



# HOLOCAUST SURVIVORS' FOUNDATION – USA

## Member Organizations (Partial List)

November 22, 2013

Amer. Assn. of Jewish Holocaust  
Survivors of Greater Boston

Assn. of Holocaust Survivors from  
Former USSR, Los Angeles

C.A.N.D.L.E.S., Terre Haute, IN  
Child Survivors of Arizona

Child Survivors/Hidden Children of  
The Holocaust

Coalition of Holocaust Survivor  
Clubs in South Florida

Council of Nazi Holocaust Survivor  
Organizations of So. California

Habonim Cultural Club, Miami

Holocaust Child Survivors &  
Friends of Greater Hartford

Holocaust Survivors Club of  
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Holocaust Survivors of  
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Survivors of Atlantic City, NJ

Survivors of the Holocaust Asset  
Recovery Project, Seattle

Survivors of the Holocaust of  
New Mexico

Tikvah Acharay Hashoah,  
San Francisco

The Honorable Eric T. Schneiderman  
Attorney General, State of New York  
120 Broadway  
New York City, New York 10271-0332

## **Subject: Conference on Jewish Material Claims Against Germany, Inc.**

Dear Mr. Attorney General:

We are elected leaders of Holocaust survivor groups from throughout the United States, and welcome the opportunity to provide our views concerning the Claims Conference (CC). The Claims Conference, a registered not-for-profit corporation under the laws of the State of New York, has been the central organization controlling Holocaust restitution and spending for the needs of indigent Holocaust survivors for decades. However, only a fraction of the assets looted from Holocaust victims and provided by the German or other governments to the Claims Conference have been returned to their rightful owners or heirs, and half of all Holocaust survivors in the U.S. and around the world live in or near poverty and cannot afford the basic necessities of life for a dignified old age.

Yet the Claims Conference acts as if there is no legal or moral requirement that it be accountable to Holocaust survivors and survivors' families. The need for intervention by the New York State Attorney General (NY AG) is manifest because the Claims Conference has perpetuated and enriched its incumbent management and leadership at the expense of the identifiable classes of individual beneficiaries that the NY AG's office should, legally and morally, be focused on protecting.

The Claims Conference's acquisition of East German properties, and the amendment of its charter in 1994, created the current shell game whereby the rights of East German property heirs have been pitted against the needs of survivors living in

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poverty. This is a false, cynical, and unnecessary dilemma thrust on the survivor community and the heirs of German property owners.

While the Claims Conference has used the proceeds from these properties for a variety of projects, some of which benefit survivors, it has diverted over \$250 million in such funds for grants to organizations completely unrelated to Holocaust survivors' lives and welfare, ostensibly allowed by a 1994 amendment to its charter. This is unconscionable when half of all Holocaust survivors in the U.S. and elsewhere live below or near the poverty level and cannot afford the medicines, home care, dental care, nutrition, shelter, etc. Moreover, a NY AG's inquiry will find that the CC obtains "support" for these other grants by questionable means. At the same time, though statistics are not public, it appears that most heirs of East German Jews whose property was confiscated by the Nazis have been denied their inheritances by the CC's unethical conduct in failing to publish the names of the German Jewish owners and the location of these properties so the owners or heirs might easily recognize and recover their families' properties, and in taking the outrageous position that it owns the assets and owes no duty to assist the actual heirs of the German Jews.

While the human beings whom the organization is supposed to protect are suffering, or unable to recover their family legacies, the incumbent management and board of the CC is intimidating its perceived critics and adversaries, including journalists, as it controls some \$1 billion in liquid assets, and operates a powerful political machine under the guise of a "philanthropic organization." The Claims Conference as an entity and its likely legally excessive and certainly dubiously appropriately-compensated management are in control and prospering, and the Holocaust survivors and heirs the organization was supposedly created to protect are being harmed in innumerable ways. The pattern of the current scandals provide sufficient evidence that the Claims Conference operates without proper transparency or accountability.

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**The 16 year, \$57 million fraud orchestrated by Claims Conference employees graphically reveals its lack of proper governance and management, as its ombudsman found; the group's well-oiled public relations and political operations cannot unwind this reality.**

**To be clear, the Claims Conference is not a Holocaust survivor organization, and its decisions do not reflect the priorities or preferences of the vast majority of Holocaust survivors. The Holocaust survivor leadership asks that the New York Attorney General acknowledge and endorse the Holocaust survivors' views and our goals.**

We believe that all heirs of East German properties should be able to recover the full value of their families' properties, despite the fact that they missed the two-year deadline set by Germany that was never intended to bar the actual heirs from regaining their families' legacies. They have only been deemed to do so by the Claims Conference's unethical behavior. For the Claims Conference to deny heirs their full inheritance based on the argument that the money is needed to provide for the needs of indigent survivors, while at the same time it siphons off at least \$18 million every year for projects unrelated to Holocaust survivors' needs is unconscionable and demands intervention by the AG. To the extent the Claims Conference has funds available that cannot be traced to living heirs, they must be spent 100% for survivor needs.

Further, instead of the current cynical and destructive framework pitting heirs against indigent survivors, the Holocaust survivor leadership has for many years been advocating for a comprehensive, transparent, and publicly accountable plan, funded by the German government and other culpable entities such as banks, insurance companies, and other profiteers, and supervised by the U.S. government, to provide all survivors with vital services and dignity in their final years. We urge the New York Attorney General to employ his robust authorities to help the survivors overcome the damage of the last 15 years and achieve these goals which simply reflect common sense and common decency.

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When the German government has been approached by survivors to rectify the current inadequate funding streams for the vast unmet needs of our brothers and sisters in need, Germany has cited its reliance on the Claims Conference's primary role in obtaining and deciding how funds are to be utilized from restitution sources, and citing the large reservoir of unspent funds in the Claims Conference's control.

We implore the Attorney General to eliminate all of the moral compromising, self-dealing, leadership self-defense tactics, and blackmailing by the Claims Conference to protect its "monopoly" on Holocaust issues, and focus on justice and transparency for the living survivors and their families.

Since the Claims Conference board of directors has demonstrably acquiesced in the improper actions described here, and the remaining Jewish community leadership has demonstrated that it is too compromised by the CC's funding leverage to intervene to protect survivors and heirs from the CC's predatory actions and even the media have been cowed in many cases from pursuing and reporting the facts, the imperative for intervention by the New York Attorney General is clear.

## History of Claims Conference Practices, Scandals, and Impact on Survivors

Under the current system, the Claims Conference uses a large portion of the funds derived from these East German properties for survivors' needs, but only provides enough resources for a small fraction of survivors' needs around the world. Beginning in the 1990s, when survivors were aging *en masse* and trying to keep up with the mounting health problems and declining resources, as well as the unique horrors and health problems they suffer from the deprivations of the camps and ghettos, there have been enormous and tragic shortfalls in funding for the needs of aging, indigent survivors, leaving tens of thousands of survivors in desperate need.

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Use of Holocaust Funds for Non-Survivor Projects. In spite of the horrific funding shortfalls plaguing survivors, the Claims Conference has diverted at least \$18 million every single year for pet projects of board members and related groups such as the Anti Defamation League, B'nai B'rith, the World Jewish Congress, the Reform Movement, Agudas Israel, the American Gathering of Holocaust Survivors and Their Heirs, and others. In the past decade alone, the amount of guaranteed survivor suffering from these earmarks has exceeded \$250 million. Further, there are reasons to question the efficacy and transparency of programs funded through two powerful board members, the Joint Distribution Committee (JDC) and the Jewish Agency for Israel (JA), ostensibly for the needs of "Nazi victims" overseas.

Hoarding Holocaust Funds Despite Survivors' Current Suffering. In addition, current estimates of the Conference's asset-base range of between \$1 and \$3 billion. No one can be sure of the total assets under its control because there has never been a reliable independent accounting despite survivors' demands. In 2007, the CC Audit Committee Chairman admitted that they had been improperly reporting assets under the CC control in their "audited financial statements."

Over \$1 billion in cash reserves unquestionably remain untapped. With tens of thousands of elderly Survivors suffering and unable to take care of basic needs, how can this be tolerated?

How many survivors died before their time without the help they needed, or suffered or are suffering needlessly, because of the maintenance of these cash reserves, and the diversion of some \$250 million of Holocaust victims' money to non-survivor projects?

Intimidating Critics. The Claims Conference has continued to act as if it owns these funds it hijacked from actual heirs, and has been largely effective in muffling the sincere outcry of decent people who are overwhelmed by its institutional power wielding these billions of other peoples' money. These practices include silencing opposition by funding a myriad of non-survivor programs around the world, and by creating the fear in communities that it

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might reduce the minimal funding it provides to Jewish family service organizations for survivors' needs. This latter point was publicly reported by a group of Israeli survivors a few years ago, and is constantly made by survivors and many Jewish community professionals in the United States – off the record of course.

**It is also known that the organization's leadership has threatened editors and journalists as well as agency executives who dare to criticize – or even give survivors the opportunity to criticize – Claims Conference policies. When a CC director demands that a professional collect survivors' signatures to support the organization's allocations for "research, documentation, and education," when the survivors are not getting the help they desperately need, the situation has gone too far.**

In 2002, Claims Conference President Israel Singer wrote that "after the survivors are dead," the CC and its leaders would use leftover restitution funds to re-vitalize the Jewish world with education vouchers and other the projects. Survivors challenged this outrageous and arrogant vision, talking about "leftover money" when thousands of survivors were and are still suffering immensely from lack of decent health care, housing, nutrition, dental and other vital care, medicines, and other problems unique to aging survivors. But the CC held fast to its secretive monopoly, which the Jewish leadership and public officials at all levels passively accepted, allowing massive suffering to continue, even after Singer was removed from office in 2006 by the New York Attorney General for financial improprieties.

Recent Scandals – March of the Living. One example of the unaccountable spending practices of the CC is the 2007 March of the Living scandal. In 2007, it was revealed that the Claims Conference paid \$700,000 to the March of the Living, to be given to a "consultant" friend of CC President Israel Singer named Curtis Hoxter. According to the New York Jewish Week, these payments began the same time Singer was instructed to stop funneling unauthorized payments through the World Jewish Congress. Hoxter could never explain what he did in return for the \$700,000, and by

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the latest reports, the Claims Conference has never produced the results of the promised “thorough investigation,”

In the face of the Singer and March of the Living scandals, Isi Liebler, a former Executive Committee member of the World Jewish Congress, wrote: “The Claims Conference lacks transparency regarding the manner in which it allocates funds. Critics insist that it functions more like an old boys club than a representative body, and that its board is merely a rubber stamp endorsing the decisions of a few machers who make decisions among themselves and only consult their key constituents. This is confirmed by the fact that the board never meaningfully challenges allocations submitted by the selection committee. As the vast majority of directors are themselves representatives of organizations benefiting from distributions, they are also disinclined to rock the boat by attempting to reform the structure.”

Recent Scandals – East German Properties. As noted above, the source of the Claims Conference’s power is billions of dollars it controls from properties confiscated from East German Jews but not claimed by actual heirs within the two-year deadline set in 1990.

The Claims Conference’s treatment of East German Jews’ confiscated property has also yielded intense criticism and scrutiny. The drumbeat of criticism from heirs whose rights were previously expropriated by the Third Reich, only to be heisted again by the Claims Conference, forced the CC to allow limited names searches of the property database in 2003. This window was open for only 6 months and provided extremely limited information.

The scandals persisted, leading to a Knesset investigation in 2008 and questions in the German and Israeli media, but no effective relief to this day. According to the German weekly *Der Spiegel*: “Documents SPIEGEL has obtained . . . suggest questionable business practices. Internal documents paint a picture, not of a selfless organization devoted to championing the rights of others, but of a business enterprise sitting on assets worth hundreds of millions of dollars.”

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These questions led the British Board of Jewish Deputies to commission an independent investigation in 2010 by barrister Geoffrey Gruder, who concluded the Claims Conference acted unethically toward the heirs of East German Jewish property owners. He reported that “the Claims Conference refused to publish or disclose details of heirless properties it recovered or claimed, both before and after the deadline set by Germany to claim property in 1993,” and that when “pressured to provide information, it did so in a manner that made it virtually impossible for heirs to identify or claim their assets.” According to Mr. Gruder, the “Claims Conference defends its actions by arguing that it has no legal duty to act on behalf of owners or heirs, and has no obligation to render assistance in making such claims.”

The Claims Conference consistently advanced the view that it owned these properties outright, and not as a trustee for the actual victims or legitimate heirs of Holocaust victims, including those who had no idea about the two year deadline, and those who understandably had no idea even about family assets in existence before the devastation of the Holocaust.

In early 2013, however, the German Administrative Court held that the properties acquired by the Claims Conference as a result of the 1990 German reunification law are not subject to the organization’s plenary control. The German Court held that the Claims Conference holds the property as “trustee” for living heirs, and is “not entitled to freely dispose of the assets which accrue to the institution.”

This was reported in the *New York Jewish Week* on August 2, 2013, prompting the Claims Conference to threaten and intimidate the newspaper into removing the article even though it was accurate, including its description of the decision’s potential impact on the Claims Conference’s power source. The removed article was originally published at <http://www.thejewishweek.com/news/international-news/court-decision-could-undermine-allocations>, but is no longer available on the Jewish Week’s website. The only inaccurate statement in the August 2 article is the CC’s denial that such a decision exists. (Attached). A highly diluted version of the story appeared a week later.

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<http://www.thejewishweek.com/news/international-news/german-ruling-leads-suit-against-claims-conference>.

From the survivors' point of view, this German court case should finally put an end to the current system where the rights of heirs have been pitted against the needs of poor Holocaust survivors, as HSF leaders have informed Congressional committees, the U.S. State Department, the media, and the Jewish community. Today heirs get shortchanged and tens of thousands of survivors are suffering in terrible poverty. Germany denies proper funding for survivors needs because of the huge reserves the Claims Conference has built up with the East German assets. The survivors' position is and has been that the Claims Conference should give German heirs their money, and use all other available funds for the immediate needs of Holocaust survivors. In principle, the German government can and should take direct responsibility for caring for survivors in the event the funds in the CC's control are not sufficient, and Germany should take primary responsibility for survivors' care.

Recent Scandals -- \$57 Million Fraud Carried On for 16 Years by Claims Conference Employees. Another example of malfeasance surfaced in the fall of 2010 when the U.S. Attorney for the Southern District of New York indicted about 20 people, including several Claims Conference employees, for carrying out a \$57 million fraud against two German funds administered by the Claims Conference. The scheme lasted for 16 years.

This scandal came as no surprise to Holocaust survivors who have been urging greater transparency and accountability in the handling of funds obtained from assets looted from Holocaust victims. The occurrence of this massive incompetence and gross negligence exhibited by the 16 year scheme should disqualify all current board members and incumbent management from further service. Moreover, the leadership reaction to the events further undermines the incumbent management's qualifications to govern.

When the indictments were announced, the Claims Conference officials acted like victims and maintained they had no knowledge of the fraudulent scheme. The thefts had been going on

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for 16 years without being noticed by the Claims Conference management, who stated when the scandal broke that “nobody was responsible because there was no deviation from standard procedures.”

In May of 2013, after the trial of the last three defendants, the *Jewish Daily Forward* reported that top Claims Conference officials were alerted to the frauds in 2001 but failed to act until 2009. Then the CC leadership tried to blame a German employee who died in 2004. <http://forward.com/articles/176583/claims-conference-officials-were-told-of-massive/?p=all>;  
<http://www.jta.org/2013/05/14/news-opinion/united-states/2001-letter-shows-claims-conference-alerted-to-fraud-a-decade-before-it-was-stopped#ixzz2TI6ok6Dk>

The public scandal prompted some (but by no means a majority) of the previously pliant board members to (publicly at least) demand more information. The chairman assigned the CC's ombudsman to review the organization's handling of the matter. The Ombudsman's Report validates many of the concerns the U.S. survivors have been raising about the organization's lack of transparency and accountability for more than a decade. It is all the more remarkable because, though not specifically tasked with identifying problems with the Claims Conference's overall management structure and systems, the Ombudsman concluded it was imperative to address those failings. The Report states:

*The mandate to which the Ombudsman adheres restricted our examination to an investigation of the manner in which the Letter and the Report were handled. However, over the course of our inquiries into the matter, we came to realize that the organizational conduct regarding the Letter and the Report is a specific point of failure that should be reviewed and addressed against a backdrop of systematic failings and problematic organization behavior. Indeed, these failings within the organization were abused by criminal elements in order to perpetuate major fraud over a period of many*

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years. We cannot abstain from addressing these failings as we identified them. In this respect, *the management of the Letter was a symptom of a more serious problem.*

The HSF leaders, having called for greater transparency and accountability from the organization and for serious oversight by all levels of government officials, were not surprised at these shameful events. In testimony before the U.S. House Foreign Affairs Committee, Europe Subcommittee, in 2007, HSF President David Schaecter cited the Claims Conference's "unthinkable secrecy and self-dealing in this post-Enron era," and pleaded:

So the Congress might ask what is going on in an organization that controls billions of dollars of Holocaust survivors' money, conducts its business in secrecy, refuses to account for its funds, and seems to have no problem building future empires with survivor money while the souls who went through hell are suffering today while money from the Holocaust is sitting dormant for everyone else's agenda except the survivors themselves.

But the group's autocratically ensconced leadership has resisted all oversight and accountability, even threatened to withhold funds from survivor groups and other grant recipients critical of its policies, with the indulgence of most in Congress, the U.S. State and Justice Departments, the New York Attorney General's office, and the Jewish leadership, and the German government, all of whom seem to have some excuses or rationalizations for ignoring or tolerating the organization's lack of transparency and accountability.

In connection with the \$57 million fraud, it would be natural to ask: Where were the auditors? The Ombudsman noted that the audit reports of the Claims Conference's internal auditor, Ernst & Young "could not constitute a substitute for a

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comprehensive and substantial internal audit system as required in a body handling monies on such a large scale – in either the public or the private sector.”

Another logical question is: Where was the board of directors? Andrew Baker of the American Jewish Committee was quoted as saying that the board was not briefed on the 2001 information, that it only meets once a year, and “these are people who are not connected on a day-to-day basis.” Nathan Guttman, “Claims Conference Chief Knew of Holocaust Fraud Earlier,” *The Jewish Daily Forward*, May 22, 2013.

Until the unavoidable coverage of the \$57 million fraud case and the more serious inquiries following the *Forward*’s report about the 2001 whistleblower who was ignored, the Jewish and mainstream media was very reluctant to publish negative stories about the Claims Conference. This is undoubtedly because of the CC’s aggressive, no holds barred defense of its monopoly powers and seemingly unlimited funds with which to buy “friends.”

Yet the problems do not end there. Despite the damning disclosures and ombudsman conclusions, **nothing changed** in the Claims Conference’s leadership or management at the next (July 2013) board meeting. According to Mr. Leibler:

In any functional organization or public institution, such a damning report necessarily leads to the resignation of the parties involved and raises major questions concerning the fiduciary responsibilities of the Board of Directors. Not so in the case of the Claims Conference.

Indeed, ignoring the incriminating report, the organization presented a list of nominated officers, including Chairman Berman and CEO Schneider, as a bloc to the Board at its annual meeting last week. The Board was obliged to accept or reject the list in its entirety. To maintain a façade of total unanimity, abstentions were not recorded. Board members were

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quietly warned that if they failed to endorse the list they would bear responsibility for the dissolution of the Claims Conference.

The majority of directors, true to form, “unanimously” endorsed the list of nominees, including those directly responsible for the mismanagement and fraud. Despite the findings of the Ombudsman’s report, the apathetic refrain repeated again and again by Berman apologists was “Yes, they made mistakes but it is over. Let us move forward”.

Isi Leibler, “Claims Conference: Has it no shame?” *The Jerusalem Post*, July 17, 2013.

Further, the argument that the Claims Conference \$57 million fraud caused no harm to survivors because it was just Germany’s money and Germany is standing by the Claims Conference is outrageous for many obvious reasons, both symbolic and substantive.

The Claims Conference argues that since the U.S. Attorney did not find any other criminality during the investigation, its critics should be satisfied. Our position is that the “absence of additional criminality” does not satisfy the organization’s fiduciary duties and moral responsibilities to Holocaust survivors and heirs, and to the public. We believe it is the New York AG’s responsibility to ensure the proper functioning of an organization imbued with such solemn responsibilities and powers, and that the AG should institute a complete change of board and

Further evidence that the fraud did in fact cause harm to survivors in need is seen regarding The Jewish Family Services and other agencies in the U.S. provide for “emergency assistance” grants from fixed amounts of money each year from the Claims Conference. These funds support survivors’ dental care, eyeglasses, hearing aids, emergency home care, utility payments, food, wheelchairs, etc, and are limited to \$2500 per year (paid to the

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service provider) per survivor. (These funds are separate from “home care” funds.) Because emergency assistance grants are fixed and limited every year, they are severely rationed in every community. It is common for survivors not to receive all of the money they need for an approved service; e.g. they might get only \$1,000 from the JFS to pay a dentist even though the survivor needs \$5,000-\$10,000 worth of dental work. Moreover, funds are ordinarily exhausted in each community long before the end of the year, leaving many survivors simply needing money that is not available from the JFS or the community.

The emergency assistance program has eligibility requirements for survivors, including persecution and financial criteria. In most cases, the JFS offices will ask the questions and determine a survivor’s eligibility. However, when a claimant has been approved by the Claims Conference for Article 2 or Hardship funds, the JFSs accept that certification at face value. This means that if the criminals who were part of the \$57 million fraud over those 16 years who applied to a local JFS or Self Help of Bikor Holim office would have been automatically approved for emergency assistance funds that were therefore denied to actual survivors in need.

The amount of damage to legitimate survivors in need from these wrongful claims could be substantial because these people could have started applying years ago and been improperly receiving emergency assistance money for several years – up to \$2500 per year -- and denying those very funds to legitimate survivors who were shut out because of funding limits. If this isn’t “damage to Holocaust survivors,” what is?

We believe it is imperative that the AG ask the Claims Conference if it can guarantee that none of the fraudulent claimants received emergency assistance grants from the JFS’s, Self Help, and similar agencies? This should be a simple exercise, i.e. to match the bogus Article 2 and Hardship Fund people with their database of emergency assistance grants over the years, and certify under oath that none of this occurred. However, it is our understanding that the Claims Conference did not keep records of the names of the

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recipients of emergency assistance throughout the JFS's and other agencies (and likely not overseas either) until 2009 or 2010 – so it would be impossible for them to give an honest answer to the question covering the 16 year period before the FBI finally got involved.

Attempts to Clean Up Image. In recent years, the Claims Conference has been aggressively trying to polish its image with reports of greater funding from Germany to assist Holocaust survivors with home care. Their public relations campaign is understandable given the scandals that have defined the operation for the past decade, up to and including the indictments in New York City in November, or the news that its Chief Negotiator Stuart Eizenstat managed to pluck \$50,000 from the Claims Conference treasury for a Kennedy Center concert, while so many Holocaust survivors were suffering without food, medicine, home care, dental care, eyeglasses, and other basic needs. When one compares the \$50,000 concert expenditure with the \$2,500 annual limit imposed by the Claims Conference for an individual Holocaust survivor's emergency needs, the reasons for survivors' anger becomes more and more obvious.

Exaggerated Program Announcements. As part of the campaign to burnish its image, in the midst of the \$57 million fraud scandal (May, 2013), Germany announced that it would supply \$800 million in home care funding for survivors through the Claims Conference for the years 2014-2017. Unfortunately, a simple analysis shows that even this seemingly large amount of money is NOT a sufficient response to the problems facing indigent survivors in need of home care. Considering this is a worldwide fund, and the number of survivors that are supposedly served every year and the cost of home care, etc., the facts show that the home care funding announced will address only a small fraction of survivors' actual home care needs.

According to the Claims Conference announcement, the home care funds provided by Germany will be \$182 million in 2014. It also says that 56,000 survivors per year are served via the Claims Conference with these German

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funds. <http://www.claimscon.org/?url=negotiations-05-13>. Keep in mind that this 56,000 number does not include many thousands of other survivors who have not been getting any assistance, whether because they are on waiting lists due to lack of funds, or hidden in the shadows and not coming forward to seek help because of the lack of funds, or out of pride, etc. But they must become an integral part of this calculus too.

That being said, the math shows how these large-sounding dollar figures are pitifully inadequate: If you divide \$182 million by the present number to be served of 56,000 survivors, the result is \$3,250 in home care funding per survivor for 2014. In South Florida, home care costs about \$15 per hour, so \$3,250 would pay for 216 hours of home care. The average survivor in South Florida, who is in his or her 80s, needs at least 15 hours of home care per week, and most need much more. Just going with the average, the 2014 budget will pay for less than 15 weeks per year of the average survivors' home care needs. What is the survivor supposed to do the other 37 weeks every year? What about the states like New York and others where proper home care costs more than \$15 per hour?

The recent report of the New York City social services organization, Self Help, shows how inadequate the recently announced funding levels really are. It reports that in 2013, in the New York City metropolitan area alone, **26,572** survivors, or 41% of the New York survivor population, required some help with daily tasks. When that number is compared with the **56,000** survivors **worldwide** that are currently "served" via home care funds through the Claims Conference, the deficiencies are obvious. New York accounts for roughly half of the U.S. survivor population, which is between 20 and 25% of the world survivor population. If the New York's survivor population, with about 12% of the world's total, has enough survivors needing home care to comprise (for analytical purposes) 47% of the total number of survivors helped with home care funds through the Claims Conference today, the "math" shows there will still be gaping needs in the years to come.

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## Claims Conference's Role in Other Asset Restitution Disasters

A third category of identifiable individuals whose rights the CC has violated are survivors and heirs with legal claims to other assets (such as insurance policies and bank accounts) whose rights the CC has arrogated to itself through the financial and political power it has acquired by obtaining control of the billions of East German properties. The status quo has resulted not only in inadequate funding to enable all Holocaust survivors to live their last years in health and dignity, but also a terrible record in actual property recovery by survivors and heirs of Holocaust victims.

The Claims Conference's approach acting as a supplicant and subordinate, begging and scraping at the knee of Germany and global corporations, while opposing actual Holocaust survivors' legal rights to hold culpable financial culprits doing business in the United States accountable in U.S. courts, has been catastrophic. It has resulted in a scarcity framework under which Holocaust profiteers have retained billions in unjust enrichment, while survivors, American citizens, including many U.S. veterans and combat veterans, are officially second class citizens under U.S. law, and tens of thousands of vulnerable Holocaust survivors have died in poverty and misery.

The East German property situation is a cogent case in point. But other "restitution initiatives" have suffered from the Claims Conference's penchant for sacrificing Holocaust survivors' rights and interests, just so it can be the controlling power in negotiations and disposition of "benefits."

## Swiss Bank Settlement.

The Claims Conference and the JDC played key roles in the U.S. Federal Court's recommendation to divert 75% of the Swiss Bank class action settlement funds to overseas organizations ostensibly for needy Nazi victims, where less than 20% of survivors live, giving a miniscule portion for the needs of indigent survivor class members in the United States. Not surprisingly, both of those

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organizations ended up in control of hundreds of millions of dollars to distribute supposedly for the benefit of Holocaust survivors whose families' assets were looted and fenced through Swiss banks, and in the CC's case tens of millions of dollars in "fees" for claims processing.

Recent disclosures show that the JDC, given control of over \$160 million in settlement funds in the Former Soviet Union (FSU), filed accounting reports with the Court starting in 2001 for several years purporting to show precisely where every dollar of settlement was spent in 16 different regions of the FSU, yet giving only the most general information.

As a practical matter, no class member, family member, Jewish community leader, Member of Congress, or journalist would have had any way of verifying through the JDC's filings how \$16 million in settlement money was being spent in the FSU every year. Every year, Ernst & Young, the JDC's auditor, filed "independent audits" with the Court purporting to verify the accuracy of the JDC's reports.

However, after six (6) years of such reports from the JDC, an obscure footnote in a court document that was not part of the official court docket admitted that the JDC does not "track funding of services for individual clients by funding source across years." In other words, the charts and reports that the JDC had been filing were simply untrue, purporting to report a level of detail that JDC later admitted did not exist.

Further, Ernst & Young, the auditor assigned to verify the JDC's spending to the Court – just as it was supposed to be auditing Claims Conference programs -- failed to detect the misrepresentations in the JDC's reports all those years, and instead filed "independent audits" with the Court that can now with the benefit of hindsight only be viewed as laughable – if the consequences weren't so serious.

The Claims Conference was equally responsible for the Swiss bank accounting and financial reports in the Former Soviet Union.

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The U.S. Holocaust survivor leadership has filed a motion with the Court asking for an independent investigation of the groups' handling of these funds, and that request was reported by the *New York Jewish Week* and the *Jerusalem Post*. Over \$160 million has already been dissipated from the settlement and there are more questions than answers about how those funds were distributed.

## Unpaid Insurance Policies Owed to Holocaust Victims' Families.

In the years leading up to World War II, Jewish families in Europe tried to protect their assets, and their families' futures, by buying property and life insurance from companies such as Generali, Allianz, AXA, Munich Re, Swiss Re, and others. After the Holocaust, most of these companies stonewalled survivors and heirs by demanding death certificates and original policy documents, denying that policies existed, claiming that the policy had been surrendered or voided, etc. Of course, in most cases heirs had no idea their parents or grandparents who died in the Holocaust even had a policy.

In the late 1990s, New York, Florida, California, and other states enacted laws in the late 1990s requiring such companies doing business there to publish relevant policy holder names, and to allow survivors and heirs to sue recalcitrant insurers, the insurance industry. To lessen the sting of these state laws, the insurance industry – working with the Claims Conference and other non-survivor organizations -- created an "international commission" which the industry controlled, ostensibly to publish names and pay claims on a voluntary basis. The commission ("ICHEIC") was conducted in secret, paid for and controlled by the industry, and in the end (9 years later) paid survivors and heirs less than 3% of what the companies owed: a mere \$250 million of the \$20-plus billion still owed by the insurers to Holocaust victims' families. Even when documented policies are in the hands of survivors these too are denied by illegitimate machinations of the Insurance companies.

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Holocaust Survivors Group of  
Southern Nevada

Houston Council of  
Jewish Holocaust Survivors

The Jewish Holocaust Survivors &  
Friends of Greater Washington

Jewish Survivors of Latvia, Inc.  
New York

National Assn. of Jewish Child  
Holocaust Survivors, Inc.

New American Jewish Social Club,  
Miami

New Cracow Friendship Society,  
New York

Survivors of Atlantic City, NJ

Survivors of the Holocaust Asset  
Recovery Project, Seattle

Survivors of the Holocaust of  
New Mexico

Tikvah Acharay Hashoah,  
San Francisco

An indication of where the true loyalty of ICHEIC was dedicated to was that after its departure the CEO Mara Rudman became a lobbyist for the very insurance companies she was tasked to challenge.

Legal briefs filed by the Bush and Obama Administrations in 2008 and 2009 incorrectly stated that previous U.S. agreements and policies promised the insurance companies complete “legal peace” if they participated in ICHEIC. To the contrary, the Clinton Administration had insisted in 2000, after the signing of the executive agreement cited by the insurance companies, that the United States had not undertaken a duty to achieve “legal peace” for German insurers, that Holocaust survivors and heirs with insurance claims were not required to bring their claims in ICHEIC and were not precluded from seeking recovery in state courts, that ICHEIC was not an “exclusive remedy” as a matter of U.S. law, and that the Agreement did not preempt California’s laws. Unfortunately, the federal courts accepted the Bush and Obama Administration’s contrary (and false) 2008 and 2009 government’s assertions and held that the private, secret ICHEIC commission “preempts” Holocaust survivors’ constitutional rights to go to court to recover these unpaid insurance contracts.

In 2010, HSF leaders obtained documents under the U.S. Freedom of Information Act (FOIA) in which Justice Department officials admitted that the government had never promised the insurers immunity, and that what was said in the courts was not true. DOJ immediately demanded the documents be returned, as reported by *The Center for Public Integrity*.

Unfortunately, bipartisan legislation in the last three Congresses to correct these decisions and restore survivors’ rights has failed because of huge lobbying expenditures by the insurance industry and opposition by non-survivor organizations who benefited from ICHEIC. Who are the opposing groups? The Claims Conference, the ADL, the American Jewish Committee, B’nai B’rith, and the World Jewish Congress – the same ones who have allowed or benefited from the egregious Claims Conference policies outlined above.

**“JUSTICE AND DIGNITY FOR SURVIVORS”**



# HOLOCAUST SURVIVORS' FOUNDATION – USA

## Member Organizations (Partial List)

Amer. Assn. of Jewish Holocaust  
Survivors of Greater Boston

Assn. of Holocaust Survivors from  
Former USSR, Los Angeles

C.A.N.D.L.E.S., Terre Haute, IN

Child Survivors of Arizona

Child Survivors/Hidden Children of  
The Holocaust

Coalition of Holocaust Survivor  
Clubs in South Florida

Council of Nazi Holocaust Survivor  
Organizations of So. California

Habonim Cultural Club, Miami

Holocaust Child Survivors &  
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Holocaust Survivors Club of  
Boca Raton

Holocaust Survivors of  
Greater Detroit

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Further, the Claims Conference has managed to influence Obama Administration policy from the inside because the State Department's "Special Advisor for Holocaust Issues," Stuart Eizenstat, holds a leadership position in the Claims Conference (the "Chief Negotiator"). Survivors raised our concerns with Secretary of State Clinton that it was unethical for a representative of a private NGO with documented conflicts with Holocaust survivors' rights to hold any position in the State Department dealing with Holocaust survivor issues, but she did not take action.

In 2010 the survivors' worst fears were confirmed when Eizenstat, testifying to a House Judiciary Subcommittee to oppose legislation to restore survivors' insurance rights, argued that the legislation would break the United States' prior commitments to insurers for immunity from litigation. Mr. Eizenstat not only parroted the Claims Conference position, he repeated the same misstatement of policy that the DOJ documents produced under FOIA admit was untrue.

The problems survivors face in battling for our rights against the entrenched establishments whose nests are feathered by Holocaust profiteers is illustrated by the example of Allianz AG, of Germany.

In 1933, Allianz chairman Kurt Schmitt, an early Nazi party member, became Hitler's Minister of Economics. Allianz provided the Reich with insurance coverage for Auschwitz and other death camps. At the same time, it was selling policies to European Jews and handing over Jewish customers' files to the Nazis. After World War II, SS officers and other party members who used to work for Allianz went right back to their same jobs. Yet, in the 65 years after the war, Allianz failed to honor over \$2.5 billion in policies it had sold to Jewish customers.

Under ICHEIC, Allianz paid less than \$30 million to claimants compared to the \$2.5 billion it owes. Yet, soon after ICHEIC closed in 2007, Allianz offered to pay \$300 million for naming rights to the New York Giants and Jets new stadium in the

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Meadowlands. Thanks to an outcry by everyday citizens who did not want their community to be used as a billboard to launder Allianz's reputation, the deal was cancelled.

However, unlike the good people of New York and New Jersey, others who should know better have been very willing to take Allianz's money, including CNBC, National Public Radio, American Public Media, the American Jewish Committee, Garrison Keillor and A Prairie Home Companion. Are these institutions really so blind to decency that they would accept this blood money so Allianz can sanitize its history? And only this week, the Jewish Foundation for the Righteous issued an invitation to a dinner in December honoring Allianz's chief Washington lobbyist with its "Recognition of Goodness Award." The justification? That its President, Roman Kent, who is also Treasurer of the Claims Conference, said that ICHEIC solved the problems and now that 70 years have passed Allianz is OK.

To add further insult to injury, the Claims Conference and several of its board members and grant recipients such as the Anti Defamation League, the World Jewish Congress, B'nai B'rith, and others, have lobbied aggressively to thwart efforts in Congress to restore our rights. Not only did these organizations repeatedly lie to Congress, two had accepted money from the culpable insurers – ADL received money from Generali, and AJC had received money from Allianz.

## Conclusion.

Based on its unethical appropriation of funds obtained from the East German properties, the Claims Conference has amassed unaccountable power in the Jewish community and among public officials, versus doling out less than even "A measure of justice" to survivors, and caused enormous harm to the actual intended beneficiaries that the organization was originally created to protect. We urge the New York Attorney General's office to investigate the practices outlined above, and take all appropriate actions to remedy the failures and eradicate their causes, in order to protect the survivors and heirs whose rights and lives are at stake.

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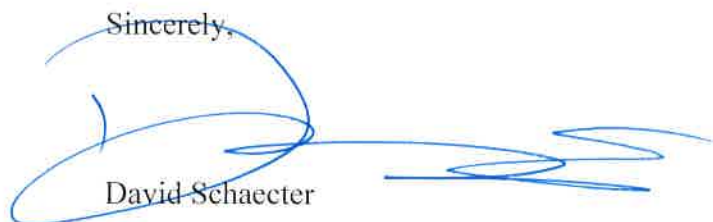
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Tikvah Acharay Hashoah,  
San Francisco

Sincerely,



David Schaecter

## JOINED BY HSF EXECUTIVE COMMITTEE:

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Dena Axelrod, Ft. Lauderdale, FL  
Renee Firestone, Los Angeles, CA  
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