

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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

MEMORANDUM & ORDER

KORMAN, Chief Judge:

On August 16, 2001, following the July 26, 2001 decision of the United States Court of Appeals for the Second Circuit upholding the Plan of Allocation and Distribution of Settlement Proceeds ("Distribution Plan"), I ordered the Escrow Fund agents to transfer the settlement payments from what had been the Escrow Fund into the Settlement Fund. Since that time, the \$1.25 billion Settlement Fund has benefited from unanticipated interest income. The Settlement Fund also has benefited from tax legislation exempting from federal taxes individual distributions from the Settlement Fund, and the Fund itself. See Economic Growth and Tax Relief Reconciliation Act of 2001, Section 803 ("No Federal Income Tax on Restitution Received by Victims of the Nazi Regime or their Heirs or Estates"). I requested that Special Master Gribetz review the available information to determine whether there are sufficient excess funds to provide for supplemental distributions to class members.

The Special Master has consulted with various parties including Claims Resolution Tribunal ("CRT") Special Masters Volcker and Bradfield, Lead Settlement Counsel Burt Neuborne,

Settlement Fund accountant Eisner LLP, and the claims administrators (the CRT, Conference on Jewish Material Claims Against Germany, International Organization for Migration and American Jewish Joint Distribution Committee). His findings are set forth in his letter to the Court dated August 19, 2002, incorporated herein. Based upon the current and projected income to and distributions from the Settlement Fund, he has recommended a 45% proportionate adjustment to the amounts previously designated for distribution to members of Slave Labor Class I, the Refugee Class and the Looted Assets Class. The cost of the additional 45% distribution to those who already have received payments is approximately \$63 million; the estimated total going forward is approximately \$102 million. The funds are derived from unanticipated tax relief and interest already earned on the Settlement Fund.

Under this proposal, payments to members of Slave Labor Class I – the over 115,000 individuals who already have received or have been approved for payment, as well as those whose applications currently are under review – will now increase from \$1,000 to \$1,450. Payments to individuals who were expelled from Switzerland or denied entry as refugees will now increase from \$2,500 to \$3,625; those admitted into Switzerland as refugees but mistreated will receive \$725 (from \$500). Humanitarian aid distributions to needy members of the Looted Assets Class will increase from \$100 million to \$145 million.

These proposed distributions will not diminish the \$800 million currently reserved for the Deposited Assets Class; however, with Special Masters Volcker and Bradfield, Special Master Gribetz recommends certain adjustments to the timing of Deposited Assets Class payments.

Most members of the Deposited Assets Class receive an initial payment of 35% of the total award, to be followed by a payment of up to the remaining 65% of the award once the claims review process has been completed. The Special Master's August 19, 2002 letter advises that Special Masters Volcker and Bradfield, based upon their analysis of the claims submitted to the CRT, recommend that these payments be reversed so that the initial payment is increased to 65% of the total award, to be followed by payment of up to the remaining 35%. Additionally, they recommend that the CRT pay in full any Deposited Assets award where the claimant is 75 years of age or over. As with the Slave Labor I, Refugee and Looted Assets Classes, these adjustments are to apply retroactively as well as to future compensation payments from the Settlement Fund.

I concur with these recommendations. Accordingly, it is hereby

ORDERED that Settlement Fund distributions hereinafter are to be made in the following amounts: (1) **Slave Labor Class I** members are to receive \$1,450; (2) **Refugee Class** members who were denied entry into or expelled from Switzerland are to receive \$3,625, and Refugee Class members who were admitted into Switzerland but mistreated are to receive \$725; (3) annual requests for funding from the three administrative agencies distributing humanitarian *cy pres* funds to needy members of the **Looted Assets Class** are to reflect the 45% increase described herein; and (4) **Deposited Assets Class** members aged 75 and over are to receive payment in full of their CRT awards, while class members who currently receive initial payments of 35% under the Distribution Plan and Rules Governing the Claims Resolution Process, are to instead receive initial

payments of 65%, to be followed at the end of the claims resolution process by payments of up to the remaining 35% of the award.

To enable the administrative agencies retroactively to increase the payments to class members that already have been made from the Settlement Fund, it is further

ORDERED that the signatories to the Settlement Fund are hereby directed to transfer the sums specified below to the claims administrators:

(1) Claims Conference and IOM: \$53,725,500 is to be transferred to the Claims Conference, and \$646,200 is to be transferred to the IOM, each of which shall arrange for supplemental payments of (a) \$450 to each of the 115,635 members of Slave Labor Class I who received or were approved for payment prior to the date of this order (115,199 via the Claims Conference, Groups 1 through 8; another 436 via the IOM, Groups 1 through 3); (b) \$1,125 to members of the Refugee Class who were denied entry into or expelled from Switzerland, and \$225 to those who were admitted but mistreated, and who received or were approved for payment prior to the date of this order (via the Claims Conference, Groups 1 through 4); and (c) 45% increases in the Looted Assets Class *cy pres* funds distributed or scheduled for distribution by each organization thus far (to date, \$3,825,000 by the Claims Conference and \$1,000,000 by the IOM). The Looted Assets Class increases are to be allocated and distributed proportionately in accordance with, respectively, the IOM Supplemental Proposal for Humanitarian and Social Programmes dated June 10, 2002 and approved by Memorandum & Order dated June 24, 2002, and the Second Claims Conference Looted Assets Class Proposal dated July 11, 2002 and approved by Memorandum & Order dated July 22, 2002.

(2) JDC: \$3,375,000 is to be transferred to the JDC, a 45% increase in the \$7.5 million distributed thus far to the "Hesed" and other humanitarian assistance programs serving needy Jewish victims of Nazi persecution in the former Soviet Union. This sum is to be distributed proportionately in accordance with the JDC's February 27, 2001 Proposal for the First Year of Operations, as supplemented by the JDC's April 4, 2001 report, and approved by orders dated April 13, 2001 and June 28, 2001.

(3) CRT: \$9,359,914.61 is to be transferred to the Awards Payment Account of Special Masters Volcker and Bradfield for funding of the Claims Resolution

Process. From this sum, \$3,829,920.79 will be applied to increase by 30% each of the Deposited Assets Class awards approved to date for which partial payment has been approved (i.e., CRT Groups 1 through 10), thus bringing the total paid on each such award to 65%. The remaining \$5,529,993.82 will be applied by the CRT to pay in full those claimants aged 75 and over who have been approved for partial payments thus far.

I will issue additional orders transferring further sums from the Settlement Fund as applications from other class members are approved.

Brooklyn, New York
September 25, 2002

SO ORDERED:



Edward R. Korman
United States District Judge