This will be a home
20 for those who need care. This will be a home
21 for those who now live in substandard
22 conditions. This will be a home for those who
23 yearn for an understanding a sensitivity of what
24 they endured. And above all, to give them a
25 sense of self-worth.

1 It will be a major center of services,
2 coordinating all of the community services for
3 5,000 Holocaust survivors a year, utilizing some
4 of the best professional care that the community,
5 offers.

6 The survivors are not too old to live
7 in dignity. It's not too late to do justice.
8 They may not have had bank accounts in the Swiss
9 Banks but they lost property to the Nazis who
10 did. They were enslaved by employers who did.
11 They may be in the twilight of their years but
12 never too late to have their needs addressed.

13 They may never live to celebrate the
14 facility's 30th anniversary but they would want
15 their children, people like me who grew up every
16 day with the horrific experiences of their
17 parents to be taken care of in such a facility.

18 They may not be around in a half a
19 century to tell their story but they would be at
20 peace with the notion that this facility to
21 serve the needy for many years to come.

22 I could have helped my mother wish cash
23 but I could not give her what she wanted; a home
24 and services, the camaraderie of friends, the
25 compassion and dignity and understanding of an

1 assisted living facility that would give her
2 some kind of quality of life.

3 Many of her friends today are precisely
4 in that position. They are survivors not
5 because of their experiences of the late '30s
6 and '40s but because they survive every day.
7 They survive in isolation and loneliness.

8 At this stage of their life when they
9 want to be true, they cherish kindness not petty
10 cash. They seek dignity, not a handout. Most
11 of the needy Holocaust survivors would love
12 nothing more than to enjoy the life than an
13 assisted living facility affords but which they
14 can ill-afford.

15 Your Honor, providing the seed money
16 for such a facility is all that the survivors,
17 their children and a cross-section of this
18 community has a consensus, is a priority. The
19 maintenance operations and other future costs
20 will be well taken care of and documented. As a
21 son of Holocaust survivors, as a son of the
22 chief rabbi of Hanover who permitted 32,000
23 surviving women to marry, who oversaw the
24 delivery of meat to the exodus as the Jews were
25 going to Palestine, I greatly understand and

1 appreciate the efforts for the needy of this
2 country, the Former Soviet Union and Israel.
3 But I cannot ignore the cries of those who live
4 within ear shot of this chamber.

5 Your Honor, this is one decision that
6 will earn the respect of the Swiss, the
7 admiration of the community and the gratitude of
8 the needy for generations to come. What will
9 the Swiss think? Senator Schummer put in a
10 letter to you on April 28 and I quote, "In
11 earlier conversations with Attorney Gribetz, who
12 has done a spectacular job under most difficult
13 and intensely emotional circumstances, I express
14 my strong support for this project. Similarly,
15 in conversations with the officers of the Union
16 Bank of Switzerland, a defendant in this action,
17 I detailed my reasons for supporting this
18 facility. I was pleased to receive the bank's
19 enthusiastic endorsement."

20 Please say yes. Thank you.

21 THE COURT: Rabbi Shlomo Besser.

22 RABBI BESSER: Thank you, your Honor,
23 for giving me an opportunity to speak in behalf
24 of our committee, the International Committee
25 for Preservation of Jewish Memorial Sites.

1 You've heard my esteemed friend,
2 Mr. George Klein, as well as Mr. Douglas Lubell,
3 speak about the importance of the work that
4 we're doing.

5 Our organization represents close to
6 15,000 cemeteries and mass grave sites through
7 Eastern Europe and the Former Soviet Union.
8 Earlier, two eminent rabbis, leaders of the
9 communities, the Rabbi Bluja (phonetic) and
10 Matter Defero (phonetic) came here to lend
11 credence to the work that we were doing.

12 Right now in the year 2004, the window
13 of opportunity of saving any of these grave sits
14 is slowly closing. Sixty years after the
15 Holocaust there are very few who still remember
16 the exact placement of many of the unidentified
17 cemeteries. And our work is racing against
18 time.

19 These cemeteries in Eastern Europe
20 represent tens of millions of deceased persons
21 who children were victims of the Holocaust. If
22 not for the Holocaust, these deceased would have
23 been looked after by the local community, the
24 Hebrah Kenesha (phonetic) or by their own
25 children. It is incumbent upon children to look

1 after their parents' resting place.

2 The Jewish religion plays great
3 importance about the reverence and dignity which
4 we afford to the deceased. This is no longer
5 the case with Eastern Europe where the
6 communities have been wiped out and deceased no
7 longer exist.

8 We feel that we carry that particular
9 responsibility. The responsibility to all the
10 Jewish people who perished in Europe before the
11 Holocaust and those who were killed in the war.

12 Irrespective of these Jewish religious
13 observance, we embarked on a sacred mission to
14 give recognition to the hallowed grounds of the
15 mass grave sites and we hope that through our
16 efforts the publicity that we hear today in
17 Brodna (phonetic) or in Wailingness (phonetic)
18 or in East Serve, throughout Eastern Europe
19 where former cemeteries, Jewish cemeteries have
20 turned to football fields and garbage dumps and
21 shopping centers will no longer occur.

22 Several countries have indicated their
23 willingness to participate in the kind of work
24 we're doing but the initiative has to be ours
25 first. The country of Romania and perhaps other

1 countries, as well are prepared to do matching;
2 for every dollar we put in in cemetery reshaping
3 and direction, they are willing to match it.

4 Your Honor has quoted Professor Douglas
5 Katz of Villaness (phonetic) University, as
6 saying that the victims most in need are the
7 residents of the Former Soviet Union. Professor
8 and I met this week. We spent two days together
9 in Prague and he enlisted himself voluntarily in
10 our efforts. He's prepared to travel with me to
11 Belarus and other countries as well, to show
12 where many graves are located, many cemeteries
13 are located. He did this, of course,
14 voluntarily and he's willing to give us his own
15 resources.

16 We, therefore, ask for an allocation to
17 help fund this particular work. Although there
18 is legislation in place today for which
19 supposedly is supposed to protect cemeteries
20 throughout Eastern Europe, that legislation very
21 rarely trickles down to the local level. And
22 most decisions are made in the local municipal
23 level.

24 Today the job for us is formidable but
25 tomorrow it may be impossible. Thank you.

1 THE COURT: Thank you.

2 Michael Lissner.

3 MR. LISSNER: Good evening, your Honor.

4 Thank you for giving us the opportunity to speak,
5 with you today.

6 Just a brief comment. You had
7 mentioned earlier, you were talking about
8 Ambassador Eisenstat and the definition and
9 discussion of double victims. Ambassador
10 Eisenstat is a personal hero of mine and has
11 become a friend.

12 I believe if you look at the history
13 with Ambassador Eisenstat and his relationship
14 to needy survivors in the United States, that
15 his understanding of the needs of survivors in
16 this country has changed quite dramatically over
17 the last two or three years. And I know that
18 he's very hopeful that there will be an
19 allocation of funds for needy survivors in the
20 United States.

21 My name is Michael Lissner and I'm
22 chairman of the board of the Blue Card. Most of
23 our board members and our core volunteers are
24 survivors or children of survivors and recently
25 we have benefitted from the next generation

1 giving us their time and talent.

2 My father's life was saved by the
3 Kinder Transpor (phonetic) and my mother's
4 family avoided the horrors by escaping Germany
5 in 1939.

6 My father-in-law Sol Urbach lost his
7 parents, three brothers and two sisters. He was
8 saved by the German industrialist Oscar
9 Schindler.

10 My mother-in-law fled east from her
11 native Poland and was interred in a Siberian
12 labor camp.

13 Your Honor, there's not a day in our
14 lives that we do not feel the impact of the
15 Shoah. The importance of this proceeding on
16 April 29, 2004 cannot be diminished because
17 today, in this courtroom, it is perhaps the last
18 time that the plight of survivors will be heard
19 in a judicial setting.

20 Your Honor, your ruling calls for
21 residual and unclaimed funds to be allocated to
22 be sure that the largest number of needy
23 survivors can benefit from such funds. Our
24 understanding is that this is a call for
25 organizations which have a broad outreach and

Michael Lissner

1 are able to disburse funds to survivors
2 diminimus diversion of funds for adminis

3 The Blue Card established in 19
4 unique among charitable organizations in
5 United States dedicated to Holocaust su:
6 We do not provide social services. We
7 give tours, lectures or exhibits. And
8 neither a political agenda nor do we ha
9 political connections.

10 It is the Blue Card's sole miss
11 help those survivors who are in immedia
12 and who come to us not by direct applica
13 by referral from social service organiza

14 The Blue Card is the only natio
15 organization in the United States that
16 continuing ongoing direct financial ass
17 to needy Holocaust survivors.

18 Blue Card steps in to assist wh
19 either government or private sources do
20 simply will not provide. Our disburseme
21 needy survivors are used for such essen
22 expenses as paying rent, non-covered me
23 treatment, medication, winter clothing,
24 and other services and items that survi
25 would otherwise have to do without and

covered by a
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1 who if not for the Blue Card would fall through
2 the cracks of the existing U.S. safety net.

3 Your Honor, the Blue Card is precisely
4 the sort of organization referred to in the
5 Court's ruling and we respectfully request your
6 concurrence in determination that the Blue
7 Card's proposal be accepted.

8 Thank you for the courtesy you've
9 extended to us. You told Hanka Hirshaut earlier
10 that you do not have the wisdom of Solomon.
11 But, your Honor, you are in the unenviable
12 position of being our Solomon and you have been
13 shouldered with the burden and responsibility to
14 correct sixty years of injustice.

15 Thank you for your courage and your
16 strength.

17 THE COURT: Jack Biegelman.

18 MR. BIEGELMAN: Honorable Judge Korman,
19 Special Master Gribetz, Professor Newborne, I
20 would like to clarify one thing on the list that
21 you have. You have me listed as a board member
22 of the HSF. I am a board member of the HSSF,
23 which is the Holocaust Survivors of South
24 Florida, William Friedman, president. And I am
25 here to give a few statements to you.

1 I am a Holocaust survivor, presently
2 residing in Broward County, Florida where I am
3 on the board of the Holocaust Survivors of South
4 Florida and also on the board of the Tri-County
5 Holocaust Coalition in South Florida.

6 Our main concern is helping as much as
7 possible a large number of very poor and needy
8 Holocaust survivors. Our coalition works with
9 the Jewish Family Services and the Jewish
10 Federation in South Florida on the east coast.

11 My statements, however, are exclusively
12 my own and I am not voices of opinion of anyone
13 else or any organization that I am associated
14 with.

15 I am very pleased with the Court's
16 decision to allocate all the remaining funds
17 from the Swiss Bank's settlement to the needy
18 Nazi victims of the world. Being a true Jewish
19 survivor of large ghetto, Auschwitz, Birkenau
20 death camp, Blivitch labor camp, and I was
21 liberated at Krachammer (phonetic) in January of
22 1945 by the Russian Army.

23 I personally have difficulties being
24 classified as being just a Nazi victim. A
25 person who could be from any nationality and/or

1 any religion. It was the Jews who were designed
2 by Hitler and his murders, butchers, to
3 exterminate, eliminate from this world the
4 Jewish people.

5 Thanks God that he didn't succeed
6 entirely. If he would have, none of us would be
7 here today. I also must mention that I came
8 here to this country, I was sent as an orphan by
9 the Onrach (phonetic) in Germany. And when I
10 came to the United States, I was aided by the
11 Jewish Children's Bureau.

12 I fortunately had a chance to go to
13 school and get some education that I was a part
14 of for six years. And I also served in the
15 United States Air Force during the Korean
16 conflict. And I'm a Jewish veteran and very
17 proud of it.

18 I have, however, several concerns about
19 the proposed allocated and distribution of the
20 Swiss funds. Mr. Gribetz, Professor Newborne
21 and you, your Honor, have convinced most of us
22 survivors like myself that the Nazi Jewish
23 victims of the Former Soviet Union and Eastern
24 Europe are more needy than the United States
25 survivors.

1 However you have not convinced us that
2 the numbers you quote of this so-called double
3 Nazi victims are true Jews and mostly important,
4 Jewish Holocaust survivors whose funds you are
5 just about to allocate. I don't think you can
6 persuade many of us survivors to think
7 differently.

8 Renown author and columnist Mr. Marvin
9 Shick (phonetic) cited in the Jewish Week, April
10 2 and 9, that the Hesed who distributes the
11 money in the Former Soviet Union and Eastern
12 Europe provided the following data to the
13 Brandeis report. He stated that 44 percent of
14 their clients are not Nazi victims or survivors.
15 The figure could be higher because Hesed
16 services persons as young as 55 years old.
17 Therefore, they cannot be survivors.

18 THE COURT: That doesn't -- the fact
19 that -- that may or may not be true but the fact
20 is that the money that we're giving to the Joint
21 distribution agency is specifically targeted to
22 survivors. In fact, it's only gone to about
23 40,000 people up to this point. And it
24 specifically targeted to survivors.

25 It's true that the Joint doesn't

1 discriminate against Jews who are otherwise
2 needy who are not survivors but this particular
3 money that we're giving them is solely for
4 people who are survivors, who are Jewish
5 survivors. And we take -- gone to extraordinary
6 steps to audit them and to make sure the money
7 is being given in exactly the same way that --
8 in exactly the way that we intend it to be
9 given.

10 So, I mean, I don't know. You know, I
11 can't persuade you here today but I think we
12 could provide you with enough assurance that it
13 may be so that they provide help to people who
14 are not survivors. But this money that we're
15 giving them is solely earmarked for survivors.

16 MR. BIEGELMAN: Thank you, your Honor.
17 I just hope that this is true because I am very
18 much interested in that particular item being
19 true. I just hope so. I have no proof. But I
20 will take your --

21 THE COURT: Also, you know, we're not
22 giving money to people who according to
23 Mr. Shick, you know, spent the war and lived in
24 Asar Bejan (phonetic). That is, who were from
25 Asar Bejan or from parts of Russia that Hitler

1 did not reach it from and who never fled. So,
2 that's also an inaccurate statement.

3 Of course, Hitler occupied the parts of
4 Russia that Hitler occupied, Belarus, the Former
5 Soviet Union, Belarus, the Ukraine, Moldova;
6 they were all areas in which there were huge
7 Jewish populations and I would think that up to
8 2 million Russian Jews who are in Russia or a
9 part of Russia that existed before Hitler
10 invaded, died in the Holocaust. But we're only
11 giving money to people who fit within the
12 definition of survivors.

13 MR. BIEGELMAN: Thank you, your Honor.
14 I just hope so.

15 Also, you mentioned that in the tens of
16 thousands there are Hased clients who are not
17 Jewish, even to the loose definition employed by
18 the JDC. Now, I am just reading whatever I read
19 in the Jewish News.

20 THE COURT: I understand that.

21 MR. BIEGELMAN: However we look at the
22 numbers, a significant proportion of Hased
23 clients are not eligible for excess Swiss fund
24 since such funds are earmarked for Jewish
25 survivors since the depositors at the Swiss

1 Banks were mostly Jewish.

2 This brings up my personal
3 disappointment as to the recent Gribetz
4 calculation and proposed allocation that 75
5 percent will be allocated to the Former Soviet
6 Union and 20.4 to Israel which they deserve for
7 sure, and only 3.7 percent to the United States
8 for needy, proven Holocaust survivors.

9 A most incredible question comes to my
10 mind. Why are these survivors in this great
11 country of ours so undeserving that they receive
12 only 3.7 percent of already small amount of
13 money due to the Swiss Banks's fifty year
14 obstructionism.

15 I presume that Mr. Gribetz did consider
16 the fact that one dollar in the Former Soviet
17 Union buys the same as \$10 in the United States.
18 In spite of the buffers that we in the United
19 States are supposed to have, there are many,
20 many poor and in dire need in medication and
21 home care. Survivors who must be on a waiting
22 list just like in Broward County.

23 I have spoken to the leaders of the
24 agency, Jewish Family Services and also the
25 women who interviewed these survivors for help.

1 And they come up with a figure which is contrary
2 to what everybody here said about especially the
3 United States survivor population, that has more
4 than -- more Soviet Union survivors that are in
5 need of help.

6 I was told that out of 235 clients that
7 they served this year and last year, only three
8 were Soviet Union, Former Soviet Union people.

9 THE COURT: Most of them are
10 concentrated in the New York area.

11 MR. BIEGELMAN: Well, that's very
12 possible. But I am speaking of a county in
13 South Florida that does not have many of the
14 benefits that the New York people have. And I'm
15 just interested in my part of the country where
16 we really need more money than some other
17 country -- parts of the -- because we just need
18 survivors to exist and have a more comfortable
19 life in their old age and all need help,
20 especially the ones that apply for it.

21 We are very fortunate in this country
22 that no one starves to death, as opposed to the
23 Former Soviet Union. But these people already
24 had their problems beforehand. They went
25 through many, many stages of starvation,

1 degradation. I don't have to tell you. It's
2 been told here all day.

3 A most credible question comes to my
4 mind -- oh, I mentioned that.

5 I presume that Mr. Gribetz did consider
6 the fact that one dollar in the Former Soviet
7 Union buys the same as \$10 in the United States.

8 Agencies to do with so little money,
9 what can agencies do with so little money that
10 they get? Should they tell poor and needy
11 survivors in South Florida to go into the
12 streets and beg? All of these clients
13 previously barely held on to their lives and
14 labored enough with the Nazi beast during the
15 Jewish Holocaust just to get a piece of black
16 bread and water it down with a little bit of
17 soup, once or twice a day.

18 Gentlemen, this is completely
19 unnecessary and inhuman in a way in this day and
20 age in this country where hundreds of billions
21 of dollars are available right here and now for
22 the poor and needy Holocaust survivors in this
23 country and other countries like the Former
24 Soviet Union, the Eastern Europe and other
25 countries in the world.

1 Please, your Honor, I hope that
2 whatever decision you make, it should be very
3 prompt. Please make it immediate distribution
4 to all the parties under consideration. I hate
5 to see more of our brothers and sisters tell of
6 survivors dying needlessly before their time
7 because of holding of distribution of the funds
8 that they are -- that is theirs and now
9 available.

10 I thank your Honor and the Court for
11 allowing me to express my personal opinion.
12 Thank you.

13 THE COURT: Lilly Levinson.

14 MS. LEVINSON: My name is Lilly
15 Levinson. I was born in Hungary and the German
16 horrors invaded Hungary on March 19, 1944.
17 Within two months we were put into cattle cars
18 and taken to Auschwitz where I lost my -- where
19 my father lost 99 percent of his family and my
20 mother lost 95 percent of her family. My three
21 sisters and I survived.

22 We were shipped from Auschwitz to
23 Germany to Gleiwitz and Steiger which is 80
24 kilometers from Stubidad (phonetic). We were in
25 the Dagash and Natagarr (phonetic) in Fabri

1 (phonetic), which is a factory like a city in
2 exile. We worked 12 to 14 hours, seven days a
3 week.

4 We, the Jews, were escorted by SS
5 bayonets to the factory. On nice days, we went
6 the short way to the factory and rainy days, the
7 long way. The Russian and the Ukrainian who
8 were in the same factory, had their own clothes
9 and they went unescorted to the factory.

10 We had almost no food and almost no
11 clothing, just a striped seamed dress and an
12 unlined jacket, no hat, no coat, no gloves.
13 And we were there a year in (unintelligible).

14 April 30, 1945, we were liberated by
15 the American army in a cattle car. We were in a
16 cattle car. The day before the International
17 Red Cross arrived and they gave us packages.
18 And it did more harm than good because people
19 started to eat and everybody got sick.

20 But back in the (unintelligible), our
21 camp was adjacent to a French prisoner of war
22 camp. They got packages from home and from the
23 anti-semitic International Red Cross. We, the
24 Jews got nothing.

25 And in reference to what Ramsey Clarke

1 said about the Romanis, in Auschwitz, the
2 Romanis did much better than the Jews. They
3 were living in a family camp with their
4 families, not like we the Jews whose families
5 were almost right away murdered.

6 And another thing, my father had a
7 Swiss account. He put \$10,000 in a Swiss
8 account for his four daughter's dowry. I find
9 many, many papers and I would like to get it
10 back. After sixty years, I would like to get my
11 father's hard earned money back.

12 When I spoke to you, your Honor, two
13 years ago, you promised that you will be fair
14 and I hope so.

15 THE COURT: I'll look into it. Could
16 you leave the name of your father with my law
17 clerk and I'll try and find out?

18 I'm sorry, this is --

19 THE CLERK: We're in touch with her.

20 THE COURT: You're in touch with her?

21 Okay.

22 MS. LEVINSON: I gave Mr. Gribetz my
23 name.

24 THE COURT: Okay.

25 MS. LEVINSON: Okay. Thank you very

1 much.

2 THE COURT: Rabbi Simon Hirschorn and
3 Daniel Reingold.

4 RABBI HIRSCHORN: I'm Rabbi Hirschorn
5 from the Hebrew Home for the Aged in Riverdale
6 and I have to say that I am humbled and stumped
7 by all of this hearing by the scope of -- by the
8 task that you are faced with and I can only hope
9 that you will find additional help and
10 additional wisdom like Solomon did by being able
11 to listen to the birds and understand their
12 language. So, I hope that you will have any
13 help that will be possible for you to deal with
14 this difficult situation.

15 I am reminded not just by the hearing
16 but by reading the recommendations of the
17 situation of an emergency room where the task at
18 hand is to create a triage of who needs the help
19 most at this particular time. And I'm not
20 doubting the need and I'm not questioning the
21 necessity to help the people especially in the
22 Former Soviet Union.

23 And I was troubled, also by the -- what
24 I read on the website, the way of looking -- the
25 approaching of looking at different proposals in

1 terms of costs per survivor. And if I do so, I
2 feel I have very little to say about the fact
3 that a program that might cost \$25,000 per
4 survivor versus a cost that will provide food
5 and housing for someone at a much lower cost,
6 that the priorities will have to go to to the
7 person who needs it.

8 But I want to look at it not from the
9 perspective of an emergency room but I would
10 like to add my words as the rabbi who sits with
11 the people who come to the Hebrew Home. At the
12 time when the elderly survivors join us, they
13 have already suffer from isolation and
14 loneliness and often have serious emotional
15 problems. Most of them used to rely primarily
16 in their own coping mechanism and, therefore,
17 have never sought the professional or social
18 help or pastoral counselors.

19 Generally, the problems have been
20 neglected much too long at the Hebrew Home and
21 so, there are very few services to help. And I
22 know that the services that are reimbursed and
23 the system, the healthcare system of today are
24 limited. And in my eight years at the Hebrew
25 Home, I've seen the need of the Holocaust

1 survivors being -- go far and beyond what the
2 excellent care that we have already provided.

3 And so, I have thought when we were --
4 saw the opportunity to submit a proposal to
5 really look at the needs of the people at the
6 time when they become most vulnerable again, and
7 that is at the end of their lives. So, we've
8 developed a comprehensive care module for
9 Holocaust survivors that if there are any
10 residual funds available, I would like some of
11 that to be used for the survivors at the end of
12 their lives.

13 I know, as I said in the context of an
14 emergency room triage, we might not be the first
15 to be served and we might be the ones in the
16 soon to be served, but when you look at each
17 individual person, you will identify that the
18 needs are there and that they have to be met.

19 We will be looking for other funding.
20 We will be trying to see that these needs are
21 met but we will appreciate in the names of the
22 survivors, of the Hebrew Home if any fund will
23 be possible from your side.

24 Thank you so much for your patience.
25 And if you have any questions of me --

1 THE COURT: NO, I don't have any
2 questions.

3 Farra Chermobilfkaya.

4 MS. CHERMOBILFKAYA: Your Honor, I have ,
5 a prepared speech. First of all, I have a
6 message to you and the message has to be
7 translated because this is in Russian, sent to
8 you a note, a woman, 80 years old. And I would
9 like to read (unintelligible).

10 Your Honor, Mr. Edward Korman --

11 THE COURT: Do you know what? Could I
12 just interrupt you for a minute? Instead of you
13 reading and him translating it, why don't you
14 give it to him and he'll read it to me in
15 English, okay?

16 MS. CHERMOBILFKAYA: Okay.

17 THE COURT: Go to the microphone.

18 MS. CHERMOBILFKAYA: I'm asking you,
19 addressing my concern, I'm hoping for your
20 understanding and I would like you to help me
21 for the rest of my life to be financially
22 independent. I am a survivor of the Bichurer
23 (phonetic) Concentration Camp.

24 The fascists during the first months
25 just ruined my parents house and they took away

1 all assets. I am very thankful to this country,
2 America, for they granted me the status of the
3 refuge, political refugee, as well, as the
4 accepting me into this country.

5 But nevertheless, I've got some
6 problems and concerns. To start with, number
7 one, rent is extremely -- it's very high but
8 it's \$675. That is the reason why I
9 experiencing a lack of the fundings for my
10 sustenance.

11 You see there's the following --
12 there's at list of following expenditures of my
13 home. First, my monthly income, I get an SSI
14 assistance of \$641 and that's it. And plus, I
15 get monthly, \$280 from Germany as a
16 compensation. So, I monthly income all together,
17 total monthly income is \$921.

18 My monthly expenditures are rent, \$675,
19 Cablevision, \$34, gas supply, \$14,
20 transportation \$20, laundry money, \$12. So, all
21 together it comes to the total expenditure per
22 month is \$902.

23 These -- I get monthly, \$140 in food
24 stamps. They last for me just for three weeks.
25 I would like you to know that all food products,

1 as well as clothing I buy in the discounted
2 places and they are give me low quality. I
3 would like to mention that the prices keep on
4 increasing.

5 I almost don't have any money for some
6 kind of recreation, bearing in mind whatever I
7 have shown above, I would like you to consider
8 and to extend me the financial fund for
9 propriety, some rent payment and covering some
10 other expenses for the people for Holocaust
11 survivors as I am.

12 Best wishes -- it's a signature.

13 MS. BELASHKAR: My name is Regina
14 Belashkar. I am former survivors from the
15 concentration camp Pikshuar. It is where
16 Ukrainian near Kubinyetsa (phonetic). It is
17 only one concentration camp in the Ukrainian, no
18 more. The concentration camp stayed all the
19 four years during the war. It was made -- the
20 Germans made it Deskopp (phonetic). The people
21 who were at the concentration camp have only one
22 word about exist, to give (unintelligible). It
23 was a miracle in this state to live.

24 Before the war, we had -- our family
25 had houses and meals to eat. All this was

1 destroyed by Germans. We know that as difficult
2 as (unintelligible).

3 Several of us who are still live feel
4 ourselves damaged by the war. We were taken
5 our youths, our health. Presently many of us
6 are experiencing this national situation in poor
7 living situations. Payment for rent takes the
8 most of our money. And there's nothing, almost
9 left to money of all other meals.

10 I can't wait and wait and wait. I'm a
11 member of the Association of Former Survivors
12 from Former Soviet Union and two years ago, I
13 make an estimate who from the survivors are
14 needed in (unintelligible), who didn't have for
15 subsidized apartment for section 8. It is
16 probably two years ago, it was probably the kids
17 or the families. That's all because there's
18 nothing more. Survivors go away, they pass
19 away.

20 And I estimate how much it may cost if
21 section 8 is froze and not to wait, we don't
22 have time to wait no more. Everybody is of the
23 age 70, 75 or more. It is very nervous who is
24 65 (unintelligible).

25 So we're very much appreciate you to

1 consider (unintelligible) to subsidize
2 apartments for people who need it. It is not
3 much according to the amount, we are
4 (unintelligible) here. If we subsidized -- you,
5 if it's possible, it need only \$2 million a year
6 for all the people of the association for
7 victims. It is less than 350 people. And for
8 all their life, it is probably \$30, \$40 million.

9 According to this amount, it is
10 nothing. It is nothing. It is for food and
11 life. It's for our whole life because we can't
12 wait for it. Rent is \$670. I have not the best
13 apartment. It's not a good apartment. It's
14 very cheap. And I go to -- better, I need \$800,
15 \$900 a month. And my rent today is more than 80
16 percent, show my -- through my money, I have --
17 if I divide -- if I plus my SSI and my German
18 compensation, it's more than 80 percent and
19 nothing is left for eat.

20 Thank you for taking into consideration
21 our -- what we are -- talk to you and the
22 expenses. Please help us. Thank you very much.

23 And I would like to show you, this is a
24 picture in memory of the first of the
25 concentration camp is blessing, you know? I try

1 to go to the library. I didn't find any
2 material about the concentration camp pictures.

3 And they finish about 15,000 people
4 lived at this concentration camp or more or
5 less. I don't know. Because there's no
6 statistics and there are no information. Every
7 people were -- most people (unintelligible).
8 Everybody need to improve their health
9 conditions.

10 Thank you very much.

11 THE COURT: Thank you.

12 Michael Krauthammer.

13 Veronica Rendon.

14 MS. RENDON: Good evening, your Honor.

15 My name is Veronica Rendon and I'm with the law
16 firm of Peligree and Friese (phonetic) and I'm
17 representing on a pro bono basis the Very Bonc
18 Schwitzer Fiduciary Pursigan (phonetic), The
19 Association of Swiss-Jewish Welfare. I speak on
20 behalf of that association, as well as the
21 principal, Doris Krauthammer and her son,
22 Michael.

23 The association is the welfare arm or
24 the umbrella organization of the Swiss Jewish
25 congregations. And it serves the Jewish

1 community of 18,000 Jews located in Switzerland.
2 The mission of the association is to provide
3 assistance to indigent individuals within that
4 community who do not have funds to provide for
5 the most basic needs, their basic living needs.

6 Within that community, there are 105
7 survivors of the Holocaust who require
8 assistance, again, assistance to meet their most
9 basic living needs; clothes, food, rent, medical
10 assistance and that is the subject of the first
11 proposal that was submitted to you by the
12 association.

13 There was also a second proposal for
14 funds to the extent that such funds exist for
15 allocation and that was to assist 20 elderly
16 Holocaust survivors currently located in Bosnia
17 for desperate circumstances and who the
18 association would like to relocate to a nursing
19 home facility in Switzerland. I'll focus on the
20 two proposals in turn, keeping in mind the time
21 that we're at in the evening.

22 The first proposal, again is to assist
23 105 indigent Holocaust survivors located in
24 Switzerland and the money that we would request
25 would be to help them meet their most basic

1 living needs. The specific amount that the
2 association has requested is \$500 Swiss francs
3 per month which translates into \$385 American
4 dollars per month per survivor.

5 Let me tell you a little bit about the
6 survivors that were making the request on behalf
7 of. These individuals are Holocaust survivors
8 who emigrated to Switzerland during the 1950s,
9 '60s and '70s. They fled from the Eastern
10 European countries from Poland, Russia,
11 Czechoslovakia and Hungary.

12 They are all aged and are either in
13 retirement or close thereto and all of them fall
14 below the Swiss poverty line. Now, the monthly
15 income that they receive primarily through the
16 Swiss pension funds that go to them every months
17 and all other entitlement programs including
18 local assistance that they receives, they have
19 an approximate monthly income of only \$1,850 a
20 month. And many of them receive considerably
21 less than that.

22 And that's just not enough to get by in
23 Switzerland. The Swiss sustenance minimum level
24 varies from about \$2,200 to \$2,500 a month for a
25 single person depending upon where they live.

1 So, there is a shortfall of approximately \$350
2 to \$1,000 American dollars a month.

3 The association has requested an
4 allocation to the extent that such an allocation
5 would be possible of \$385 a month or translated
6 into Swiss francs, \$500 in Swiss months a month
7 per survivor.

8 And that shortfall again is for the
9 most basic living needs of these Holocaust
10 survivors. It would be money to compensate them
11 to meet their rent for their apartments and they
12 are modest apartments that we're talking about,
13 so that they can buy food, clothes and provide
14 themselves with healthcare.

15 There is, in Switzerland a healthcare
16 program that is sponsored by the government.
17 However, it does not cover dental care. It does
18 not cover certain medical procedures. It
19 provides very little bit for home house care or
20 excuse me, home health care and as the
21 population ages, all of those needs increase.
22 Also, there's psychological care that's covered
23 by the funds that were seeking.

24 The association has been desperate,
25 especially in the past five years to help these

1 individuals. They've been working with a
2 shortfall of at least \$385 a month and they have
3 funding of only \$56,000 annually to commit.

4 They've sought contributions from the
5 government, from private organizations and
6 institutions and they've been lucky enough
7 through making those types of solicitations to
8 make ends meet.

9 But given a down turn in Swiss economy
10 over the past five years, there's been a
11 significant decrease in charitable contributions
12 that have been made to the association.

13 And so, it has become increasingly
14 difficult as this group of 105 -- to help this
15 group of 105 survivors.

16 We believe that the needs that would be
17 covered by the amounts that we're requesting are
18 met -- excuse me, meet the priorities identified
19 by Special Master Gribetz.

20 The money again goes to this provision
21 of food, for winter relief in Switzerland, for
22 emergency financial assistance, for unexpected
23 and unaffordable expenses, for medical needs,
24 for rent, for utility, to provide home health
25 care and other assistance.

1 And so, your Honor, I would
2 respectfully request that the association be
3 granted the money that it seeks. That is for
4 the first proposal.

5 And all I would like to stress is
6 again is these are survivors of the Holocaust
7 and the money that would be given to the agency
8 should the request be given, should the request
9 be met, would go directly to these individuals
10 for their basic living needs.

11 The second proposal of the
12 association is to support 20 Holocaust victims
13 and relocate them from Bosnia, where they are
14 right now. Living conditions are intolerable.
15 And bring them to an old person's home in
16 Switzerland to provide them with their money to
17 meet their livelihood for the next coming years
18 of their life. That money that we seek, we're
19 hopeful for, we have explored it and we submit a
20 written proposal on both of these requests to
21 you. And we just ask that your Honor give
22 consideration to our request to the extent
23 possible, to help these needy, needy
24 individuals.

25 Thank you, your Honor.

1 THE COURT: David Mischievous. Is
2 there a David Mischievous here?

3 Moses Scharf? Is there a Moses Scharf
4 here?

5 Bill Swartz.

6 MR. SWARTZ: May it please the Court, I
7 am pleased and privileged to present the
8 proposal of the Syns School of Business of
9 Yeshiva University. With me today is Professor
10 Jim Robin of the faculty of the Syns School who
11 is one of the architects of the proposal, as
12 well.

13 Sitting here and listening to various
14 proposals, one is, of course, very deeply moved
15 by the very passionate and very eloquent
16 presentation of the needs of various
17 constituencies and groups. In fact, it gives
18 new meaning to a phrase that appears in the
19 liturgy of my faith, the needs of your people
20 are extremely great.

21 And I'm also cognizant of the reality
22 that the Judge is faced, your Honor is faced
23 with this dilemma of allocating amongst truly
24 deserving causes on all sides. And your big
25 dilemma today is how do you resolve it? How do

1 you resolve the issue of allocation?

2 I believe that the proposal of the Syns
3 school responds to that dilemma. The dilemma
4 arises because the resources available for
5 distribution are, of course, finite and limited.
6 That's the need that the referee, obviously took
7 note of by trying to establish categories and
8 prioritizing.

9 What I am suggesting is that the
10 proposal of the Syns school responds to that
11 because it seeks not only to preserve the
12 historical truth, which is extremely important
13 in itself, but beyond preserving the historical
14 truth, we believe that it provides the
15 opportunity to create and generate the very
16 significant source of funds, additional funds
17 which would then be available to all of these
18 very needy organizations.

19 So, although it does not directly and
20 immediately flow to survivors, it will create a
21 pool or reservoir of funds, which will hopefully
22 meet all of those needs.

23 How will it do so? The fact of life is
24 that one noted life insurance expert, Professor
25 Joseph Bell estimated that insurance claims, and

1 notice the Syns proposal relates to insurance
2 claims which hasn't really been touched upon
3 much today, but the insurance plan, he talked
4 only of life insurance. Holocaust related
5 insurance, life insurance claims, would exceed
6 \$200 million in back -- that's Bell's estimate.

7 Bell himself conceded that in reaching
8 that number, he didn't include any property
9 claims. He didn't include, for example, the
10 economic value that, for example, a policyholder
11 who is a shareholder, in essence, of a mutual
12 insurance company would have and would be
13 deriving from the growth of the investment
14 portfolio of that particular insurance company.

15 He limited his estimate solely and
16 exclusively to the value of claims. And he
17 didn't include property claims. And he took a
18 very, very conservative compounding interest
19 rate. And so that the researchers at the Syns
20 school in the course of preparing their draft
21 proposal which has been submitted to your Honor,
22 they've actually come up with an estimate that
23 if these claims were to be vigorously pursued,
24 the result would be an amount well in excess of
25 \$500 billion which would go a long way,

1 hopefully, if that fund could be available to
2 dissipate and ameliorate the crunch that is
3 created by these conflicting, very deserving,
4 conflicting claims. And you wouldn't be as he
5 said, with the same issues of allocation as you
6 are today.

7 So, we believe that this proposal is
8 very meritorious, not only because it will help
9 us preserve the historical truth, which is
10 important, but beyond that, it will provide a
11 very valuable base of information and data which
12 will relate, for example, to the assets of the
13 companies, the life insurance companies, the
14 owners of the companies, the nature of the
15 insurance policies, the terms of those policies,
16 which will respond not just to a nepharial or
17 abstract question but to very practical
18 questions.

19 For example, the issue, how does one go
20 about achieving and asserting jurisdiction over
21 foreign companies? And we believe that these
22 types of research projects that are envisioned
23 here for gathering and assemblage of that data
24 will provide sufficient and very important
25 information with respect to that issue of

1 personal jurisdiction.

2 And so, we respectfully submit that
3 this is the proposal that is unique. We don't
4 believe any other proposal that we've heard
5 today relates to the same thrust and purpose.
6 It provides really leverage to use limited funds
7 but for the purpose of creating a much
8 hopefully, much larger source of funds which
9 could be used to solve the problems of all of
10 these organizations and really mitigate,
11 ameliorate and alleviate your Honor's problems
12 of allocation.

13 THE COURT: Could I ask you to refresh
14 my recollection, how much are you asking for?
15 How much is this program going to cost?

16 MR. SWARTZ: I believe the proposal is
17 in the range of \$8 million.

18 THE COURT: Okay.

19 MR. SWARTZ: Thank you, your Honor.

20 THE COURT: Thank you.

21 MR. SWARTZ: Do you have any further
22 questions?

23 MR. SWARTZ: No.

24 THE COURT: Iza Katza.

25 MR. KATZA: Good evening.

1 The contribution of the
2 (unintelligible) is a lot of work. I see you
3 have a lot of support today. I am Iza Kata
4 (unintelligible). Now I am here and I am the
5 president of the Association of Holocaust
6 Survivors from the Former Soviet Union here in
7 New York.

8 And I do work in (unintelligible) for
9 family (unintelligible). Everybody was killed.
10 I am myself here and I am a doctor and I am here
11 and I represent my Holocaust survivors and I
12 never did not worry for myself for some money,
13 you know? I don't want to talk about money.
14 This is -- I think that you know what to do.
15 But the papers that I received when I saw a lot
16 of organizations but they have nothing to do
17 with the area of the Holocaust and they send
18 their proposals. And everybody wants to have a
19 piece of cake. But our organization is from a
20 very, very bad situation. And our people are
21 very poor people. (unintelligible) come to the
22 United States and they each have 70 -- and they
23 are people, now the youngest is 70, the oldest
24 woman is (unintelligible).

25 Your Honor, you know exactly and I hear

1 also the explanation what is the needs of our
2 people but what is bothering me, this is the
3 relationship between organizations, in the -- to
4 the Holocaust survivors in the Former Soviet
5 Union.

6 What we talk about this on the -- on
7 our board and we come to a decision that
8 everything it's okay, it's enough money for
9 everybody, it's not necessary to see that the
10 Holocaust survivors from the Former Soviet
11 Union, they don't need help. I want to tell you
12 thank you very much for saying really what you
13 said that the Holocaust survivors in the Former
14 Soviet Union now, they are in very bad situation
15 and we sent the proposition to help them because
16 I was there in '98 and I saw with my eyes what
17 the situation is they live there; the Holocaust
18 survivors and not the Holocaust survivors, the
19 Jews but they remain there in the Former Soviet
20 Union.

21 It's a big mitzvah to help them and do
22 everything to -- what is possible to do for
23 them. Together with this, I would like to say
24 that the majority of the Holocaust survivors are
25 in Israel. It's ----- the statistic from 2000

1 shows that in Israel is 47.8 percent of
2 Holocaust survivors. In the U.S. in 2000, it
3 was 16 to maybe 18, maybe 20 percent of
4 Holocaust were here. And the Former Soviet
5 Union is 13.4 percent of Holocaust survivors.

6 I am talking about this, I think that
7 there to be inquiry for all Holocaust survivors
8 in this -- not -- you know, it's -- what I saw
9 today, you know, a lot of people in majority
10 from Florida, they -- it's a big
11 (unintelligible) between these people, the
12 American but they are here sixty years. Our
13 people come to the United States when they are
14 in their big -- their high age. Everybody when
15 they come to United States, it was 60s, 65, 70.
16 He didn't have businesses and didn't make money
17 and didn't -- the situation here and the
18 situation there for the Holocaust survivors from
19 the Former Soviet Union, it's very, very
20 different.

21 And would like to tell you that we also
22 have problems, discrimination between the
23 (unintelligible) like the Yabassin (phonetic)
24 like the museum in Washington, the Holocaust
25 museum, they want to save the history of the

1 Holocaust and they territory of the Former
2 Soviet Union because it was there -- they
3 recruit a lot of people. When the Germans cross
4 the borders from the Soviet Union, then it's
5 time to help us because they started to kill lots
6 of people.

7 It was in this site, the European site,
8 it was to get us but it was not -- it's only
9 people killed like it was every day it was
10 killed. In June, 150 people, 100 per day in
11 every place. I can give you the statistics to
12 show you how many people it was killed in every
13 month, in every place in the Former Soviet
14 Union.

15 Do you know that the 29th of September
16 is (unintelligible), was killed 33,700 people in
17 two days. You know, everybody knows what is the
18 horror thing of it. But not everybody knows
19 what is going on in the territory of the Former
20 Soviet Union because it was hundreds and
21 hundreds of (unintelligible) gas. And because
22 of this, we won't be -- want to ask to help us
23 to straighten the history of what it was in the
24 Former Soviet Union.

25 We intimately ask to be counted to be

1 here because we have to save more and to make
2 exposition. And this will be for the research
3 for the start for the next generation to learn
4 about this -- what this was and then it will be
5 a good example for the demise of the Holocaust
6 because they can see what it was done there
7 also.

8 I don't want talk too much. I sent the
9 proposals and I am asking you to help us in this
10 because it's very important matter.

11 Thank you very much. Thank you.

12 THE COURT: Mrs. Rosa Spitz.

13 MS. SPITZ: Good evening and thank you
14 very much for giving me the chance to talk.

15 Judge Korman, I am hear to present
16 my own case. I was all over Senator
17 D'Amato. I was one of the six
18 witnesses. My father was very well to
19 do person in Eastern Europe in
20 Czechoslovakia. We had four children.
21 I was orphaned by my mother when I was
22 five years old. He took care of us.
23 And he took money to Serge by a
24 representative of Schriber and he took
25 it to Swiss Banks for every child and

1 for myself.

2 I have various papers which I got the
3 letter that they found a substantial match to my
4 claim and because promises going on and on,
5 until this day I have not received. And now--

6 THE COURT: Have you been in touch with
7 Judah Gribetz who is over here? Have you --

8 MR. GRIBETZ: No, we haven't been in
9 touch.

10 THE COURT: Why don't you talk to him
11 about this?

12 MS. SPITZ: Pardon me?

13 THE COURT: Why don't you talk to Judah
14 Gribetz about this problem?

15 MR. GRIBETZ: So, we can try to help
16 you.

17 THE COURT: Yes.

18 MS. SPITZ: Thank you very much.

19 THE COURT: Okay.

20 Moses Sharp.

21 MR. SHARP: Good evening,
22 your Honor, Judge Korman.

23 My name is Moses Sharp. I am the owner
24 of a Charitable Living at 1410 10th Street in
25 Brooklyn.

1 My family has been a leader in the
2 elder care field since 1954 starting with my
3 grandparents, who were Holocaust survivors and
4 (unintelligible), my parents and his -- and my
5 uncles.

6 I have come here today to appeal to you
7 on behalf of needy survivors of the Holocaust
8 who have now reached the age we call senior
9 years, retirement years, golden years; each a
10 different way of saying old age.

11 They are our fathers, mothers, uncles,
12 aunts, cousins, friends, neighbors and loved
13 ones who should be living out the remaining
14 years of their life in dignity, independently,
15 as active, vibrant individuals, contributors to
16 society from the wealth of the knowledge and
17 life experience that they have accumulated,
18 looking forward to each day as an experience
19 with anticipation and good cheer.

20 Instead, they are living out their
21 remaining years alone, shut-ins, prisoners in
22 their own homes or apartments in need of social,
23 emotional and monetary support.

24 Family members, friends, neighbors,
25 caregivers and social workers may visit

1 occasionally. They may go out during the day,
2 weather permitting to do some shopping or to a
3 day care center.

4 However, even if they are fortunate
5 enough to have a spouse, they are still isolated
6 and alone. They are dependent on the minute
7 support team to provide a limited amount of life
8 and happiness support.

9 Even if all the visits or outings I
10 mentioned would be a daily occurrence, and they
11 are not, this would fill an hour of the day, at
12 most.

13 What about the rest of the day?
14 Inclement weather, the evening. Everyone
15 involved is guilt-ridden, the visitors because
16 they have to leave and the visitors, the stay at
17 home seniors who don't want to visitors to
18 leave. The visits come a negative and awkward
19 experience. The seniors don't want to impose to
20 become a burden, so they isolate themselves
21 further. Depression sets in and their health
22 starts to decline.

23 This is not dignity. This is not
24 active. This is not vibrant. What it is once
25 again survival. They are surviving again

1 depending again on others for their survival.

2 However, for those survivors who can
3 afford to live in assisted living facilities
4 life is different. They live an active life
5 with dignity and in dependence, receiving the
6 assistance they need, the life enhancing
7 support.

8 Housekeeping and other chores are not
9 part of one's daily routine. But a meal shared
10 at a table with a friend is. So are interesting
11 discussions that force an opportunity to express
12 themselves to be heard, to share their
13 experiences of youth and all topics. So are
14 walks and outings.

15 Visits with family and friends are a
16 pleasure for all. Visitors come and bring the
17 children, grandchildren and great grandchildren
18 to visit, the Zavi, the bubbi, uncles and aunts
19 and friends and neighbor, children, young and
20 old come at all times, at every opportunity,
21 even for a drop by while out during errands.

22 Their visits are enjoyable, a pleasure,
23 an opportunity to spend time with their loved
24 ones. Asking the question, how did you spend
25 your day and how do you feel is answered with a

1 description of activities participated in, a
2 lecture that was heard, an engaging conversation
3 they had an entertaining show, a concert they
4 saw. It's not a long winded description of
5 those of complaints.

6 Go to schull (sic) three times a day or
7 the shavitz, not depends on weather or an
8 escort. There is a synagogue on site. I
9 welcome anyone to visit one of the existing
10 facilities and with the lifestyles that the
11 guests live.

12 Survivors now make up one-third of the
13 population in the two assisted living facilities
14 in Flatbush community and almost 100 percent in
15 the Borough Park community with a total capacity
16 of close to 500.

17 There are, however, many who cannot
18 afford this expense. I stand here before you
19 today to propose that monies from the Swiss
20 settlement funds and the Claims Conference be
21 dedicated to establish a fund to make assisted
22 living affordable for all survivors. By
23 creating a fund to make assisted living
24 affordable to all survivors, this court will
25 address one of the most pressing issues facing

1 the community of survivors.

2 The money should be apportioned and
3 given directly to survivors and subsidize their
4 stay in assisted living facility of their choice ,
5 in the community of their choice. Monies that
6 are distributed to agencies, institutions, to
7 care for elderly Holocaust survivors takes away
8 the survivors freedom of choice, their dignity
9 of feeling of self-worth. It causes resentment
10 and ill-will.

11 Do not again take away their self-
12 respect by making them dependent on assistance
13 or the good will of others.

14 Funds should go directly to the
15 survivors. There is no need to build a new
16 facility for the future. The need is now to
17 help support the survivors. I also wish to
18 respectfully remind the Court that time is
19 short. We need to act now.

20 THE COURT: Thank you.

21 MS. SPITZ: Thank you very much.

22 THE COURT: I've gotten through the
23 list of everybody who signed up to speak and I
24 can give -- I have approximately eight people
25 who I can give about -- I can give the next

1 remaining speakers, I could give you five
2 minutes each.

3 Eva Price.

4 MS. WEISSMAN: I was on the list but I
5 am not called.

6 THE COURT: I'm sorry?

7 MS. WEISSMAN: I signed up. Why wasn't
8 I called?

9 THE COURT: Well, let me give -- is Eva
10 Price here?

11 All right. Who are you?

12 MR. BLOSTHYN: Thazer Blosthyn.

13 THE COURT: Okay. And you are?

14 MS. WEISSMAN: Weissman.

15 THE COURT: Well, you're not -- I
16 haven't gotten to you yet.

17 MS. WEISSMAN: I don't know why.

18 THE COURT: Because you're not -- you
19 signed up --

20 THE CLERK: You're at the end of the
21 list.

22 THE COURT: You're at the of the list.

23 MR. WEISSMAN: I'm at the end of the
24 list.

25 THE CLERK: I explained to you before

1 you were at the end of the list.

2 MR. WEISSMAN: Okay, (unintelligible).

3 THE COURT: Anna Topfic (phonetic). I
4 just want to see who is here?

5 Sylvia Richstein?

6 MS. RICHSTEIN: I'm here. Thank you
7 very much for letting me speak.

8 I had no idea I am coming here. I am
9 usually sick and at home. I have -- I belong to
10 several categories the people talked about
11 today. My grandfather was the head of the
12 community in Chernovik, Bokovina (phonetic). I
13 don't know if many people know what it was.

14 I cried not only what happened to the
15 people but Chernovik was the capital of the most
16 eastern corridor of Austria. It was called
17 Clyvede (phonetic) and since Second World War,
18 it does not really exist. Ninety percent of the
19 people were Jewish people, upper middle class
20 people.

21 The ones that survived are mostly in
22 Israel, a few are here. The rest don't exist.
23 Their stores, their buildings still -- destroyed
24 in Germany but the soul of the city isn't more.
25 I don't know if the Judge has heard of two nobel

1 prize winners in literature, one was Polsalan
2 (phonetic), who came from Calvary and the other
3 is in Israel right now, Apathack (phonetic).
4 I'm only speaking because our city was the city ,
5 of books, the city of culture, not just the city
6 of wealth.

7 As I said, my grandfather was one of
8 the very wealthy people. He was the head of the
9 community. He was the head of the synagogue.
10 He had a hizmake (phonetic) from the Yeshiva and
11 he also finished university.

12 In our city, everybody spoke German.
13 The other thing that hurts me so very much is
14 when the Nazis came, they told us that our land
15 of home is poisoning their language.

16 Today, I think if I had Alzheimer, the
17 only thing I would remember are my first poems
18 of a reader or whatever and it is in Germany,
19 unfortunately.

20 I am here because my grandfather who
21 was a very wealthy man put \$18,000
22 (unintelligible) in a Swiss Bank account for
23 each of his grandchildren. We were four at the
24 time. We had a very big house where each of his
25 five children lived and 17 people that he rented

1 out and I have here a picture of the house in
2 case the Court is interested. I have other
3 pictures of our city which if anybody had been
4 to Vienna and as I say, it was called Clyvee.

5 I don't know right now how I can get to
6 the money that my grandfather put in my name and
7 also had in his name.

8 THE COURT: Have you filed a claim?

9 MS. RICHSTEIN: Please?

10 THE COURT: Have you filed a claim?

11 MS. RICHSTEIN: My father is --

12 THE COURT: No.

13 MS. RICHSTEIN: My father also had
14 money.

15 THE COURT: Your father --

16 MS. RICHSTEIN: Yes, but --

17 THE COURT: Have you filed a claim for
18 the money?

19 MS. RICHSTEIN: A long time ago. I
20 haven't heard anything about it. But I had the
21 dubious, how should I say -- I have been robbed
22 by the Swiss twice because I didn't come to the
23 United States as a refugee, as a poor person.
24 My father and my uncle went first time is in
25 Austria and my father's dream was always to go

1 to Israel and when we could, when we finally
2 escaped the hell that the Germans and the Stalin
3 court to us, in 1950 we came to Israel.

4 It's kind of (unintelligible). We were
5 next to go with nothing. We only had our life.
6 During the war, the youngest brother of my
7 mother, a week before the war started was taken
8 to Siberia. I forgot to tell you that Hitler
9 gave us to Stalin a year before the war started.
10 And a week before the war started, June 13,
11 1941, my youngest uncle was a doctor in law from
12 Hierbank when finished, was sent with 2,500
13 others in the middle of the night to Siberia
14 where he was one of the very, very few
15 survivors. And also a very good friend -- is
16 this the time for me?

17 THE COURT: No, I'm just scratching my
18 shoulder.

19 MS. RICHSTEIN: Oh, a very good friend
20 of mine, Carries a very good friend, she's
21 older, was taken, too. She survived fifty years
22 of Siberia in (unintelligible) Germany. I think
23 now she's in Russia, too. Anyway, and so we
24 have -- she brought me pictures that she took in
25 the middle of the night, books and pictures she

1 took, not other important things.

2 But what I wanted to say is when we
3 came to Israel, we were very happy, although we
4 had nothing. And my father, a lawyer, who
5 besides being in concentration camp, a slave
6 labor, went -- and that's the only labor he ever
7 did, came back with 90 pounds, came and said he
8 wants to work the earth, went to a kibbutz. But
9 they looked at him and they looked at his hands
10 and they said I don't think you are material for
11 kibbutz. Do you have sons? And he said no, I
12 have two daughters. And when they saw us, they
13 said we are not material for a kibbutz.

14 But I'm telling you this because during
15 the time, during the Nazis, the first thing they
16 did when we came, we were the first at the
17 border, we were the most western part, when the
18 Nazis came like six days after the war, the
19 first thing they did, they rounded up -- they
20 had rabbi, they had (unintelligible) my
21 grandfather and other rich people, they took
22 them to our river, Kaput (phonetic). They let
23 them take -- them let them take off their
24 clothes and they shot them in the back.

25 A friend of my father's who was between

1 those people, they let like ten people go and
2 said now one and ten the others. And they shot
3 them in the back and they came and told us.

4 The other friends of my father who also ,
5 started (unintelligible), my father was an
6 Austrian officer, by the way, had a gun and they
7 asked what should we? Shall we right now go
8 against the Nazis? We're few and they're going
9 to smash us, one, two, three. Shall we run
10 away? There is no place in Europe left to run.
11 We will do passive resistance. And I remember,
12 I called my uncle, he was the best friend of my
13 father, Ushtaati Timberline (phonetic), and he
14 said some of us will for sure survive, most of
15 us will perish. But some of us will survive.
16 He was one that was taken in '42 to a place
17 nobody has ever mentioned here or with the book,
18 where there was a strong, what do you call it,
19 career at the piazza where they let them work
20 the store where they have all the Nazis was a
21 former colleague of my uncle. So, he made him a
22 supervisor.

23 To make the story short, when the
24 Russians came near, the supervisor got the order
25 to shoot them all and as a good gesture, he

1 killed my uncle and the two daughters which were
2 friends of my sister and mine, more like
3 sisters, they were shot blast. For a year when
4 I heard it, I dreamt there was a miracle and the
5 two girls came back.

6 I just read a book by a Mr. Roman
7 Trista (phonetic) who, this boy was born in
8 Poland but also in the Austrian part of Poland
9 who writes that everybody speaks about 6 million
10 people who died but nobody speaks about the
11 survivors, who although they survived
12 physically, their soul was destroyed during that
13 time.

14 I don't think any of the real Holocaust
15 survivors have managed to come out with a whole
16 soul. I don't think there is one of them.

17 And now I would like to tell you that
18 the Swiss not only robbed me once but they
19 robbed me a second time because when I was in
20 Israel, I managed to go to university and study
21 history and theology. I worked for the treasury
22 department as an assistant on torah and my
23 father was the right hand of the first state
24 controller in Israel, a very high distinction,
25 very little money but he was very happy.

1 And I love Israel very much, although
2 the first we had to stay in tents and I don't
3 want to talk about it. It was very difficult.
4 But we were so happy not to hear Dirty Jew any
5 more.

6 After several years though, I met my
7 husband who came from Poland had been in six --
8 six years in all the concentration camps and had
9 survived. And he -- we got married and I didn't
10 want to come to the United States. Whoever
11 survived from my city, as I said, is in Israel
12 and I didn't speak English and I never wanted to
13 come to the United States but he persuaded me to
14 come and that after two years, he was a very,
15 very, gifted man. He had I, believe, a 200 IQ.
16 He could sell the Brooklyn Bridge even to you,
17 Honorable Judge.

18 THE COURT: He wouldn't need a 200 IQ
19 to do that.

20 MS. RICHSTEIN: I think so. I never
21 met anybody who really he was so talented in
22 putting his views on somebody else. It was so
23 easy. Anyway --

24 THE COURT: Tell me how the Swiss --

25 MS. RICHSTEIN: Please?

1 THE COURT: Tell me how the Swiss
2 cheated you a second time.

3 MS. RICHSTEIN: When my husband died,
4 he had \$5 million in Swiss account. Since 1972,
5 he had the Swiss account there in his own name.
6 I was a beneficiary and after his death, I was
7 named also the administrator of the account
8 because the Swiss said there is reciprocity
9 between New York and Switzerland.

10 But I didn't want to immediately give
11 me -- I had the account number, you know, how
12 much it was there. I had to be the
13 administrator there, too a year.

14 And now I want to come to the crux of
15 the matter because the Swiss Bank had a branch
16 here and as a matter of having a branch here,
17 the jurisdiction of New York State fell over the
18 Swiss Bank. And the moment that I have the
19 papers with all the stamps that I was the
20 administrator of the account, I faxed and
21 telefaxed, whatever it was at that time in '85,
22 to Swiss and I also gave it here to the legal
23 department and I didn't hear from them for a
24 while. I had in Switzerland a lawyer, I had it
25 in Austria when my husband, a lawyer, I had here

1 a lawyer, I had in Canada a layer, and in
2 Israel a lawyer and every place a lawyer.

3 But after a month, they wrote back my
4 husband was not a New York citizen or whatever,
5 he was some place in Spain and they are not
6 going to give me anything. And I went to the
7 best international lawyers, most of them were
8 Swiss Bank lawyers, they hired everybody here
9 and they had the best lawyers. But finally,
10 asked for \$250,000 which I did not have. And
11 so, I never got any papers from Switzerland.

12 When Senator D'Amato started his thing
13 in 1997, I went there and I went to one of the
14 lawyers and I started bombarding telephone --
15 with telephone and faxes and lucky, I speak
16 seven languages and naturally, German and French
17 between them. And so the account was in
18 (unintelligible). And naturally I got back
19 papers afterward.

20 And it is so obvious, they did it in
21 such a way, it's really not even funny that they
22 took the money but I never saw it because I
23 don't have money to hire a \$200,000 lawyer.

24 So, you see in front of you, I came
25 here married to a millionaire. I, my husband

1 wanted to buy something, want outside the city,
2 so I live on the upper east side now, look at
3 me. This is the face of, I wouldn't, even say
4 needy, I'm destitute. I don't have a penny to
5 my name. I only have \$5,000 in debt.

6 For some reason, I get \$750 a month in
7 social security. I worked here. My husband
8 worked here. He gave 300 other people work
9 here. We pay taxes. I was one of the big
10 donors and the people who gave money to UJA and
11 Hadassah and I am here.

12 I went back to university here, too.
13 Here I got my gold medal in economics and
14 business administration. I worked here but I
15 didn't think I had to save. I had millionaire
16 husband, right?

17 Now, I got sick after my husband died
18 and I didn't get any penny and I get \$750 a
19 month. My rent approximately is \$900 and right
20 now, in a way, I have to tell the Court, I don't
21 know in an ironic way I am happy that I am in
22 this way because I knew people from this side of
23 the table when they always were so nice to take
24 money from me and to get everything I could give
25 and now when I need any assistance, I get to see

1 the people from the other way. And I think
2 somebody has to start seeing what's going on
3 with all of those non-profits.

4 Here was a lawyer by the name of
5 Lissner who spoke to you about Blue Card. Would
6 you like to know what Blue Card did to me last
7 year when I was in big trouble? I was very,
8 very sick and the way that I can live in my
9 apartment is by sharing my apartment for many,
10 many years. And when I didn't have anybody to
11 share the apartment and couldn't pay the rent, I
12 went to Blue Card, instead of giving me any
13 help, they called up protective agency for
14 adults saying that I am not able to think
15 anymore.

16 THE COURT: I have to --

17 MS. RICHSTEIN: And do you know who did
18 that?

19 THE COURT: I really have to stop you
20 because there other people want to talk.

21 MS. RICHSTEIN: Okay. I understand
22 that.

23 THE COURT: And it's getting late.

24 MS. RICHSTEIN: I just want to -- I
25 have heard, I want to tell you that if anybody

1 gives out medal, you should get one for
2 patience, and a second one for a very big heart.

3 THE COURT: Thank you.

4 MS. RICHSTEIN: And for a wonderful
5 brain. The German did one thing good, they
6 don't gave money to organizations, they gave
7 money directly to people. And I believe that
8 the Judge will find it in his heart to give
9 money to the people who are really, really
10 needy.

11 But before I go away, I just want to
12 say something. I heard a lot of people speak
13 about survivors. All people who are 70 and 80
14 and 90 are survivors. But we are Holocaust
15 survivors and the people in Russia, excuse me,
16 are Stalin survivors. The Russians didn't let
17 any Jewish people back. They took them to
18 Cabastan to Yubekastan (phonetic), they took
19 them Siberia, nobody was left. Whoever was left
20 was killed by the Germans.

21 Now the Claims Conference, instead of
22 having people who have any training have people
23 who speak Russian only. And when you go there,
24 you don't hear Hebrew, no Yiddish, no German, no
25 English. You think you are in Moscow.

1 And to get anything from the Claims
2 Conference, I was a hidden child, I asked six
3 years ago to get as a hidden child,, I got
4 nothing.

5 THE COURT: I don't have any
6 jurisdiction over the Claims Conference.

7 MS. RICHSTEIN: I know you don't. I
8 want you tell you that Mr. Hevesi wrote to
9 Mr. Taylor and got no answer. Nothing.

10 THE COURT: I know. But I can't do --

11 MS. RICHSTEIN: Nothing. You have to
12 bribe.

13 THE COURT: I can't do anything about
14 it.

15 MS. RICHSTEIN: Please don't give to
16 organizations.

17 THE COURT: I'm not.

18 MS. RICHSTEIN: Please give to the
19 people who need the money and the ones who put
20 money there into it.

21 THE COURT: So far, I haven't given
22 money to any organization.

23 MS. RICHSTEIN: No. Thank you.

24 THE COURT: Thank you.

25 Eliazer Bloshteyn. I haven't been

1 limiting people but I have to. I have to give
2 you five minutes.

3 MR. BLOSHTEYN: Your Honor,
4 Judge Korman, Special Master Gribetz,
5 Professor Newborne, my name is Eliazer
6 Bloshteyn. I am a deputy representative of
7 Odessa Original Association Former Prisoners
8 (phonetic) and the responsible secretary of
9 Odessa Society in New York City.

10 I am not a victim. I am not a
11 survivor. Only my grandfather and grandmother,
12 were born and died for Hungary in 1941. My
13 uncle my aunt, work hard in first day of
14 occupation of Tioport, Odessa (phonetic).

15 In -- on November 20, 2000, your Honor
16 declared your decision on how to divide recent
17 administration part of \$1 million to \$250
18 million for Jewish Holocaust survivors.
19 Unfortunately, only \$10 million from that amount
20 were allocated to commemorate of Holocaust
21 peoples. None of them, forty years after your
22 decision, the victims of the Holocaust still
23 don't have proper commemoration of special
24 (inaudible) of former USSR, where more than two
25 and a half million Jews were exterminated by

1 Nazis.

2 One of the places of the terrible crime
3 was a territory in south Ukraine name is at that
4 time, Transnista (phonetic), whereby decrees of
5 Hitler on the list, forty yettas and 12
6 (unintelligible) were established at the
7 territory of five -- 50,000 square kilometers.
8 About 800,000 Jews made deaths there.

9 Please look at this map, your Honor.
10 Just in Odessa consider it as the capital of
11 Transnista during 907 days and night of enemy
12 occupation, about 200,000 Jews, Odessa Jews,
13 only Odessa Jews were exterminated.

14 During this period, 50,650 -- excuse
15 me, 56,000 Jews were born. During two nights,
16 from October 23 to October 24 in 1941, were born
17 in one place -- 45, excuse me, 45,000 Jews.

18 To date, sixty years after the
19 liberation, there are still neither monuments,
20 not even concrete memorial signs commemorating
21 the memory according to Jewish tradition. Forty
22 years over the Odessa Original Association of
23 Jews (unintelligible) of Nazis, here's the Tulin
24 project for constructive and memorial park for
25 victim of Transnista. This project cost

1 \$24,0900 which were collected only by former
2 prisoners -- sorry, former prisoners of Odessa's
3 association.

4 Citizens of USSR who say -- who
5 immigrated to the country from Odessa managed to
6 collect only \$5,000 received -- \$5,500 to
7 support this project. In May, 2000, the
8 construction of memorial park begin but have
9 been start soon because of late -- of financing.

10 According to the project calculation,
11 the cost of construction of the memorial park in
12 Odessa is \$1,350,000 American dollars.

13 The representative of Odessa community
14 applied to a number of organizations including
15 Joint, (unintelligible), They don't hear us, to
16 Claims Conference, to JE Federation for
17 financial health but some refuse to help and
18 others just don't answer.

19 We also didn't receive any answer to
20 the single (unintelligible) address it to
21 governments of Germany, Romani and Austria.

22 One or two minutes.

23 Due to the late of our memorial
24 construction in Kiev, Mehl (phonetic), Odessa,
25 Petroske, in Moscow are now frozen. For

1 instance, in Belarus, there is a town called
2 Truskadess (phonetic) where during the war,
3 532,000 people were murdered. Even a memorial
4 devoted to women fight us against
5 (unintelligible) which have to be built in
6 Israel cost them only \$9,000, still says in
7 ruins because of the same reason.

8 Your Honor, I came by to explain our
9 proposal. We send you our proposal in
10 registrated (sic) in (unintelligible) in April
11 26 because we knew about your memorandum on in
12 April 1. We ask you, please, be attention, give
13 me attention for our proposal and help to the
14 people who live right now to -- who want to
15 remember their brothers and sister who died, not
16 only in Odessa, in Former Soviet Union, who has
17 no memorials to create them.

18 Thank you very much.

19 THE COURT: Mr. Weissman?

20 MR. WEISSMAN: I was forty years when I
21 was liberated and they call me survivor. I call
22 myself survivor now today in this room. And now
23 I am confused and I don't want to call myself
24 survivor. I don't know what is survivor is
25 anymore.

1 In 1945, fewer than 100,000 Jewish
2 survivors from all the death marches of Hitler
3 survived. In 2004, in this room, I hear
4 numbers, not money -- I'm not talking about
5 money now, not millions of money, number of
6 survivors. 900,000 in Russia, 500,000 in
7 Israel, hundreds of thousands all over the
8 world. If so, where are the 600 dead, if so
9 many survived.

10 What's going on?

11 THE COURT: Well, it deals with --

12 MR. WEISSMAN: That are survivors?
13 They are all needy and this is something else
14 you're talking about. You're Holocaust
15 survivors?

16 THE COURT: I know but there are
17 definite -- it all depends on how you --

18 MR. WEISSMAN: Yes, I want to know the
19 definition.

20 THE COURT: The definition is that
21 there are people who survived who were not --

22 MR. WEISSMAN: Survived?

23 THE COURT: -- who survived the Nazi
24 onslaught who might not necessarily been in
25 camps.

1 MR. WEISSMAN: I'm talking about how I
2 spent the horror there and survived. My younger
3 brother and older brother didn't. And all the
4 people I left, no cemetery, no graves. Only the
5 young people have a big (unintelligible) and
6 nothing else.

7 Needy all over the world, all of
8 Europe, they practically suffer from the war.
9 The war is suffer. But you're talking about
10 survivors. I'm not about Swiss money that
11 belong to the people who had accounts there and
12 if they prove that, get all the money from the
13 Swiss Banks.

14 But second after them, Germany and all
15 these monies, that somebody intimated important
16 survivors of the camps of the death marches of
17 people, somebody -- (unintelligible) mix up here
18 today. I'm confused about all these things.

19 How to straighten it out in 2004, after
20 a few 100,000 survivor from that horror, not
21 every suffering of -- sure, they suffer, in
22 everywhere, in Siberia in Japan and everywhere
23 but I am talking about survivors
24 (unintelligible). How many left there today, if
25 there fewer than hundred thousand in 1945?

1 So, I am asking you first this is money
2 from Swiss, give them -- the last bank -- it
3 belongs to them but this is legal and moral. We
4 have to get that money.

5 But next, it's something, make sure
6 that if you will -- I can't say this word
7 survivor anymore, the few who came out from that
8 horror from that hell over there, they should be
9 the second to recover some money. And the rest,
10 let Putin and all these governments they got so
11 much reparations -- here's another confusion,
12 restitution, reparation and all these words.
13 It's my poor English, I understand that there is
14 a difference, so let the government go to Putin,
15 the Russians took out from the Germany from
16 Dresdin, from all over and all the valuables,
17 factories and museums and everything, let the
18 governments demand that they take care of the
19 few Russian people who live there and take care
20 of them.

21 But this money, the left over, if it
22 will be left over, should be to give to very few
23 people like me who -- I don't want even the
24 money.

25 THE COURT: Thank you.

1 MR. WEISSMAN: I hope you know what I
2 am talking about.

3 THE COURT: I do.

4 MR. WEISSMAN: (inaudible). I hope so.
5 Goodnight.

6 THE COURT: Yakov Goodman.

7 Go ahead.

8 MR. GOODMAN: I asked for interpreter
9 but if it's no, I will say with my primitive
10 English.

11 Your Honor, Mr. Gribetz, my name is
12 Yakov Goodman and I am president of the World
13 Association of Russian Jews. And only few weeks
14 when I came from Belarus and for this reason we
15 cannot send our written proposal but I have few
16 marks for proposal from special master.

17 About the prices in Former Soviet
18 Union, for example, the orange and bananas, they
19 are the same prices like here. The medicine are
20 the same prices like here. The gas is more
21 expensive in Minsk than in New York. And this
22 is the reason why this money, most of the money
23 would go to Former Soviet Union, if for my
24 opinion, for my knowledge is that
25 (unintelligible).

1 I can only think and suggestion the
2 reason. For last ten years, the Jewish
3 population in Belarus was in -- is in five times
4 less. But the Jewish bureaucrats in Belarus, I ,
5 made representative of Joint, in five times
6 more. Second, they like how this money
7 goes it is from class conference to Joint from
8 Joint to office in New York to office in, I
9 don't know, in the Russian language,
10 (unintelligible) in Lenin Minsk. And I kept the
11 reading proof that for two years on this way was
12 disappear more than \$4 million for Jews in
13 Belarus.

14 That is the truth. It means that
15 system is working on Jewish bureaucrats, not for
16 survivor. And I raise -- add some comment to
17 people who raised this. He has a question about
18 (unintelligible). These picture was done in
19 August last year. It is a small stature
20 building with mosaic. You see its wall. This
21 picture on the other Jewish cemetery in Mosak
22 (phonetic). This history about Horotna
23 (phonetic) cemetery here was mentioned and a lot
24 of people know what is going on.

25 And they asked us some time ago, you

1 don't care for the cemeteries, we need the
2 place. It means and I hope that everyone will
3 agree with this, it means that on our generation
4 we have this obligation to make the order on
5 Jewish cemetery and fresh mass grave of the
6 victim of Holocaust.

7 And it is not a big money. For
8 example, I think in Belarus if we will have \$8
9 million, we will mark all the places and put the
10 stones and preserve for several generation. And
11 I will say a few words for the government here
12 because our organization have members in Belarus
13 and Ziad.

14 You said that -- you mentioned that
15 most poor people here is people who came -- just
16 who came from Russia and we are here faced every
17 day with problem with everyone dying.

18 We bought here the place on the
19 cemetery and we have an opportunity to give the
20 people cheaper than sold the cemetery. But
21 unfortunately, the workers association of the
22 (unintelligible) Europe has limited resources
23 and I would ask that part of this money will
24 come to our association that can help on the
25 last staple of life -- when people are there

1 that they will have the stones, the matzevahs
2 (phonetic) on the graves, the don't -- when they
3 leave, they don't think something happened with
4 their body after when they die.

5 THE COURT: Thank you very much.

6 MR. GOODMAN: Thank you.

7 THE COURT: Mr. Friedman?

8 MR. FRIEDMAN: Thank you, your Honor.

9 My name is Barry Friedman. I am a Holocaust
10 survivor.

11 THE COURT: Go on.

12 MR. FRIEDMAN: I'm a Holocaust
13 survivor. I was in Mauthausen. And I am almost
14 80 years old.

15 Your Honor, remember I wrote your Honor
16 a few letters in this case. I want to --

17 THE COURT: You took a few appeals?

18 MR. FRIEDMAN: What?

19 THE COURT: You took a few appeals.
20 You wrote me a few letters.

21 MR. FRIEDMAN: But I do -- of course,
22 you have to defend yourself. I didn't do
23 nothing wrong.

24 THE COURT: You didn't. I'm just
25 saying, I'm completing the picture.

1 MR. FRIEDMAN: I did. I want to
2 comment, your Honor, on everybody's story about
3 what was talking today. The organization had
4 (unintelligible) complaint against the Claims
5 Conference. I heard your Honor say that I have
6 no jurisdiction on this.

7 THE COURT: That's right.

8 MR. FRIEDMAN: But so much, I ask, your
9 Honor, not to make the same mistake that they
10 did, the same thing that they did. This is
11 (unintelligible).

12 Now the allegations that we have that
13 the people said over there, the horrors, the
14 problems of the survivors have here in the
15 United States and the rest of the countries, but
16 still have a lot of (unintelligible). They
17 need, for example one problem is the housing.
18 And your Honor heard about the housing also that
19 they have -- the housing, they need. The
20 survivors need housing and the question is how
21 to give them.

22 I don't know if your Honor read my five
23 page -- six page letter, the application was
24 (unintelligible). But, your Honor, can -- it's
25 also I wrote about the troubles and the problems

1 we had.

2 But I also want to comment on this
3 gentleman before a few minutes ago, Sharp and
4 his idea. He talk about to give the same
5 issuance --

6 THE COURT: He's right here. He's
7 still here.

8 MR. WEISSMAN: Yes, I'm here.

9 MR. FRIEDMAN: No, not this one.

10 THE COURT: No?

11 MR. FRIEDMAN: No, he had the assisted
12 living facility in the --

13 THE COURT: Yes.

14 MR. FRIEDMAN: And if, your Honor,
15 could read my letters where I almost say the
16 same thing that -- my association for survivors
17 not for organizations, no.

18 Also, we -- I saw, I looked over the
19 proposals that other people, organizations give
20 you and I have to say that a lot of
21 organizations which in them, they always serving
22 -- they're serving for survivors, maybe a couple
23 of percentages of survivors they're serving.
24 But it certainly was harder for other people,
25 not only for them. And they -- I didn't see --

1 and some it's even that they self survivors,
2 they're serving everybody. And they thinking
3 that they have a Hesed organization, that they
4 give good deeds for the public, but it doesn't
5 matter who if they're survivors or not
6 survivors. But, your Honor has to know that
7 this is survivor's money.

8 And if they can give (unintelligible)
9 say they give for the survivors so much money,
10 that -- I can't think.

11 THE COURT: Finish up.

12 MR. FRIEDMAN: I cannot think. But,
13 your Honor, you can give me another time,
14 another couple of minutes to talk to your Honor.

15 THE COURT: Go ahead.

16 MR. FRIEDMAN: No, not here.

17 THE COURT: Okay.

18 MR. FRIEDMAN: (unintelligible). I
19 cannot talk right now. I am sorry.

20 THE COURT: Why don't you call me up
21 and I'll see you privately and you'll tell me
22 whatever it is you want to tell me, okay?

23 MR. FRIEDMAN: Okay. Thank you,
24 your Honor.

25 THE COURT: Rabbi Goldstein.

1 RABBI GOLDSTEIN: From the president of
2 Trilaborina Rachanim and Lucia (phonetic) and
3 still last year (unintelligible), I dedicated
4 myself to the Holocaust survivors descended
5 (unintelligible).

6 And I search, I know your Honor is
7 trying particularly to hear in Buenoas,
8 Bunditchiv (phonetic), in Israel and all these
9 places I have visited.

10 Borakoshem (phonetic), I did that on my
11 own, same with Rapudent (phonetic).
12 Unfortunately, last year I got sick, only -- I
13 am not able to fund it anymore.

14 But now I am talking to you as an
15 individual, as person who receives the Article
16 II funds. For the last 50 years, the let the
17 same people who were entitled the last 50 years
18 for the march in Germany. Unfortunately, those
19 who were proud and I'm proud that I did it, like
20 the lady said before, she didn't want to take
21 money from the Germans. She didn't want to
22 humiliate herself.

23 So, finally, when I got sick and tell
24 me about all this Germans, which I did and it
25 cost me so much money, so I didn't have really

1 much to live on. I got myself to the article
2 fund. It was not easy. It was a humiliation.
3 But I received it and I thanking the Claims
4 Conference for that.

5 Nevertheless, I feel that we are really
6 like they used to say when we came here that
7 we're "green horse". Now with that green horse,
8 we have their liberty, the green horse and the
9 yankees and there are -- a very (unintelligible)
10 Holocaust survivors. Because everything is done
11 in the name of the Holocaust survivors.
12 Hundreds of billions, it became an industry. I
13 did this for ten years, voluntarily. I show you
14 grants if you want it.

15 THE COURT: I understand. But what --
16 we're talking here about -- but we're talking
17 about here about the plan of allocations.

18 RABBI GOLDSTEIN: Okay. Now, what I
19 implore you, what I will plead now with the
20 Judge, that the monies, just like initially
21 Dr. Singer, I watched the proceedings and I read
22 all the articles. And Dr. Singer said the same
23 -- said it one time that all the Holocaust money
24 will go directly to the Holocaust survivors.

25 THE COURT: That's what I am doing so

1 far but I don't know --

2 RABBI GOLDSTEIN: I hope the Judge will
3 understand this. I happen to be in total
4 support. I am a bed torah (phonetic)
5 (unintelligible). And I feel that the torah
6 people will decide that you cannot give
7 something that which was designated to a
8 (unintelligible) entity, whether it was poor,
9 whether (unintelligible) survivors.

10 THE COURT: Okay.

11 RABBI GOLDSTEIN: Except that we -- if
12 we are treated in a dignified manner, we will
13 give back. Like for example, I feel that -- and
14 I know the situation there and I know where it
15 is needed and I know there you can really get
16 ten percent of what (unintelligible) of what
17 United States -- what it costs in the United
18 States to get healthcare and all of those
19 things, you can get it for ten percent. You can
20 do that.

21 So, I propose and I feel that that will
22 be the end. That 80 percent should go to the
23 United States Holocaust survivors because I am
24 now for the last year sick and I tell you the
25 truth, I am ashamed to tell you, that I who

1 conducted the services for thousands of people,
2 the Holocaust memorial survivors, the
3 (unintelligible) services, they call me with the
4 business here to and I don't have the money to
5 do what I did. I did it for them on the way to
6 a -- I did for Sugarshin (phonetic). I did --
7 but this year I can't do it.

8 Now if I had to go and call up the
9 agency which I am dealing, he says well, you can
10 go to Shifra (phonetic), 44th Street. You can
11 go this -- isn't it a shame to tell me you can
12 lose your apartment and I have to go ten blocks
13 and come home 1 o'clock on the seder
14 (unintelligible), where I used to be conducting
15 the seder? I'm not proud and not because I am
16 crying but because of the difficulties, the
17 difficulties (unintelligible). You can die from
18 that -- to think like that.

19 So, I am telling you, Judge, please,
20 your Honor, and I just say one last word, that
21 this money should be given, it's not supposed to
22 be given, only to the Holocaust survivors. The
23 rest of it, we'll give to the -- okay, I feel
24 that the Holocaust survivors whoever is involved
25 in working -- we agree to ten percent to give

1 them back, ten percent to Yeshivas and ten
2 percent, I think we should give for the Ukraine
3 cities, those Ukraine citizens who are really in
4 need where I was a student, where it was the
5 Holocaust in Kiev -- in Wilderin (phonetic) and
6 Holocaust in Kushing (phonetic) and all of these
7 places. But to few things, like he says, I
8 wouldn't approve of it, of course. I don't know
9 what he meant, when -- I put in, I didn't have
10 the full impression of what in the world he said
11 -- in the status he talked about that they give
12 money for different thing. And when I think of
13 us -- I mean, I didn't believe it but I believe
14 it. I believe that the situation is that it
15 should be improved in searching the society --
16 the atmosphere should be light and good and
17 abrkovalee (phonetic). Thank you.

18 THE COURT: Amen.

19 RABBI GOLDSTEIN: Okay. Thank you.

20 THE COURT: Judith Hager.

21 MS. HAGER: This is the last one?

22 THE CLERK: Yes, ma'am.

23 MS. HAGER: Okay.

24 THE COURT: Go ahead.

25 MS. HAGER: I am sorry I am the last

1 one. Anyway, I will only say I picked up few
2 sentences oh, to be so late.

3 The question is that sixty years later
4 after the Shoah we are waiting again the whole
5 story. And Eisenstat, I read, the reason he
6 says is because the war, the cold war was broken
7 and the new generation is looking to find some
8 uses for this question. But I think that all
9 this would happen occasionally, that this clerk
10 saw the documents burn. So, you see here you
11 have a sham.

12 And I found out that this cold man,
13 (unintelligible), the blood of someone doesn't
14 appreciate you, is I told -- the blood is not
15 resting and that's the reason that sixty years
16 later the truth, the justice has to come out.
17 And I don't know if sixty years later from now
18 something else will happen and the whole thing
19 will be again. So because the blood is there
20 crying and screaming.

21 What I wanted to tell you,
22 Honorary Judge, what I heard today for all the
23 survivors and I know that what I represent a
24 group of (unintelligible) Sharim, they have so
25 much unitarian projects and to help the needy

1 people in food and to help them in medicals, to
2 help children that are bad circumstances at
3 home. But I wanted to tell you there was one
4 point of the project that touched me very much ,
5 and this is the project to help those women that
6 suffering genetically from the problems that
7 their grandparents or parents in hell. And that
8 was also on the Chernobyl case and then the
9 Persian Gulf that the problems that they --
10 affected their healths came over to them. And
11 this is very touching.

12 Those women need a lot of research and
13 a lot of -- whatever, you know, all of this
14 procedure of health and have to have children.
15 And from us, as a Jewish organization or
16 whatever -- whoever it is, it's very important
17 to any child to be born.

18 So the four -- I asking very much the
19 Judge to look into this kind of formula which
20 things belongs to the survivors. And I don't
21 think it's -- I don't understand why all those
22 survivors, as I'm sitting here on the whole day,
23 to hear all of this needy people, and trying to
24 billions recovered to help them, where are all
25 those billions then?

1 And then I will say to Germany and to Swiss
2 Banks, give up all of the money that you can
3 because whatever money you will give wouldn't be
4 -- so at least those many people. And to
5 Switzerland, I would say (unintelligible), did
6 you murder, and you also want to inherit all
7 those money they claim for you? And if -- this
8 is the point of this, the needy survivors, I
9 have to say we are sitting here that they should
10 make really a list of all those needy people and
11 give them to Germany and Schwatz (phonetic) and
12 they should have the responsibility to help all
13 of those needy people that are on this list.

14 THE COURT: Okay. Thank you very much.

15 MS. HAGER: Thank you. And I got to
16 give you how they say (unintelligible).

17 THE COURT: Okay. I hope so.

18 THE CLERK: We are adjourned.

19 (Matter concluded)

20 -oOo-

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C E R T I F I C A T E

I, ROSALIE LOMBARDI, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 11th day of June, 2004.

Rosalie Lombardi

Rosalie Lombardi
Transcription Plus II