

Holocaust Victim Assets Litigation

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To whom it may concern,

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LEGAL SERVICES

On October 2, 2003, Special Master Judah Gribetz filed an Interim Report on Distribution and Recommendation for Allocation of Excess and Possible Unclaimed Residual Funds in re Holocaust Victim Assets Litigation, Case No. 96-4849 at the U.S District Court, Eastern District of New York.

At the request of the Chief Judge, the Honorable Edward R. Korman, for a recommendation regarding the distribution of currently available excess funds, the report recommends that \$60 million in excess funds derived primarily from accrued interest, should be allocated wholly to the Looted Assets class, for distribution to Needy Nazi victims.

The report further recommends that should any residual unclaimed funds remain after all disbursements have been made in accordance with the Distribution Plan, they should likewise be allocated entirely to the Looted Assets class. These residual amounts are estimated to be in the hundreds of millions.

Any such residual unclaimed funds would be derived primarily from the up to \$800 million allocated to the Deposited Assets Class under the Distribution Plan (dormant Swiss bank accounts belonging to Nazi victims).

Both the Settlement Agreement and the Special Master's Distribution Plan, have placed "priority upon returning to their rightful owners 'the sums that Swiss banks have been holding for them for more than half a century'"; a priority the Court determined to be "appropriate" when it adopted the Distribution Plan in its entirety. The Court more recently has described these claims as "the heart of this case."

A total of 32,000 claims were filed in five different languages from claimants around the world. These claims are being assessed against a total of 36,000 Swiss accounts that were determined by a committee led by Paul A. Volcker, former Chairman of the United States Federal Reserve Bank, to have "probably" or "possibly" belonged to Holocaust victim.

The Volcker Committee concluded that 21,000 of the accounts "probably" belonged to Nazi victims; these accounts were published. Swiss banking authorities have not authorized publication of the other 15,000 accounts "possibly" belonging to Nazi victims.

The Interim Report is available in full at www.swissbankclaims.com.

I feel that the following article of December 5, 2003, which was written by Elli Wohlgelernter, "Forward" correspondent and can be found on the JAFI's (Jewish Agency for Israel) website, should be published on all the relevant websites, along with the proposals, suggestions and comments submitted, at the Court's request, to the Special Master, on his Interim Report on Distribution and Reallocation Recommendations of October 2, 2003. A copy of the article is attached.

The URL for the story is as follows:

<http://www.jafi.org.il/papers/2003/dec/dec05for.htm>

OR

<http://www.forward.com/issues/2003/03.12.05/news3.claims.html>

The article reflects quite badly on the Special Master's recommendations and raises serious questions as to the motives and interests behind them.

These recommendations constitute a departure of the Special Master from the principles and priorities previously stated above.

The Special Master has concluded entirely on his own discretion, that the funds should be reallocated exclusively to the Looted Assets class and the Court seems to have already adopted these recommendations. Leaving only the question of how to distribute the reallocated funds open and not whether these funds should be reallocated at all.

We must remember that the dormant Swiss bank accounts represented the heart of the original lawsuit and were the only class of claims likely to stand up if the case had gone to trial. The plaintiffs, who brought on this case, appear to no longer have a say as to the fate of the funds. Evidently, Lead Settlement Counsel Burt Neuborne does not adequately guard the interests of this class and favors other classes, a concern which was previously raised in the appeals against the Settlement Agreement; i.e. the failure to have appointed separate counsel for each settlement class.

It seems absurd that the voice of those who initiated the Deposited Assets class action and members of this settlement class is given the same amount of consideration, as the next person on the street, when determining the fate of the funds; rendering the legal basis for this entire class action, the Rule of Law, as well as the Special Master's Distribution Plan, insignificant.

The article describes steps taken by the JAFI and other bodies, such as the Israeli government and The Claims Conference on Jewish Material Claims Against Germany, ensuing from the Special Master's Interim Report.

These bodies were not the ones who initiated the class action against the Swiss banks and thus allowed the Swiss banks to delay the resolution of this issue for more than 50 years, against the best interest of the Jewish people, which they swore to protect.

Consequently, they contributed to the creation of the current circumstances, where many accounts / funds remain unclaimed. Now, they descend upon these funds like birds of prey.

It appears that the only beneficiaries from the Special Master's recommendations will be these bureaucratic, corrupt and overgrown bodies, serving no one, but themselves, under the pretence of helping needy Holocaust survivors.

It is a shame to see the Honorable CJ, Edward R. Korman reluctantly or willingly being dragged into the fray:

"The chairman of the Jewish Agency for Israel, Sallai Meridor, and the Claims Conference's president, Rabbi Israel Singer, were scheduled to meet with Korman December 3."

Is it appropriate for a judge to meet with parties, which have no legal standing? Furthermore, outside the legal proceedings, and without any public transparency?

Not to mention the bias it demonstrates towards these parties and their interests.

On the one hand, The Israeli government is trying to solve its own budget problems with these funds.

While on the other hand, The Claims Conference, which relies on these and other funds to continue funding its own meaningless existence, for another 50 odd years.

The Claims Conference, among other roles, serves as the legal successor of supposedly unclaimed Jewish properties in the former East Germany. Up until recently it abstained from publishing the list of property owners, whose property it claimed as the so-called legal successor and thus deprived (for more than 10 years) heirs of the knowledge of the property's existence.

In other words, it confiscated these assets and in the meantime sold them and dispersed the money it received in return (mainly on funding its own survival).

Unashamedly it called the list's publication a gesture of goodwill.

Now it plans to do the same with the funds belonging to heirs of Jewish owners of Swiss bank accounts, of whom a sizeable part are not even aware of the accounts' existence, as clearly stated above 15,000 accounts have not yet been published.

The publication of the other 21,000 accounts was lacking, as it was made exclusively electronically via the Internet, with no regard for the elderly and was followed by but a brief filing period.

Therefore it is misleading to call these funds "unclaimed residual funds" and/or to say that they would be used for needy Nazi victims.

We must not let this happen - the funds must reach the heirs of the original account owners and not reach these questionable bodies. It is clear no reallocation should be made whatsoever and that the recommendations of the Special Master must not come to fruition.

It is only proper to share this information with all concerned parties, before the hearing on the Special Master's final recommendations.

Hopefully,

X

See also:

Article of January 15, 2002 by Nina Gilbert, Jerusalem Post: entitled "Holocaust heirs losing millions to Jewish organizations"

<http://www.jpost.com/Editions/2002/01/15/News/News.41686.html>

Article of January 2, 2004 by Nacha Cattan, "Forward" entitled "Dispute Brewing Over Restitution Funds"

<http://www.forward.com/issues/2004/04.01.02/news1b.html>

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Israelis Push for Bigger Cut of Shoah Funds

By ELLI WOHLGELERNTER
FORWARD CORRESPONDENT

JERUSALEM — The Israeli government is demanding a dramatically increased role in running the agency that administers Holocaust-era reparations and restitution payments, in what government leaders frankly acknowledged was an effort to direct a larger share of restitution funds toward Israel.

In a blunt and sometimes confrontational meeting here last week between Israeli Cabinet ministers and officials of the Conference on Jewish Material Claims Against Germany, the Israeli leaders said they were seeking "fair" representation — some cited a figure of 50% — on the conference's governing bodies. Participants said the Israelis strongly hinted that they would obtain the representation with or without the cooperation of the existing conference leadership.

Finance Minister Benjamin Netanyahu, according to a participant who spoke on condition of anonymity, "came in and said, 'Guys, this game is over. The days when you were doing whatever you wanted to and basically were going to throw us a couple of crumbs — those days are over. We now want to be part of everything that goes on. And either it's going to happen nicely, or it's going to happen not nicely, because we are going to get it whatever way it is.'"

The meeting was convened by Israel's minister of Jerusalem and Diaspora affairs, Natan Sharansky, and included Netanyahu, Health Minister Danny Naveh and Meir Sheehrit, a minister-without-portfolio assigned to the Finance Ministry. The Israelis told the Claims Conference leaders that Israel had been shortchanged in the distribution of unclaimed Holocaust-era funds, and that it was the duty of the Claims Conference to care for needy Israeli survivors who were suffering as a result of Israeli government budget cuts.

In a series of exchanges that some participants described as "rude," Israeli officials questioned the right of the Claims Conference to represent the Jewish people, insisted that Israel was the legitimate spokesman for survivors worldwide and asserted Israel's right to use Holocaust restitution money for purposes such as defense and education in addition to care for aging survivors.

Afterward, several participants expressed surprise at the Israelis' blunt tone. "The Claims Conference is an apolitical organization, and it should stay this way," said conference treasurer Roman Kent, a New York businessman. "The moment we will start to take in political entities as members, it will diminish its usefulness both in the negotiations and the proper allocations."

In a separate but parallel move, Sharansky has written to the U.S. federal judge overseeing the class action case against the Swiss banking industry, urging that Israel be given a greater role in deciding the future distribution of unclaimed funds from the \$1.25 billion settlement.

Until now some \$185 million in unclaimed Swiss funds has been used for care of needy Jewish survivors, with 75% going to survivors in the former Soviet Union, where poverty is considered greatest. The judge, Edward Korman of the U.S. District Court in Brooklyn, has declared a December 31 deadline for public comment on the distribution of future funds, which could eventually total more than \$500 million.

The chairman of the Jewish Agency for Israel, Sallai Meridor, and the Claims Conference's president, Rabbi Israel Singer, were scheduled to meet with Korman December 3. Meridor was expected to ask that Israel be given a significant role in deciding how to distribute any unclaimed funds from the existing \$800 million pot established to settle Swiss bank account claims, according to a well-placed source. Singer told the Forward he would ask Korman to "take into consideration not only Israel but also the United States."

In his October 22 letter, a copy of which was obtained by the Forward, Sharansky asked for more time to make Israel's case, saying it would be "highly inappropriate" for the court to "decide public moral issues of global Jewish importance and consequence without Israel's central and active participation."

Sharansky denied in an interview that his government was trying to solve its own budget problems with survivors' funds. "It is unfair to say that," he told the Forward. "The government had to cut everything, and conditions for everybody became much worse, but we are not cutting for Shoah survivors. But we don't want a situation where the Shoah survivors who need hospital treatment will stand in line for up to one year, which is the situation today. So we don't say put it in our budget. We say that in this difficult situation, we don't want it to become worse also for Shoah survivors."

Instead, Sharansky said, the Claims Conference should redirect a larger share of its humanitarian assistance to programs in Israel.

The Claims Conference was founded in 1952 to negotiate Holocaust reparations agreements with Germany on behalf of the world's Jewish communities. It is an alliance of 24 Jewish organizations from a dozen countries, including Israel.

The conference currently oversees the distribution of funds from German and Austrian restitution agreements and has been designated by the Brooklyn court as one of the two main agencies distributing Swiss settlement funds to Jewish survivors.

Its largest pool of funds, from the sale of restored Jewish properties in the former East Germany, currently produces about \$90 million per year for humanitarian programs, half of them in Israel.

Several conference leaders questioned the wisdom of the Israeli government attempting to undermine an organization that has been recognized in German and international law as the voice of the worldwide Jewish community.

"The German legislation mentions the Claims Conference as the official representative of the Jewish people," said the chairman of the conference's executive committee, Moshe Sanbar, a former governor of the Bank of Israel. "The Claims Conference is the legal heir of all the heirless assets in Germany. If the Israeli government starts to hurt the Claims Conference, the government will hurt the cause of the Jewish people. Only for money? I don't understand it, and I don't think it's good for anyone, especially not against an organization which is very, very cooperative with the government."

The sharpest exchange at last week's meeting, several participants said, was between Sheerit and the chairman of the Claims Conference, New York attorney Julius Berman.

In the exchange, confirmed by both men in separate interviews, Sheerit said at least half the members of the Claims Conference board should be Israeli government representatives. Berman challenged him, saying: "Who chose you to make the decision in the name of the survivors? We are the only people who can make it in the name of the survivors."

Sheerit said he replied: "But we have been elected by the Jewish people of Israel, democratically, to govern and to make the decisions on behalf of the people of Israel. Can you tell me, who elected you? And when?"

Berman countered, "You are not representing the survivors." Sheerit replied: "Excuse me, most of the survivors are living in Israel."

According to Berman, Sheerit "then said flatly that the government of Israel wants to use the money for various purposes including security, education, and defense, and I said, in no uncertain terms, 'Then we have nothing to discuss' because this money has to be used only for survivors. I told him: 'Your real fight is not between the government and the Claims Conference leadership, your fight is with the survivors. You want to use the money for purposes other than for survivors.'"

The actual number of living survivors is a matter of intense dispute. One recent study, by Hebrew University demographer Sergio Della Pergola, found 1,092,000 survivors worldwide, of whom 46.8%, or 511,000, live in Israel. Another recent study, by Jacob Ukeles, a New York-based demographic researcher and policy consultant, found 688,000 survivors worldwide, with 38.5%, or 265,000, living in Israel. Both studies found about 16% of all survivors

living in the United States.

Conference leaders said that despite the harshness of the exchange, they would try to reach an understanding with the Israelis.

"This week was a kind of sobering week for all of us," said Singer, the conference's president. "Some may not agree with everything that was said by all of the ministers, but they know that we can't ignore it. I don't think that the substance of the issue is something that can be swept under the rug. We didn't wait for a Jewish state for 2,000 years to ignore a majority of the ministers in Israel who deal with this subject. The question is, how do we integrate their thinking into our process?"

With reporting by Nacha Cattan in New York.

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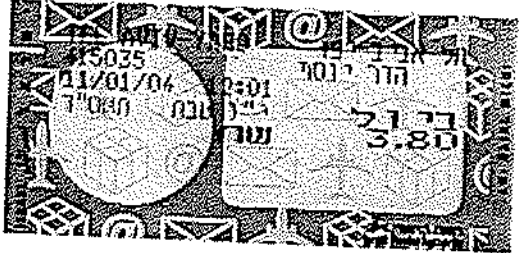
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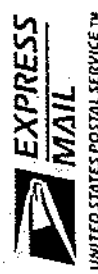
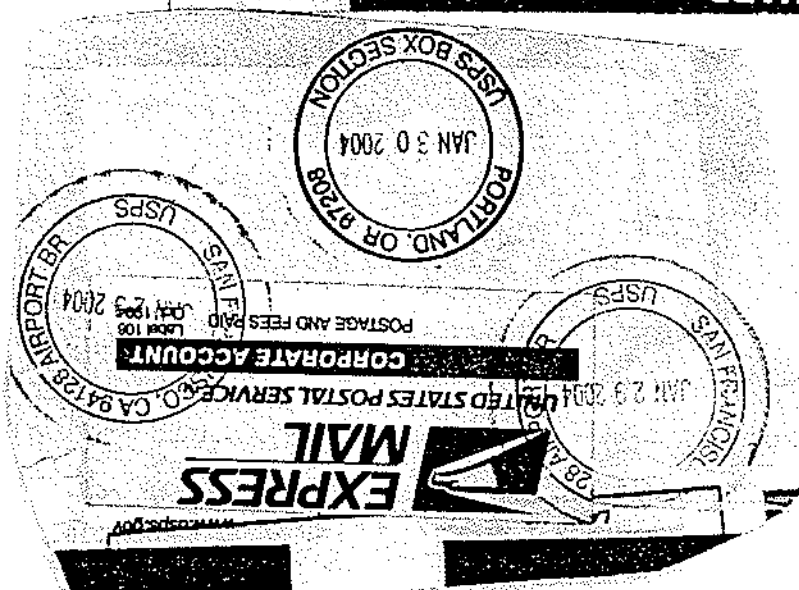


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