

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 01-1859-CIV-SEITZ

IRVING ROSNER, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

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**ORDER AMENDING DETAILED PLAN OF ALLOCATION AND AUTHORIZING  
DISBURSEMENT FROM SPECIAL FUND FOR SOCIAL SERVICES FUNDING AND  
ADMINISTRATIVE EXPENSES FOR CALENDAR YEAR 2008**

THIS MATTER is before the Court on Class Counsel's Status Report and Motion for Order (1) Amending Detailed Plan of Allocation and (2) Authorizing Disbursement from Special Fund for Social Services Funding and Administrative Expenses for Calendar Year 2008 [DE 266]. On December 28, 2007, The Counsel on Jewish Material Claims Against Germany, Inc. (the "Claims Conference") submitted a Supplemental Programmatic Report on the 2006 Special Fund Allocation of the Hungarian Gold Train Settlement and 2008 Special Fund Allocation Recommendations ("Supplemental Report"). The Supplemental Report contains the funding summaries for the seven agencies that were granted extensions through June 30, 2007 on their allocation of the 2006 Special Fund and sets forth the proposed 2008 budgets for each social service agency participating in the Hungarian Gold Train program, with a \$4.2 million base request for 2008.

Additionally, the Claims Conference proposes amendments to the Detailed Plan of Allocation to (1) extend the ability of the Foundation for the Benefit of Holocaust Victims in Israel ("Foundation") to apply \$354,557.95 in previously unused allocations for services to class members living in Israel in the year 2008; and (2) increase the annual maximum level of assistance available

to qualifying Hungarian survivors living in Israel for home care, emergency assistance to \$3,045, and for "special medical cases" to \$5,076. Class Counsel concur with these recommendations. Moreover, the Claims Conference recommends the establishment of a sixth year of funding using accumulated interest and possible cancelled funds from the Special Fund, for all countries and communities served by the Special Fund. The Claims Conference, Class Counsel, the administering agencies, the Survivor Advisory Committees and other class members consulted and agree that extending the funding for a sixth year is preferable to using all accumulated or unused funds within the original five year period.

Next, the Claims Conference recommends, and Class Counsel concurs, that the appropriate level of funding for social service programs for 2008 is \$4.2 million.<sup>1</sup> Thus, Plaintiffs request an Order authorizing Class Counsel to direct the Escrow Agent to disburse \$4.2 million for distribution in accordance with the Detailed Plan of Allocation, as amended.

Finally, Plaintiff requests that the Court authorize Class Counsel to direct the Escrow Agent to disburse \$42,000 to the Claims Conference as provided in the Plan of Distribution (1% of the total allocated for programs in a particular year), and to deduct its fees in accordance with its December 21, 2005 agreement with Class Counsel.

Therefore, upon review, it is hereby

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<sup>1</sup> Under the Detailed Plan of Allocation, the formula for the initial year (2006) funding yielded \$4.2 million. For 2007, the Claims Conference recommended \$4.2 million in funding based on the settlement formula and other factors. Under the Amended Detailed Plan of Allocation, the third year's funding is set at 33% of the value of the Special Fund, which was estimated to be \$13.9 million as of November 30, 2007. Although the 33% proportion would yield \$4.58 million for the 2008 funding, Class Counsel is requesting \$4.2 million for the year for the following reason. The \$13.9 million value of the Special Fund is calculated with the gross amount of earned interest, but without any deduction for federal income taxes. The Escrow Agent has taken the position that the interest on the fund accumulates tax free pursuant to Public Law 107-16, Title VIII, Section 803, and the Internal Revenue Service has not to date objected to that treatment. Class Counsel have requested a national law firm, on a *pro bono* basis, to obtain a Private Letter Ruling from the Internal Revenue Service to confirm the Escrow Agent's position. However, Class Counsel are of the view that they should not seek disbursements at a level that assumes the interest is not taxable until the question is resolved.

ORDERED that

(1) The Detailed Plan of Allocation for the Special Fund is amended in accordance with the proposal submitted in the Claims Conference's Supplemental Report dated December 20, 2007. The parties shall file an Amended Detailed Plan of Allocation including these changes no later than February 15, 2008.

(2) The Escrow Agent shall disburse from the Special Fund the following amounts upon the written direction of Class Counsel:

a. \$4.2 million to the Conference on Jewish Material Claims Against Germany, Inc., to be used for social service programs for Hungarian Nazi Victims in need for Calendar Year 2008 in accordance with the Amended Detailed Plan of Allocation dated April 2, 2007.

b. \$42,000 to the Conference on Jewish Material Claims Against Germany, Inc. as reimbursement for its administrative expenses for the 2008 Calendar Year.

c. The Escrow Agent may also deduct its fees from accumulated interest for the second year according to its agreement with Class Counsel, entered into as of December 21, 2005.

DONE AND ORDERED at Miami, Florida, this 22<sup>nd</sup> day of January, 2008.

  
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PATRICIA A. SEITZ  
UNITED STATES DISTRICT JUDGE

cc:  
All Counsel of Record