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# UJA Federation of New York

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January 28, 2004

The Honorable Edward R. Korman  
Chief Judge  
United States District Court for the  
Eastern District of New York  
225 Cadman Plaza East, Room 448  
Brooklyn, New York 11201

Re: In Re: Holocaust Victim Assets Litigation (CV 9604849)(ERK)

Your Honor:

UJA-Federation respectfully submits the attached proposal (the "Proposal") requesting the Court's consideration of the needs of poor and near-poor Nazi Victims residing in the New York Area as the Court determines how to allocate the pool of possible unclaimed residual funds (the "Pool") in the above-captioned litigation. We hope to present to the Court a comprehensive picture of the needs of this population of Nazi Victims that we believe has not been fully documented for the Court to date.

UJA-Federation acknowledges and fervently supports the humanitarian efforts of the Court, Special Master Judah Gribetz, and the Conference on Jewish Material Claims Against Germany (Claims Conference) on behalf of Nazi Victims residing in the former Soviet Union (FSU), Israel, and Europe.

UJA-Federation is a federated Jewish community philanthropy, trusted by its more than 80,000 contributors to help sustain both a *local* and a *global* network of organizations to care for those in need, strengthen Jewish peoplehood, and foster Jewish renaissance. As such, we have made assistance to needy Jewish populations worldwide a priority. We provide, for example, approximately \$15 million a year for the American Jewish Joint Distribution Committee (JDC), the major provider of humanitarian services to impoverished Jews in the FSU, Europe, and countries of distress worldwide.

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Our Annual Campaign also helps support more than 20 agencies in the New York Area that operate programs assisting Nazi Victims. Among these agencies are Selfhelp Community Services, Inc., the largest provider in the country of comprehensive services to Holocaust survivors; and Metropolitan Council on Jewish Poverty, which, through its affiliated grassroots Jewish Community Councils and Councils of Jewish Organizations, maintains direct, neighborhood-level contact with more than 10,000 Nazi Victims.

Using funds from Court-administered compensation programs and philanthropic giving, New York Area agencies, in 2003, spent \$8,189,200 to deliver comprehensive and caring assistance that enabled elderly Nazi Victims to meet the basic demands of daily living (See Attachment N, *"Representative Agencies Serving New York Area Nazi Victims"*)

Nevertheless, UJA-Federation and its New York Area agencies have limited resources, and we struggle, every year, to balance and stretch these funds to address the needs of many vulnerable Jewish populations worldwide – Nazi Victims among others.

Our particular concern, in regard to Nazi Victims in the New York Area, is the large number living in or near poverty and needing assistance to maintain a dignified quality of life. We are mindful that large numbers of Nazi Victims in New York are just now reaching their 70s, 80s, and 90s, and are *increasingly in need of help* from community agencies. (See Attachment E, *"Table of Projected Victim Population"*) As we demonstrate in the attached Proposal, government entitlement programs contain significant gaps that leave many Nazi Victims with unmet basic needs, often over extended periods of time. Entitlement programs (because of these gaps), Court-administered compensation programs, and philanthropic giving provide critical assistance to Victims in New York, but can only go so far.

The Pool represents a potential source of aid for Nazi Victims who are and will be in our agencies' care, and whose needs we represent with this Proposal. We understand that the Court will be reviewing similar proposals to aid Nazi Victims in regions of the world where the numbers of poor and near poor Victims are greater, and the quality of life of *all* low-income elders – not just Nazi Victims – is acutely circumscribed by poverty. Acknowledging the difficulty of weighing and remedying relative economic need, we submit that the New York Area's poor and near-poor Nazi Victims experience a sense of isolation from the relatively affluent society around them that compounds the distress and indignity of poverty.

For the following reasons, UJA-Federation respectfully requests that an allocation be made from the Pool, as described in the Order, to provide needy New York Area Nazi Victims with an eight-year program of aid and assistance:

- 64% of poor and near poor Nazi Victims in the United States live in the New York Area. They represent approximately 7.99% of the poor or near-poor Nazi Victims worldwide. (See Attachment C, *"Estimate of Poor & Near Poor Victims Residing in the New York Area"*)

- 28,150 Nazi Victims in the New York Area are poor (21,000 living below the federal government's poverty guideline, and 7,150 in households with incomes between 100% and 150% of that standard). (See Attachment D, "*Special Report, Nazi Victims in the New York Area: Selected Topics – Report Prepared by Ukeles Associates, Inc.*") Poverty at this level, as experienced in the New York Area, can leave a Nazi victim scrimping on food to pay rent or unable to purchase a new coat or pair of shoes. Another 6,050 have incomes between 150% of the guideline and \$35,000. The cost of living in the New York Area is so high that we term people at this income level "near-poor."
- The public assistance network, despite the good it does, contains significant gaps that leave Victims with serious, unmet basic needs. This Proposal outlines in detail the major entitlements and the gaps that put thousands of Victims at risk, especially in the areas of rent and housing security, homecare, health and mental health care. (See Attachment G, "*Benefits Analysis for New York Area Victims*")
- Were we to try to fill all of these gaps, the cost would be astronomical – far beyond the capacity of any community philanthropy, and – in view of Nazi Victim needs worldwide – beyond the capacity of the Pool, as well. In light of the magnitude of these needs, as set forth in the Proposal, UJA-Federation, in partnership with appropriate agencies, is launching a special fundraising Initiative for Holocaust Survivor Services. Yet we acknowledge that even that effort will hardly meet the needs.

This Proposal, therefore, seeks funding in areas where we can *leverage and supplement other sources* to create as seamless a web of services as possible for as many New York Area Victims as we can reach. The outline that follows represents what UJA-Federation believes will be the best way to maximize existing and potential Pool resources to meet New York Area Nazi Victims' needs. Funds sought by this Proposal would be used to:

- (1) Expand *outreach, case management, and entitlements counseling* programs that will (a) help Nazi Victims identify their needs, (b) guide them through the application processes to obtain appropriate benefits, and (c) provide them with, or direct them to, available non-governmental programs that will meet needs not covered by public benefits.
- (2) Close the *health care, homecare, and mental health care* coverage gaps created by Medicaid and Medicare waiting periods, deductibles, and co-insurance, and supplement these entitlement benefits when needed to provide necessary care.
- (3) Provide *financial aid* for Victims whose rental expenses prevent them from meeting other basic needs. Because of the housing crisis in the New York Area, Nazi Victims

typically pay more than 50% of their income in rent, and are left struggling to cover other basic needs. (See Attachment K, '*The Housing Crisis for New York Area Victims*'). In the experience of our agencies, relatively small amounts of financial assistance can forestall far more costly and devastating life emergencies (i.e. As when a \$100 prescription, not covered by Medicare, can prevent a client from a potential medical crisis that leads to institutionalization).

- (4) Provide needed *transportation* for those too frail to ride buses and subways.
- (5) Offer *programs of socialization and community-based activities*, such as support groups, that prevent isolation, protect survivors' mental health, and sustain their sense of dignity and worth.

In submitting this Proposal, we hope to satisfy the Court that New York Area Victims are burdened by substantial unmet needs, notwithstanding government entitlements, and that these burdens are great enough to warrant an allocation from the Pool. Such an allocation will help to bridge the gaps between the combination of entitlements and current public and Jewish philanthropic funding of programs for New York Area Nazi Victims (including funds provided through other Court-administered compensation programs), and the funding that would be required to meet staggering overall need.

In light of its 86-year history of coordinating the distribution of humanitarian funds in a manner that best leverages all available resources for the overall benefit of the needy, UJA-Federation would welcome the opportunity, if acceptable to the Court, to recommend qualified and appropriate New York agencies for the receipt of allocations from the Pool, based on allocation plans that are currently being developed.

Thank you for the opportunity to present this Proposal. We recognize the relative need of victim populations in other parts of the world. At the same time, we see painful poverty among Victims here in New York, and we know that substantial assistance, over and above what we can now provide through philanthropic giving, will be required to enable our New York social services community to continue to serve these vulnerable individuals now and into the future.

Sincerely,



Louise B. Greilsheimer  
Vice President, Agency & External Relations

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**Proposal by The United Jewish Appeal-Federation  
of Jewish Philanthropies of New York for Providing Assistance  
to Needy Nazi Victims in New York**

**Proposal by The United Jewish Appeal-Federation of Jewish Philanthropies  
of New York for Providing Assistance to Needy Nazi Victims in New York**

**I. Introduction**

1. Pursuant to the November 17, 2003 Order of Chief Judge Edward R. Korman (the "Order") of the United States District Court, Eastern District of New York, in the matter of In Re: Holocaust Victim Assets Litigation [Case No. CV 96-4849 (ERK)(MDG)(Consolidated with CV 96-5161 and CV 97-461)], The United Jewish Appeal-Federation of Jewish Philanthropies of New York, Inc. ("UJA-Federation"), submits this proposal (the "Proposal") for providing assistance to needy Nazi victims in the New York Area identified in paragraph 8.
2. UJA-Federation is a not-for-profit charitable organization that raises and distributes funds to help support social, cultural, health-related, educational and other services provided to approximately four million people each year in New York, Israel and throughout the world, through an extensive network of overseas and local agencies. (See the attached UJA-Federation annual report and financial statement, included as **Attachment A.**) As such, UJA-Federation has vast experience in the process of coordinating and distributing, throughout a community of highly qualified service agencies, humanitarian aid and assistance in the arena of essential social and health-related services.
3. UJA-Federation fervently supports the tremendous humanitarian efforts that have been made by the Court, Special Master Gribetz and the Conference on Jewish Material Claims Against Germany (the "Claims Conference") on behalf of needy Nazi victims residing in the former Soviet Union, as well as in Israel and Europe. As detailed in this Proposal, there are also a substantial number of New York Area victims who are living in poverty and who are in need of significant assistance. As is demonstrated, government entitlement programs contain significant gaps that leave many victims with unmet basic needs, often over extended periods of time. Entitlement programs (because of the gaps discussed below), Court-administered compensation programs and philanthropic giving provide critical assistance to victims in New York, but can only go so far. UJA-Federation, therefore, respectfully requests that an allocation be made from the pool of possible unclaimed residual funds (the "Pool"), as described in the Order, to provide needy New York Area Nazi victims with an 8-year program of aid and assistance through (1) outreach, case management and entitlement counseling programs; (2) health care, homecare and mental health programs; (3) financial aid programs for victims whose rental expenses prevent them from meeting other basic needs; (4) transportation programs; and (5) programs of socialization and community-based activities.
4. In light of its 86-years of experience leveraging all available resources for the overall benefit of the needy by coordinating the distribution of humanitarian funds to a

network of New-York-Area-based agencies, UJA-Federation would welcome the opportunity, if acceptable to the Court, to recommend qualified and appropriate New York agencies for the receipt of allocations from the Pool based upon allocation plans that are currently being developed. The expertise of the Claims Conference in monitoring the distribution of Court-ordered compensation and restitution for Nazi victims is unparalleled. UJA-Federation will work with the Claims Conference in any manner the Court deems appropriate.

5. When the overall needs of New York Area victims are translated into dollars, the figures are overwhelming. The costs associated with addressing selected victim needs identified in Section IV could conceivably reach \$70 million annually. (See **Attachment B** for an overall needs calculation.) This Proposal does not suggest an allocation to meet such overall need.
6. As outlined in **Attachment C** of this Proposal, an estimated 7.99% of all poor and near-poor Nazi victims worldwide live in the New York Area. This Proposal asks that the Court consider this estimate in determining any proportionate share of an allocation from the Pool to New York Area victims.
7. Such an allocation will help to bridge the gaps among entitlements, current public and Jewish philanthropic funding of programs for New York Area Nazi victims (including the funding provided through other Court-administered compensation programs) and the funding that would be required to meet staggering overall need.

## **II. Target Group of Nazi Victims to be Served under the Proposal**

8. The target group to be served under the Proposal consists of Jewish individuals residing in the five boroughs of New York City (Bronx, Brooklyn, Manhattan, Queens and Staten Island), Nassau County, Suffolk County and Westchester County (the "New York Area"), who were victims of the Nazis during the period leading up to and during World War II (collectively, the "victims").
9. Data contained in this Section concerning this target group is taken from *The Jewish Community Study of New York, 2002* (the "Study") and *Special Report, Nazi Victims in the New York Area: Selected Topics* (the "Report").<sup>1</sup> A copy of the Report is attached to this proposal as **Attachment D**.
10. There are an estimated 55,000 victims living in the New York Area, by far the largest population of Nazi victims in the United States. For the purpose of this estimate, "Nazi victims" are persons who lived in, or fled from, a country that was under Nazi rule, Nazi occupation or the direct influence or control of the Nazis.<sup>2</sup>
11. Of the estimated 55,000 victims living in the New York Area, 54% live in Brooklyn, 16% live in Queens and 12% live in Manhattan.

12. Of all Jewish adults age 57 and above living in the New York Area, an estimated 15% are Nazi victims. Fifty-eight percent of these victims are female, who tend to be older than male victims.
13. New York Area Nazi victims have a median age of 72. Forty-four percent are at least 75; 46% are between 65 and 74 and 16% percent are between 57 and 65.
14. 14,300 Nazi victims live alone. Victims living alone are considerably older than victims who live in two-person or multiple person households. Approximately 8,580 victims who live alone are 75 years of age or older.
15. 37,773 out of the 55,000 victims living in the New York Area report their health as fair or poor.
16. Unlike most other victim populations in the United States, the New York Area victim population includes substantial numbers of Russian speakers. Over half (51%) of all Nazi victims in the New York Area live in Russian-speaking Jewish households. In Brooklyn, almost 75% of victims live in Russian-speaking households. Just under half of Nazi victims in Queens live in Russian-speaking households. More than two-thirds of victims living in Russian-speaking households (67%) are relatively recent arrivals (since 1990) to the United States. These Russian-speaking victims, many of whom do not speak English with any degree of fluency, often face added challenges in meeting their needs and in accessing public assistance.

### **III. Needy Nazi Victims among Members of the Target Group**

17. There is little doubt that, in general, the Social Security system, the health care services available through the Medicare and Medicaid programs, and the family and community support structures that exist in the United States enable Nazi victims living in this country to avoid the "severe privation" faced by Nazi victims living in some other parts of the world.<sup>3</sup>
18. There is also little doubt, however, that the New York Area has substantial numbers of Nazi victims who are living in poverty. According to the Report, 38% of New York Area Nazi victims, or almost 21,000 people, live in households with annual incomes that place them under the federal government's 100% poverty guideline standard. An additional 13% (7,150 survivors) live in households reporting incomes that fall between 100% and 150% of poverty guideline levels. So-called "near-poor" Nazi victims (annual incomes of between 150% of poverty guidelines and \$35,000) number 6,050. Poor and near-poor victims living in the New York Area total 34,200.
19. Of the 14,300 New York Area Nazi victims who live alone, 44% (6,292) are under the 100% poverty level, as are 37% of victims (5,291) who live with another person and 32% of victims (4,576) who live with more than one other person.



20. Stripped of the language of numbers, there stands the simple fact that there are thousands of New York Area Nazi victims who are old, alone and poor. And for the thousands of victims who currently live with one or more companions, the process of aging in poverty is accompanied by the prospect of being left to bear deterioration and illness, alone, in their final years.
21. Many Nazi victims living in the New York Area are in dire need of humanitarian aid and essential social services to ensure access to food, shelter and health care. This need for aid and assistance is likely to continue well into the future and, as New York Area victims age as a population, will grow even more acute. Projections regarding the size and age of the New York Area victim population indicate that substantial numbers of victims will remain alive well into the next decade and that the number of victims over the age of 80 will steadily increase. Through the year 2017, there will still be over 22,000 living victims, 16,000 of whom will be 80 years of age or older. (See Table of Projected Victim Population attached as **Attachment E.**)

#### **IV. Assessment of Victim Needs**

22. While many New York Area Nazi victims are entitled by virtue of their age and low income to access federal, state and local government benefits for the poor, gaps in these benefits, whether because of low eligibility levels, waiting periods, coverage denials, administrative delays or benefit structure, often prevent effective access to benefits. See the attached letter of support of Edwin Mendez-Santiago, the Commissioner of the New York City Department for the Aging, attached to this Proposal as **Attachment F.** Because of these serious gaps, victims are often left with immediate and chronic unmet basic needs. (A chart outlining major benefits programs in the New York Area, eligibility levels and principal gaps for New York Area victims is attached as **Attachment G.**)
23. This section of the Proposal outlines the need of New York Area victims, particularly in light of the gaps in public benefits programs, for (1) outreach, case management and entitlement counseling programs; (2) health care, homecare and mental health programs; (3) financial aid programs when rental expenses prevent victims from meeting other basic needs; (4) transportation programs; and (5) programs of socialization and community-based activities.

##### **(1) Outreach, Case Management and Entitlement Counseling**

24. While many New York Area Nazi victims are receiving public assistance and/or being served by non-government organizations, many others are suffering without seeking available assistance, perhaps because they are unaware that help is available. Many others, for whatever reason, may be resistant to asking for the help they know is there. And others, increasingly isolated because of frailty and impairment, are physically or mentally unable to access assistance, regardless of whether they know

help is available. An outreach program is necessary to bring appropriate assistance to these victims.

25. For victims who do seek out the public benefits to which they are entitled, they face sometimes overwhelming and usually frustrating barriers such as extraordinary complexity, bureaucracy, forms and delays.
26. It is a daunting task for poor and near-poor victims, aging and often vulnerable, to manage the tasks of daily living, let alone work their way through the complex web of assistance programs (public and private) that are available to keep them from living in severe privation.
27. The safety net provided by New York Area public assistance benefits is of little help to those victims who cannot or will not access it. It is equally ineffective for those who are intimidated by its complexities and avoid it for this reason. For others who make the effort to take advantage of the benefits that are available, complexities can result in missed opportunities and inefficiencies.
28. Aging, elderly and frail victims often require professional guidance to understand and to access the public assistance that is available to them. They also need professional guidance to access non-government social services programs that fill in when public assistance is delayed, unavailable or cannot meet individual need.
29. For New York Area victims to benefit fully from available government and non-government assistance programs, outreach, case management and entitlement counseling services are imperative. In the New York Area environment, benefits are indeed available. At the same time, it is very easy for victims to fall through the cracks in the midst of the thousands upon thousands of non-victims who are also seeking benefits in an overburdened, overly complex system.
30. A projected budget for a model case management program (including outreach and entitlement counseling services) prepared by Selfhelp is included as **Attachment H**.

(2) *Health Care, Homecare and Mental Health Programs*

31. With the increasing age of the overall victim population, many have become frail and often vulnerable. The ravages of old age and preexisting sicknesses and injuries from the Holocaust have a profound impact on quality of life. Long periods of malnutrition during the war (for many, malnutrition occurred in the formative years) have caused brittle bones, stomach disorders, impaired vision, heart and circulation problems, high blood pressure and dental problems. Victims also have a high incidence of chronic depression, anxiety and sleeping disorders. These conditions worsen with age, causing further complications.
32. For many, walking unaided has become an extreme challenge.

33. The aging process, often traumatic in itself for victims, makes coping with daily activities more difficult. Loss of one's life partner, retirement, and limited mobility all contribute to feelings of loneliness and isolation.
34. For many elderly, frustration and anger develop as they realize their functional ability is decreasing, resulting in loss of independence. This situation can be more acute for victims as they often feel that only other victims can understand their particular needs and experiences. Many victims are reluctant to rely on outsiders for assistance, and as their families get older and have families of their own, or as their spouses become ill or pass away, they are left with fewer trusted people to rely upon.

#### (i) Medical Care

35. While New York's Medicaid and Medicare programs provide significant health care benefits to eligible persons, including many Nazi victims, these programs have significant gaps that often leave victims without effective access to necessary healthcare services at the time the services are needed. New York Area victims need access to programs that will help fill gaps in medical benefits entitlement programs.
36. Financial eligibility limits for participation in the Medicaid program are exceedingly low, well below the federal poverty level.
37. Someone age 65 or over or disabled who has income or resources exceeding the Medicaid eligibility levels can become eligible only if and only after she impoverishes herself by spending down her assets to or below applicable resource levels, thereby creating financial hardship and need in other areas of daily life. She is then required to contribute all of her monthly income to the cost of her medical care, to the extent it exceeds applicable income limits.<sup>4</sup> The Medicaid eligibility test does not take into account the individual's housing, utilities, food, or other expenses. The sole allowed deduction is for health insurance premiums and, for elderly victims who are working, a portion of their earned income.<sup>5</sup>
38. In addition to the requirement that victims spend down their income and assets to levels *below* the federal poverty line, they face other barriers to obtaining Medicaid coverage for health care needs. First, there are delays in processing Medicaid applications. Regulations permit the Medicaid agency to take up to 45 days to accept an application for persons age 65 or over or who are certified disabled.<sup>6</sup> In practice, even in simple cases, waiting periods are often doubled.
39. During the application period of a minimum of 45 days, and often for many more months in the administrative application and hearing process, the applicant receives no Medicaid-funded care at all or reduced care while administratively imposed limitations are appealed (if at all). New York Area Nazi victims who are poor, or

who had assets that they spent down paying privately for care, and who have applied for Medicaid, are left at severe risk during these gap periods

40. Like the Medicaid program, the Medicare program contains coverage gaps. This program provides health insurance benefits for the elderly (65 years of age or over) who receive Social Security retirement benefits and for the disabled under age 65 who have received Social Security disability benefits for two years. The program requires deductibles and coinsurance that can be a severe burden for many Medicare participants who cannot afford costly Medigap insurance. [The poorest participants, whose income is under 135% of the federal poverty level, may qualify for assistance paying some of these costs through Medicaid or state-operated Medicare payments assistance programs ("MPAPS")].
41. During entitlement gap periods, victims need access to programs that will afford care, direction and, where necessary, advocacy services.

#### (ii) Homecare

42. As victims age, they, like the general older adult population, will experience significant limitations in their physical, mental and social functioning. Perhaps somewhat more acute than what is present in the general older population, is the need of victims to stay in their homes, thereby avoiding institutionalized care. Nursing home and institutionalized long-term care may be particularly traumatic for many victims, who may experience such care as a recurrence of their treatment at the hands of the Nazis.<sup>7</sup>
43. Access to homecare services is in many cases the critical component that enables victims to remain in the homes and communities of their choice.
44. As recently noted by New York State Superintendent of Insurance, Gregory V. Serio, chair of the National Association of Insurance Commissioners International Holocaust Commission Task Force, "...homecare...[is] an increasingly pressing need among Holocaust survivors."<sup>8</sup> This pressing need derives from the fact that "...[m]any victims of Nazi persecution are without the resources to provide such care...[which] includes a range of services that enable elderly New Yorkers to remain living in their own homes, from housekeeping and help with daily tasks of living to skilled nursing and home modifications for disabled residents."<sup>9</sup>
45. Many New York Area Nazi victims who need homecare assistance and support to remain in their own homes safely and independently, with the measure of dignity they deserve, fall through gaps in government-funded safety nets.<sup>10</sup>
46. While New York's Medicaid program specifically provides home health and personal care services,<sup>11</sup> delays and coverage gaps necessitate supplemental privately

paid care, at least temporarily. Further, the time and attention of trained advocates is often required to obtain an individualized set of necessary services.

47. Even in the most routine case there are extensive delays before adequate homecare services are authorized by the local Medicaid agency. Processing the battery of assessments and determining Medicaid eligibility take at least 45 days, and often 90 days. During that time, the victim often has no care. The availability of subsidized care to fill this gap is critical. On top of approval delays, the application of assessment standards frequently results in scaled back services or limitations on the approved hours of care. For example, current standards prohibit allotment of homecare hours for "safety monitoring" of persons with Alzheimer's disease or other types of dementia. These standards have been upheld by the federal courts.<sup>12</sup>
48. Because of these limitations, in many cases, aggressive advocacy by a lawyer or trained social worker is required to obtain adequate homecare, often resulting in additional lengthy delays of over six months in the administrative hearing process. Again, the availability of subsidized care during this period is critical.
49. Homecare-related benefits paid under the Medicare program are also limited. Home health aide assistance, personal-care assistance and social-work assistance are not available on a stand-alone basis; these services are only available to the truly "homebound" who also need "medically necessary" skilled nursing or therapy services, as ordered by a physician. For those Medicaid-ineligible victims who are not acutely ill, who do not need a skilled nurse or therapist at home, but simply require assistance with such tasks as personal hygiene, dressing, feeding, nutrition and general environmental support, Medicare provides no benefits. And even when an individual qualifies for Medicare homecare, aide service is routinely limited to between 12 and 20 hours per week, leaving a significant coverage gap for victims needing full-time assistance.
50. For those Medicaid-ineligible victims who have been hospitalized, or who have been receiving Medicare-supported homecare, and who no longer need skilled services, but who still need assistance in their homes, Medicare does not provide coverage. Generally, once a recipient of Medicare services attains a basic level of health, Medicare benefits for homecare cease, even though assistance may be needed because of a chronic condition. Often, victims in this position do not have enough income to purchase private services adequate to provide the level of care in the home that is needed to keep them safe and well.
51. New York Area victims in need of immediate homecare and personal care services should not be left without these services while they seek to access them through established government processes. There is a major need among New York Area victims for access to homecare assistance under those circumstances in which entitlement and other government benefits programs respond in a delayed fashion, or will not respond at all.

**(iii) Mental Health**

52. The special mental health needs of Nazi victims are well documented.<sup>13</sup> It has been noted that, for many victims, the aging process represents a “recapitulation of Holocaust experiences” and that old age itself becomes “potentially traumatic.”<sup>14</sup> Moreover, for Nazi victims in New York City, the terrorist attacks of September 11, 2001 reawakened many horrible memories of the past.
53. At the same time, the benefits provided by the Medicaid and Medicare programs in the area of mental health services falls short of meeting the needs of New York Area victims, particularly in the area of ongoing outpatient treatment, an area of critical importance to many victims as they struggle to avoid institutionalization. Victims, therefore, need access to non-government programs that, where appropriate, can provide, or assist them in procuring, necessary mental health services.
54. In addition to the eligibility restrictions and waiting periods under the Medicaid program, as already discussed, covered mental health benefits are restricted. Principally, the Medicaid rates for private outpatient treatment are so low that few community-based mental health professionals are willing to accept Medicaid. Limited treatment is available solely in hospital outpatient clinics, and some community clinics.
55. Under the Medicare program, mental health benefits are also severely limited. To be covered under the Medicare program, the outpatient mental health services that are so important to victims must be for “diagnosis” or “be reasonably expected to improve the patient’s condition.”<sup>15</sup> This “expectation of improvement” standard, as administered by many Part B carriers, creates barriers to care for beneficiaries who require ongoing grief counseling and long-term assistance with depression. In the event denials of coverage are based on this standard, the victim will, at a minimum, have to endure extensive delays caused by the administrative appeal process, if the victim even has the guidance and the determination to pursue an appeal.
56. Assuming that necessary mental health services can be procured under the Medicare program by a victim, he or she, unless eligible for one of the MPAPS discussed above, may also face significant co-payments. For most outpatient psychiatric services, Medicare pays only 50% of the approved amount. For persons whose resources are already stretched too thin, a 50% co-payment will often be too much to bear, leaving them without mental health services.
57. A projected budget for a model homecare program prepared by Met Council is included as **Attachment I**.
58. A projected budget for a model Medicaid advocacy and homecare service program and the projected costs of a model health care/mental health program are included as **Attachment J**. It should be noted that, as respects the Medicaid advocacy and

homecare program, Selfhelp estimates that for every \$1 spent, approximately \$4 in government benefits would be derived.

***(3) Financial Assistance to Meet Basic Needs in Light of Housing Crisis***

59. The lack of affordable, stable housing is one of the largest problems facing New York Area survivors who are poor or near-poor. **Attachment K** to this Proposal provides a summary of some of the reasons for the housing crisis faced by victims in the New York Area.
60. As housing costs drain individual resources and inflate the cost of living in New York, and as some poor and near-poor Nazi victims spend down their savings (if any) to become Medicaid eligible, access to cash assistance, whether on an ongoing or emergency basis, becomes vital.
61. Available cash assistance for food, utilities, clothing, transportation and other basic needs is necessary in the face of the enormous financial pressure borne by New York Area victims, month-to-month, as they struggle to make their rent.
62. A projected budget for a model financial assistance program developed by Selfhelp for those neediest victims who, for example, must frequently choose between proper food and their rent, is included as **Attachment L**.

***(4) Transportation***

63. For elderly and frail victims who are poor and near poor, mundane activities like going to the doctor, getting food, running errands and attending social events often become major problems.
64. A victim's physical and emotional disabilities make using mass transit extremely challenging. Car services are too expensive for those on fixed incomes and "Accessaride"-type programs are often unreliable, taking several hours for a pickup and requiring advance reservations.
65. New York Area victims need reliable transportation programs to assist them in maintaining contact with a community within which they feel safe and understood. Without the ability to move about in such a community, aging will mean increased isolation and the "loss of structure, routine, self esteem, status and friends," all of which are vital to the mental health of victims.<sup>16</sup>
66. A projected budget for a model transportation program prepared by Met Council is included as **Attachment M**.

(5) Socialization and Community-Based Activities

67. Community-based activities, like support groups, relieve the pain of isolation by fostering meaningful connections with others and provide victims with a critically needed "protective shield against being mercilessly attacked by memories."<sup>17</sup>
68. A number of these activities (including estimated current expenditures), presently operated by agencies in the UJA-Federation network, are described in Attachment N to this Proposal.
69. In order to continue operating these programs and to meet the growing demands for such programs in light of the aging of the victim population, additional sources of funding, including appropriate allocations from the Pool, must be located.

V. Organizations Endorsing the Proposal and Selected Case Studies

70. Letters of endorsement from organizations supporting this Proposal are included as Attachment O.
71. Selected case studies illustrating specific instances of victim need, and the struggle to meet such need, are included as Attachment P.

VI. Conclusion

72. UJA-Federation recognizes that Nazi victims in the former Soviet Union, and perhaps elsewhere in the world, have needs that are generally more severe than the needs of many New York Area victims. Nevertheless, there is widespread poverty among victims residing in the New York Area. Because public assistance programs contain gaps that often leave New York's victims with significant unmet needs, and because philanthropic resources cannot meet all such needs, this Proposal respectfully asks the Court to consider an appropriate allocation from the Pool to assist New York Area agencies in continuing their work on behalf of needy victims. Should the Court determine that a New York Area allocation is appropriate, UJA-Federation stands ready to use its extensive experience leveraging available resources for the needy to recommend to the Court appropriate agencies to receive allocations.

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<sup>1</sup> The Study, which was based on a stratified random sample survey of 4,500 Jewish households interviewed between March and September of 2002, was commissioned by UJA-Federation to provide information about Jewish households in the New York Area that would be useful for general policy and planning decisions. The Report is a selected discussion of New York Area Nazi victims based upon data and information secured in the Study. Both the Study and the Report were prepared by Ukeles Associates, Inc.

<sup>2</sup> As noted in the Report, questions used to determine who is a Nazi victim were based on the definitions of "Nazi victim" used by the Claims Conference and the American Jewish Joint Distribution Committee.



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<sup>3</sup> See *Special Master's Proposal, September 11, 2000, In Re Holocaust Victim Assets Litigation, Social Safety Nets*, at F-8 to F-11.

<sup>4</sup> 18 NYCRR, § 360-4.8.

<sup>5</sup> 18 NYCRR, § 360-4.6.

<sup>6</sup> 18 NYCRR, § 360-2.4(a). For survivors under age 65 who have not been certified disabled, the processing time is ninety days. *Id.*

<sup>7</sup> Yael Danieli, Ph.D., *As Survivors Age, Part I*, National Center for PTSD Clinical Quarterly, Winter 1994, at p. 3, and studies cited therein.

<sup>8</sup> New York State Insurance Department Press Release, June 2, 2003, *New York Holocaust Survivors to Receive \$1.1 Million in Homecare Assistance from the ICHEIC*.

<sup>9</sup>*Id.*

<sup>10</sup> The New York Expanded In-Home Services for the Elderly Program (EISEP) is a State and City funded program that serves some elderly people who need homecare but are not eligible to have services paid for by the Medicaid or Medicare programs. Relief under EISEP is limited and does not eliminate the need for victim access to non-government sources for financial assistance to meet homecare needs. Persons with income below 150% of the federal poverty level receive free services through EISEP. Those with incomes between 150% and 250% of the federal poverty level pay for their homecare on a sliding scale, paying between 5% and 100% of the actual cost of the care. Services are limited to a maximum of 20 hours per week -- weekdays only -- of part-time services in the areas of housekeeping, personal care, home-delivered meals, and respite care. Because of the limited hours, EISEP does not meet the needs of those who require extensive care and do not have family to provide the care that EISEP does not provide. Eligibility for EISEP does not guarantee services. In fact, most neighborhood EISEP programs have long waiting lists, which vary in length. In certain neighborhoods, according to Tova Klein, Director of EISEP at Selfhelp, the waiting list is so long that those low on the list cannot expect personal care or housekeeping services even within a year.

<sup>11</sup> N.Y. Soc. Serv. Law, Sec. 365-a(2)(d) and (e).

<sup>12</sup> *Rodriguez v. City of New York*, 197 F.3d 611 (2d Cir. 1999), *cert. denied*, Oct. 2000.

<sup>13</sup> *As Survivors Age, Part I* (see note 7) and studies cited therein.

<sup>14</sup> *Id.*, at p. 2.

<sup>15</sup> Centers for Medicare and Medicaid Services, *Program Memorandum, March, 2003*.

<sup>16</sup> *As Survivors Age, Part I* (see note 7), at p. 3, and studies cited therein.

<sup>17</sup> *Id.*, at p. 3, and studies cited therein.