

GERMAN  
Restituted  
Mayer M

July 1, 1947

Mr. August Mayer  
Chawam-Saltaneh 118  
Teheran, Iran.

Dear Mr. Mayer:

In reply to your letter of June 5th, we want to inform you that your request has been forwarded to our headquarters office in Paris, since any action possible would be taken by them.

You may expect to hear therefore directly from France regarding your inquiry.

Sincerely yours,

Personal Service Department  
Reta L. Stein, Director

ECE:ME

344363

GERMANY  
restituted  
Mayer

July 1, 1947

From: Mrs. Esther C. Elbogen, Personal Service Department

To: JDC - Paris - Emigration Department

Re: MAYER - Mr. August  
Chavam-Saltaneh 118  
Tehran, Iran.

Subject: Repatriation to Germany

Attached we are sending you three translated copies as well as the original letter we received from the above named, who requests help in repatriation to Germany in order to put through his claim of property to be restituted. Please note that we advised Dr. Mayer that he may expect to hear directly from you regarding his request.

ECE:ME

344364

August Mayer  
Ghawam-Saltaneh 118  
Teheran / Iran

Teheran, 6.6.1947

The Joint Distribution Committee  
270 Madison Avenue  
New York

Application for a loan of 1,000 US Dollars for the purpose of a temporary return to Germany in order to settle the partial claims to our property which was sequestered by the Nazis. These claims are checked and approved by the American General Consulate here.

For your information I first wish to give you the personal data of myself and my son, Dr. <sup>Karl</sup> August Mayer.

I, August Mayer, born on November 23, 1874 in Grossbockenheim (Rheinpfalz) resided since 1900 with my wife, Paula, nee Berg, in Karlsruhe - Baden, where I was the owner of a wholesale textile house. In 1939 we finally managed to emigrate to IRAN.

My son, Dr. Karl Mayer, M.D. and his wife Kaete, nee Ellinger, emigrated with their two children in August 1939, also to IRAN. My son had in Karlsruhe, Stefanienstr. 66, his own private clinic, and under the Nazi regulations, that is, under duress, was forced to sell it far below its value.

Our partial claims, examined and sponsored by the American General Consulate in Teheran, consist first of the following:

2 Liftvans each, which were stored completely legally in the international free ports of Hamburg and Bremen for their transportation to Iran. Upon our inquiry with the transport company in charge (Internationale Transportgesellschaft, Karlsruhe) we were informed of the official reply of the Moabit Finance Office, that is officially, that on the basis of the expulsion laws the Nazis had removed our 4 liftvans from the free ports and had sold the contents at auction. After careful examination and listings the value of these liftvans was set at at least 600,000 Gold Marks, and as such was forwarded by the local General Consulate to the American Military authorities (Control Dept.) Berlin. In the case of our liftvans it is a case of simple robbery, thus one of the cases where restitution undoubtedly has to be made.

I am giving you these data so that you may have the necessary facts ~~for~~ to submit to your committee concerning my application, although my name and that of my son, which are undoubtedly known over there, should be enough guarantee, particularly since in all the hard times here we have never applied for help to your organization. I purposely want to omit the details.

My son, who was really supposed to go back in this matter, is prevented from doing so by his present state of health, although he would have to attend to the inheritance claims of his wife to the estates of her uncles, respectively her mother (Benno and Arthur ARNOLD, former co-owners of the firm KAHN & ARNOLD, Augsburg, the brothers of her mother, all of whom perished in Dachau, resp. Theresienstadt).

-2-

I may expect that you won't delay your decision too much, since I have to leave here in 2 months at the latest. I want to emphasize once more that I want that sum of US\$ 1,000 as a loan only, and as soon as the first restitution payment is made will repay you immediately.

Please remit those \$1,000 to the following address:

LEVANTOUR, Tehran, Meiden Firdowsi, to be credited to Mr. August Meyer, Teheran.

As I have mentioned before, this matter is to be handled as urgent and I beg you to let me have your decision by return mail.

Thanking you in advance, I am

Sincerely yours,

August Mayer

P.S. I also wish to add that for 25 years I was a member of the board of the Jewish Community in Karlsruhe and my son was a member of the B'né B'rith Lodge in Karlsruhe and until his emigration was active as a physician in the Jewish hospital and home for the aged in Mannheim.

I also beg you to let me know how you can support me from there with food etc., and what formalities on my part are required for this.

Translation from the German  
AU 7 6.19.48

344366

*R. M.*

January 28, 1954

Mr. Hugo Meyerheim  
206 West 92nd Street  
New York 24, N.Y.

Dear Mr. Meyerheim:

In connection with your claim I have received word from Mr. Wronker in Berlin that he is in touch with Dr. Blumenthal, who is the head of our Berlin office, and will cooperate with him in every way possible to assist you. However, I am sorry to have to report to you that in the opinion of our lawyers the case is not very strong. We shall, nevertheless, do all we can to help you.

Sincerely yours,

SK:mc  
Dictated but not read

Saul Kagan

344367

JEWISH RESTITUTION SUCCESSOR ORGANIZATION  
BERLIN REGIONAL OFFICE

BERLIN - DAHLEM  
FONTANESTRASSE 16  
TELEFON: 76 19 81

January 22, 1954  
Dr. Wr/se

JAN 26 1954

Mr. Saul Kagan  
Jewish Restitution Successor Organization  
270, Madison Avenue  
New York 16, N.Y.

Re: Bendix-Helene Lewy-Isidor Strich Foundation  
Claim of Hugo Meyerheim

Dear Mr. Kagan:

With reference to your letter to Dr. Tuch, dated December 29, 1953,  
we have contacted Dr. Blumenthal and given him such information as  
we have.

Unfortunately, the case of Mr. Meyerheim is not a strong one. He  
claims indemnification for the loss of an allowance which he would  
have been paid out of the funds of the abovementioned foundation,  
if the latter still existed. Another beneficiary of the said  
foundation had made a similar claim and her claim was dismissed  
by the court on the ground that there was no identity between the  
persecutee (viz. the foundation) and the "Geschaedigte".

We shall try to find out whether there is a chance of the courts  
changing their opinion on this point of law.

Yours very truly,

*W.K. Wronker*  
W.K. Wronker

JRSO Berlin Regional Office

344368

December 29, 1953



Dr. Hans Tuch  
Jewish Restitution Successor Organization  
Fontanestr. 16  
Berlin-Dahlem, Germany

Re:—Bendix-Helene Lewy-Isidor Strich Foundation  
Claim of Hugo Meyerheim

Dear Dr. Tuch:

This will refer to our correspondence concerning the above case. Following your advice of October 22, 1952, Mr. Meyerheim filed a claim under the Berlin Indemnification Law through the URO. He is now turning to us asking for help in the presentation of evidence in support of his claim. I replied to Mr. Meyerheim as per attached. I would appreciate it if you could get in touch with Dr. Blumenthal and make available to him whatever information we may have available which will be of help to this very unfortunate man.

Sincerely yours,

SK:mc  
enc.

Saul Kagan

344369

*Reb. And*

December 29, 1953

Mr. Hugo Meyerheim  
206 West 92nd Street  
New York 24, N.Y.

Dear Mr. Meyerheim:

This will acknowledge your letter of December 11. Although it is not clear to me what kind of information we may have which would be of value in support of your claim, I have nevertheless requested Dr. Tuch of our Berlin office to make available whatever information is in our files to Dr. Blumenthal, who is the head of the Berlin office of the URO. There is no information in our New York files which has not been transmitted to Dr. Tuch in Berlin. I am sending you an extra copy of this letter which you may wish to make available to the American Federation of Jews from Central Europe.

Sincerely yours,

SK:mc  
cc: Dr. Tuch

Saul Kagan

P.S. The address of Mr. Isidor Strich is: 78 Christ Church Road  
Reading, Berks, England

344370

December 11, 1953 Hugo Meyerheim  
206 West 92<sup>nd</sup> St  
New York 25, N.Y.

DEC 14 1953

Dear Mr. Reagan,

Your letter of November 5<sup>th</sup> 1952  
I answered promptly.

Meanwhile, the  
American Federation  
of Jews from Central  
Europe wrote me March  
11, 1953 and December 7,  
1953 because of proofs.  
(I-S E.F. 59-B)

perhaps, you may  
help me. For I wrote  
you the address of Sidor  
Strich and it is known  
in Berlin that Ernsth Rehm

has given all informa-  
tions. Both are member  
of the curators' com-  
mittee of the Land Palace.

I am 82 years old  
and suffer from a severe  
heart disease. I live  
with my daughter Anil  
who is suffering from  
paranoia, from State  
Welfare.

I would be very  
thankful, if you would  
help me and meanwhile  
I am, Yours very truly  
Hugo Meyerlein

October 30, 52 I gave you the  
number (46210) I sent my file  
Reg. Nr. 69 681

*Re: Bendix-Helene Lewy-Isidor Strich Foundation -  
Claim of Hugo Meyerheim*

December 2nd, 1952

Dr. Hans Tuch  
Jewish Restitution Successor Organization  
BERLIN

Re: Bendix-Helene Lewy-Isidor Strich Foundation -  
Claim of Hugo Meyerheim

Dear Dr. Tuch:

With reference to my letter of October 31st in the  
above matter, I have now obtained from Mr. Meyerheim the  
address of Mr. Isidor Strich, as follows:

78 Christ Church Road  
Reading, Berks, England

Possibly Mr. Strich may be able to give you further  
details regarding the above foundation since he was one of  
the administrators of the foundation until his emigration.

Sincerely yours,

Saul Kagan

SK:AUN

344373

November 28, 1952

DEC 1 1952

Dear Mr. Kagan:

I would like to answer your letter of November 5<sup>th</sup> first today. As I am not in connection with Mr. Isidor Brüll it took pains to find out his address. Now, I heard that it is as follows:

Isidor Brüll, 78 Christ Church Road, Reading, Berks, England.

I thank you very much for the interests you take in case of my affair, and I am,

Yours sincerely  
Hugo Meyerlein  
206 West 92<sup>nd</sup> Street  
Apt. 3A5  
New York 24, N.Y.

344374

Vert. And  
~~B.D.~~  
Hugo Meyerheim

November 5th, 1952

Mr. Hugo Meyerheim  
206 West 92nd Street  
New York 24, N. Y.

Dear Mr. Meyerheim:

We have your letter of October 31st and regret to learn that Mr. Walter is no longer living.

In your letter of October 30th you mention, among others, a Mr. Isidor Strich who had emigrated to England. I wonder whether you have Mr. Strich's present address and could make it available to us.

Sincerely yours,

Saul Kagan  
Executive Secretary

SK:AUN

344375

October 31, 1952

84

Dear Mr. Kagan:

NOV 3 1952

In pursuance of my letter of yesterday, I just now heard that Vice President Walter has been deported. However since, as your Berlin Office writes, Dr. Rulme has claimed for restriction because of the same lifting, he will have given the informations needed.

In order to complete my information, I mention that Helene Levy was a born Frisch, the sister of my mother in law, Frau Sonnenfeld born Frisch.

I filed my claim Yours sincerely  
U.S. Aid of America Hugo Meyerheim  
Federation of Jews 206 West 92nd Street  
from Central Europe, New York 24, N.Y.  
Broadway 1674

Walter Tuch  
Meyerheim

October 31st, 1952

Dr. Hans Tuch  
Jewish Restitution Successor Organization  
Berlin

Dear Dr. Tuch:

Thank you for your letter of October 22nd, 1952, with regard to the Bendix-Helene Lewy-Isidor Strich Stiftung. We have conveyed its contents to Mr. Meyerheim here, and I am attaching a copy of Mr. Meyerheim's latest letter.

I don't know whether the information given by Mr. Meyerheim will be of much help to you. I note that he refers to a Mr. Walter who "will be able and willing to give all information needed". Mr. Meyerheim however does not mention Mr. Water's full name and address and I have therefore written him again to find out, if possible, these particulars. For the time being I am sending Mr. Meyerheim's letter to you for what it may be worth.

Sincerely yours,

Saul Kagan

SE:AUN  
Enc.

344377

Reh. And -  
Meyerheim

October 31st, 1952

Mr. Hugo Meyerheim  
206 West 92nd Street  
New York 24, N. Y.

Dear Mr. Meyerheim:

This will acknowledge receipt of your letter of October 30th, giving further particulars regarding the Bendix-Helene Lewy-Isidor Strich Stiftung. I am sending copy of the letter immediately to our Berlin office.

I note that in the letter you make reference to a Mr. Walther, who you say "will be able and willing to give all informations needed". I wonder whether you could make Mr. Walther's full name and address available to us, so that we might contact him if necessary.

Sincerely yours,

Saul Kagan

SK:IAUN

344378

Phone : SC 4-5220 (3A5)

OCT 31 1952

Hugo Meyerheim

206 West 92nd Street 3A5  
New York 24, N.Y.

84

October 30, 1952

Jewish Restitution  
Successor Organization  
Attn., Mr. Saul Kagan

270 Madison Ave,  
Ney York 16, N.Y.,

Dear Mr. Kagan:

Thank you very much for your letter of October 27 and the pain you take in my affair Bendix-Helene-Lewy-Isidor Strich Stiftung.

Mr. Helene Lewy, the aunt of my late wife, has testamentarily ordered the erection of the Stiftung for the relatives. She died in 1909 and had no children, whereas my uncle Isidor Strich has been unmarried.

At first, there were six curators, among them Dr. Ernst Ruhm, a nephew of the testator. The curators refused any information on the level and the utilization of the capital and interest. The reason, surely, had been that we heirs did not know how much the curators enriched themselves. I heard only accidentally from Justizrat Lewy, a relative, of this fact. He should replace a member and did, but declined the high remuneration, as he said me. Finally, Ernst Ruhm and a nephew with name Isidor Strich administrated the Stiftung until they immigrated to England. They ordered as their successors the Vize Praesident Walter of Bnaih Brith and a nephew Fritz Floersheim. They, surely, have not robbed as the other did, and had the office till Eingliederung of 9 the Stiftung in the Reichsvereinigung der Juden in Deutschland 1938.

Mr. Walther will be able and willing to give all informations needed, whereas the address of Mr. Floersheim is unknown. I only know that the monthly Rm. 150 which my late wife and then my daughter received came per Postanweisung from Preussische Staatsbank (Seehandlung). My son who was very young got this way the money to immigrate.

After the Eingliederung, Fr. Hedwig Cohn handled the money to my daughter per postanweisung.

The forms for Anmeldung unter dem Berliner Entschaedigung gesetz has been filled in for my children and myself, underlined by me and sent per airmail registered 46210 Oct. 2, 1952 by Station 24, N.Y. to United Restitution Office, Berlin-Wilmersdorf, Helmstedter Str. 5

Thanking you again, I am

Very truly yours,  
*Hugo Meyerheim*

344379

October 27, 1952

Mr. Hugo Meyerheim  
206 West 92nd Street  
New York 24, N.Y.

Dear Mr. Meyerheim:

I refer to my letter of August 27th in which I informed you that I requested our Berlin office to investigate whether there are still any assets remaining of the Bendix-Helene Levy, Isidor Strich Stiftung. I have received a report today which is not very encouraging. The main difficulty lies in the lack of specific information concerning the assets of that Stiftung. Have you any additional information concerning the assets of the Stiftung, or the bank or banks with whom the Stiftung maintains its assets?

I am enclosing a copy of the letter which I have received from our Berlin office, which is self-explanatory.

I trust that you have filed claims under the Berlin Entschädigungsgesetz, as I urged you to do in my letter of August 27th.

Sincerely yours,

Saul Kagan  
Executive Secretary

SK:ab

Enc.

344380

6360

SJ

JEWISH RESTITUTION SUCCESSOR ORGANIZATION  
BERLIN REGIONAL OFFICE

BERLIN-DAHLEM

FONTANESTRASSE 16

DIREKTION: TEL. 74 21 173

ZENTRALE: TEL. 74 21 184, den 22. Oktober 1952

76 06 65      76 54 38 Dr. Wr/em.

Jewish Restitution

Successor Organization

OCT 27 1952

Attn.: Mr. Saul Kagan

270 Madison Avenue

Per Luftpost!

NEW YORK 16, N.Y.

Re: Bendix-Helene Lewy-Isidor Strich Stiftung

Dear Mr. Kagan,

I refer to your letter of August 27th, 1952 and the letter from Mr. Hugo Meyerheim which you enclosed therewith.

JRSO has not filed any claim with regard to the above Stiftung, but we have taken up a claim for restitution filed by the late Dr. Ruhm. However, we have not been able to obtain particulars of the property, apart from the rather vague information that the Stiftung owned securities to the amount of RM 500.000,-- to 600.000,--.

We do not know either the types or the amounts of the securities and so far have found no trace of the assets. Not even the bankers of the Stiftung are known to us. The Stiftung has been "eingegliedert" in the Reichsvereinigung der Juden in Deutschland on October 23rd, 1939.

Under the circumstances, the prospects of the claim for restitution are rather poor. Perhaps Mr. Meyerheim will be able to give us particulars about the assets of the Stiftung?

We are in touch with Dr. Ruge in Berlin, who acts for the Stiftung, and have advised him to lodge a claim under the Berlin Entschädigungs-gesetz as JRSO and JTC are not authorised to act under this law. Para. 12 of the Berlin Entschädigungs-gesetz as nearly published on February 21st, 27th, 1952 provides for the appointment of "Nachfolgevereinigungen", but no supplementary regulations with regard to this subject have been issued as yet.

We enclose a copy of this letter in case you should want to inform Mr. Meyerheim with a view to obtaining further information from him.

Yours sincerely

A. Fink

344381

August 27th, 1952

Dr. Hans Tuch - JRSO Berlin

Re: ~~Bensix~~-Helene Lewy-Isidor Strich Stiftung

Dear Dr. Tuch:

I am sending you attached copy of a self-explanatory letter from a Mr. Hugo Meyerheim of this city, with regard to the above Stiftung. I would greatly appreciate your looking into this case and investigating whether the JRSO has filed a claim for this Stiftung and, if so, whether there is any hope or expectation that any assets are left.

In view of the advanced age and very precarious situation of the claimant, I would suggest that you consider this letter as a claim for consideration on equitable grounds. I have also advised Mr. Meyerheim to file claims under the Berlin Entschädigungsgesetz.

I am looking forward to hearing from you in this matter.

Sincerely yours,

Saul Kagan

SK:AUM  
Enc.

344382

August 27, 1952

Mr. Hugo Meyerheim  
206 West 92nd Street  
New York, N. Y.

Dear Mr. Meyerheim:

I have requested our Berlin office to investigate whether there are still any assets remaining of the Bendix-Helene Lewy, Isidor Strich Stiftung. I would suggest, however, that you immediately file a claim under the Berlin Entschädigungsgegesetz. The filing deadline expires very shortly and I therefore urge you to act without delay.

I have written to Dr. Herman Muller of the American Federation of Jews from Central Europe, 1674 Broadway, Telephone No. Circle 5-4255, requesting his office to assist you with the preparation of your claim under the Berlin Entschädigungsgegesetz. I would therefore suggest that you arrange for an appointment with that office. I shall keep you informed of our findings in Berlin.

Sincerely yours,

Saul Kagan  
Executive Secretary

SJK:AUN

344383

*Wk. And Meyerheim*

August 27th, 1952

Dr. Herman Muller  
American Federation of Jews from Central Europe  
1674 Broadway  
New York, N. Y.

Dear Dr. Muller:

I am attaching copy of a letter which we have received from a Mr. Hugo Meyerheim, which indicates that we are dealing with a very pathetic case. I have immediately written to our Berlin office, inquiring whether we have filed a restitution claim for the Stiftung. In any event, I believe that it is essential for Mr. Meyerheim and his children to file petitions under the Berlin Entschädigungsgesetz.

I would appreciate it very much if your office could follow up this matter and give Mr. Meyerheim all the assistance necessary to safeguard his rights under the Berlin indemnification law.

Sincerely yours,

Saul Kagan

SK:AUN  
Enc.

344384

Hugo Meyerheim  
206 West 92nd Street  
New York 24, N.Y.

August 26, 1952

Jewish Restitution  
Successor Organization  
270 Madison Ave.  
New York 16, N.Y.

Gentlemen:

You may be sure of my thanks, if you would help me in the following case.

My deceased wife and later my daughter, now living with me, got a monthly amount from the Bendix-Helene Lewy, Isidor Strich Stiftung. This Stiftung had been erected, because all of the three had no children. The legatees were the uncles and aunt of my wife. The Stiftung had been administered by six relatives under supervision of the Polizei-President of Berlin. Originally, there had been several Millions, but after the inflation, an amount of about sechshundert thousand marks remained. The interest income would distributed to relatives who needed it.

The Nazis first ordered that the administration should be made by the Reichsvertretung der Juden in Deutschland, located in Berlin, Kant Strasse, thus Westberlin. Finally, Nazis annexed the amount, and distribution to my daughter ceased.

I am 81 years of age and suffer from a severe heart disease, am an American citizen since 1946. I came in this country with my daughter April 1941 with about 14 dollars and each of us with two suit cases. My daughter, 38 years old, cannot work, because they became here a mental illness. Both of us are supported by my son, 38 years old, who came in this country in 1938. He is a provisional car maintainer of the subway and is not able to support us. My application at the Department of Welfare had been declined for the reason, why my son could supply us eleven years and should do that further. I was a founder of the Synagogue Berlin-Grunewald which we donated to the Berlin Jewish Community.

I do not know, how to get a support from the money according to the will of the legatees, all the more, as there may be still other relatives in need. However, I don't know, whether they live, or who need money.

do

I would be very thankful, if you should something in this case. For I am old and sick and my daughter is not able to do that, and my son must work very hard and, therefore, is nervous on account of such a job.

Very truly yours,

Hugo Meyerheim

344385

June 19, 1951

Mr. Abraham Moos  
877 East Mound Street  
Columbus 5, Ohio

Dear Mr. Moos:

This will acknowledge your letter of June 14th in which you refer to your various claims in Germany and suggest the possibility of assigning those claims to this organization, in return for assistance to you directly.

I regret that it will not be possible for us to make an arrangement of the kind suggested by you. We sympathize fully with your present needs and we sincerely wish that there was something which we could do to help you. Unfortunately, our program and our charter do not include the granting of assistance to needy individual persons. In addition, we are prevented by law from accepting from you, or from any other individual claimant, an assignment of his claim.

We sincerely trust that your pending claims in Germany may be brought to a conclusion without much more delay and that you will be enabled promptly thereafter to exchange your DM proceeds for dollars which can be of assistance to you in this country.

Sincerely yours,

Eli Rock  
Executive Secretary

ER:AUM

344386

Abraham Moos  
877 E. Mound  
Columbus 5, Ohio

6/18

6. 14. 51.

Jewish Restitutions Successor Organization  
New York

auf Anwesen <sup>my</sup> Bedarfsmalls:

Herrn P. A. Dr. Oberstaz Stuttgart erlaube ich mir zu ber-  
sichern der Abraham Moos geb 23. April 1886 also 65 Jahre  
alt) zu Bruchau <sup>in</sup> Germany letzter Wohnsitz in  
Stuttgart, Germany am 12. Februar 1950, mich an Sie  
zu wenden, mit der Hoff. Anfrage ob ein Auftrag  
auf Unterstützung für mich bei Ihnen auszuführen  
auf Erfolg hätte.

Zur Gründe all das was die Herren  
P. A. Dr. Oberstaz, Dr. Ulmer & Dr. Werner Stuttgart  
Barlebenstr 15 a Germany am 12. Februar für mich  
unter am 11. Febr. 1950 bei der Landesvertretung  
für die Wiedergutmachung in Stuttgart an  
meldeken & von dem ich Abschrift in Anlage  
beilege, nach Abzug der Kosten für bislangige  
Rabattkalk der Schwäbischen Posten & solche zu  
noch entstehen, an Sie gegen beachtende Kosten  
Satzungshilfe abtreten

344387

F Ich kam im April 1940 nach hier.  
Wah von Herber 1940-1.11.50 bei der Shoe Corporation  
of America hier tätig. Klette im Januar 1947 einen  
Betriebsunfall, der mich von Jan 1947-1.11.50 50%  
arbeitsunfähig machte, seit 1.11.50 bin ich von  
der Industrial Commission permanent ad  
disabile geschrieben <sup>mit 21-wochentlichem Entw</sup> ab  
seit 1.4.1951 bekomme ich <sup>48</sup> monat.  
Soz. Securite.

Meine Erwartungen sind auf gebrauchte  
Frau ist auch nicht fähig arbeiten zu können,  
Rinder möchte ich nicht einzutragen nehmen  
solange mir <sup>rechts</sup> die Güter zu erhalten  
sie die Rückzahlung an mich jährlich  
jahr einzuholen, obwohl sie vergangen & müssen  
Sie vielleicht in der Lage etwas in der Sache  
zu unternehmen, das Sie das von dem mit  
Vorbehaltetem etwas besseren Punkten &  
mir dadurch Zuwendungen machen zu  
können, denn ich will nicht man ich nicht  
dafür brauk geben kann

III  
Ihren Berichten Tintenreise entgegen  
schend zische

Richard Hirschovit  
Abraham Wolf



5 Auflagen

An die Landesberichts-  
stelle für  
Wiedergutmachung  
Stuttgart - O  
Grottkaustr 37

Art. 1

Uff 11. Jan. 1950.

wir stellen den Antrag  
1.) Das Land WfRg-Baden RfA an den Antragsteller  
zu Namen seiner Vertretungs- & Einigungs  
bevollmächtigten P.A. Dr. Goldschlag, Wiesbaden  
nur den Beleg von  
Ref.: 16068 (L. 4. Sechzehntausend  
achtundsechzig L. M.)

zu beraten.

2.) Ergänzung, Fortsetzung des Antrags  
bleibt vorbehalten. ger. P.A. Goldschlag

Antrag  
 $\frac{1}{3}$  Räumung 1 Haigerloch huf 9000 -  $\frac{1}{3}$  741.300  
Vorrich gen " 4000

dann noch:  
eine scheinende strikte Hypothek  
forderung Blattgr. Haldensleben  
bei Land 1/841.74.8000:- in reifer  
Frist aus dem Gegner beansprucht werden  
an mich zu zahlen H: 2100 je Et.  
zu der Kasse abgeschlossen

Auf 2 zu III, 3  
III, 5

1) Freiheitsentzug (Schwefel)	9. V. 450:-
2) abfallen Vermögen Haftzusage	11. 4490:-
a) Haftzusage Raten 11. 500:-	" 100:-
e) Zwischen & Werkbudenabgabe	" 1000:-
d) Haft Raten für Brüderhaft	" : 18:-
3) Schaden Zwischenhaft Fertigkeiten	" 864:-
a) während Schwefel	"
b) Zwangsweise Aufgabe derfeilich 30. 9. 1938 Vertrag bis 1. 4. 1943 Vf: 42120(1/5) "	8424:-
4) eingezogene Lebensmittel 600	" 120:-
5) Zwangserl. v. Hotel 3000	" 600:-
	<hr/> 16066:-
Hans Haigerloch 1/3	<hr/> 3000
Versiegeln	<hr/> 4000
	<hr/> 73066

Kreisig Rationierung  
Schmiede siehe  
verstehen

The attached letter is from an individual in this country, 65 years of age, who is presently entertaining both restitution and indemnification claims in the U.S. Zone of Germany. At the suggestion of his attorney in Germany (Dr. Ostertag) he approaches the JRSO with the request that they might be able to give him some assistance in his present needy situation here (he appears to be disabled and cannot work) in return for which he would cede them his claims overseas.

344392

Office of the Rabbi  
718 WEST 89TH STREET

Phone: SCHUYLER 4-1400  
4433

Temple  
257 WEST 88TH STREET



CONGREGATION B'NAI JESHURUN  
NEW YORK 24, N. Y.

FOUNDED 1825

January 16, 1951

Mr. Eli Rock  
Jewish Restitution Successor Organization  
270 Madison Avenue  
New York 16, New York

Dear Eli:

Thanks for yours of January 15th and for the information contained therein. I am advising Mrs. Mundt as per your suggestion.

It is gratifying to know that you have recognized my picture and especially since it was taken about ten years ago.

I am hoping to be able to come in for a meeting of the JRSO in the near future. In the meantime, my cordial regards to all our colleagues, to my successor, Mr. Goldwater, and especially warm greetings to you.

Sincerely yours,

DR. ISRAEL GOLDSTEIN

IG:n1

344393

Dr. Israel Goldstein  
Congregation B'nai Jeshurun  
270 West 89th Street  
New York, New York

Dear Dr. Goldstein:

This will reply to your letter of January 11, 1951 to which you attached a copy of a letter to you from Mrs. Ernestine Mundt, offering to transfer her blocked account in Berlin in the amount of DM 297.40 to some Jewish organization.

I have discussed this matter with the JDC Director for Germany who happened to be in this country on leave. He points out that in order for this type of contribution to be made, it must be approved by the Bank Deutscher Laender in Germany, which involves a certain amount of red tape and delay. Under the circumstances and in view of the small amount involved, he does not think it is worth while for the JDC to bother. On the other hand, he does suggest that Mrs. Mundt might be interested in donating the funds in question to the Berlin Jewish Gemeinde, which still carries considerable responsibilities on behalf of the needy Jews of Berlin. Should Mrs. Mundt be interested in this approach, her procedure should be first to write to the bank in Berlin where the money is deposited, authorizing the bank to transfer the funds in question, as a charitable contribution to the

Juedische Gemeinde, Berlin  
Iranische Str. 2

and requesting the bank to secure the necessary official approval for the release of the money. A copy of this letter should also be sent directly to the Berlin Gemeinde. If all goes well, and if the parties in Germany are reasonably diligent (not necessarily a justified assumption at all) the bank will approach the Bank Deutscher Laender, should in due course obtain the necessary permission, and thereafter be able to turn the funds over to the Gemeinde where they can be used for good purposes.

Incidentally, I thought that the likeness of you in last week's newspaper was a particularly good one. (I still cannot understand how one man can carry on so many activities and still be so successful not only in maintaining his health, good humor, etc., but in doing the jobs themselves.) We all miss you at the

/over/

34439

-2-

JHSO Executive Committee meetings, but I hope that we have been able to keep you at least reasonably well informed of what has been transpiring.

With warmest personal regards,

Sincerely yours,

Eli Rock

ER:AUW

344395

Office of the Rabbi  
270 WEST 89TH STREET

Phone: SCHUYLER 4. { 1400  
4433

Temple  
257 WEST 88TH STREET



CONGREGATION B'NAI JESHURUN  
NEW YORK 24, N. Y.

FOUNDED 1825

January 11, 1951

Mr. Ely Rock  
JRSO  
c/o Joint Distribution Committee  
270 Madison Avenue  
New York City

Dear Ely:

With reference to the enclosed letter, have you any suggestion? Perhaps this sum can be turned over to some worthy institution in Germany. What would be the procedure and is the sum involved worth bothering about. Perhaps it would be just as well to turn it over to the JDC. Please let me know the procedure.

Sincerely yours,

DR. ISRAEL GOLDSTEIN

344396

COPY

January 10, 1951

Mrs. Ernestine Mundt  
313 West 87th St.  
New York 24, N.Y.

Rabbi Israel Goldstein  
270 West 89th Street  
New York 24, N.Y.

Dear Dr. Goldstein:

Mr. Levinson told me that he informed you of the money I still have on a bank in Germany and which I wish to put at your disposal for charity purposes.

The amount, after conversion from Reichsmark into Deutsche Mark is : DM 297.40. Of this amount, the first rate was due on August 4, 1950; the second rate will be due on April 1, 1951, and the third on April 1, 1952. The money is on my account ( a so-called "Vorzugsdepot") at the Bank fuer Handel und Industrie AG., Berlin-Charlottenburg, Kant Strasse 17.

As it is not legal to transfer the money to the U.S.A., it will have to be used somewhere else. I am sure you will be able to collect the money and to put it to good use on behalf of needy Jewish people wherever you deem it necessary.

I shall be very glad to transfer the claim to whomever you will indicate. Please let me know whether you are interested in this donation and which steps I have to take in order to enable you to collect the money.

With best personal regards,

Very sincerely yours,

Ernestine Mundt

Write me  
back in Berlin  
authorizing them to  
transfer it to Berlin  
I enclose to please secure  
authorization for release of money  
copy <sup>letter</sup> to Berlin Gemeinde

344397

March 22, 1955

Dr. George Weis  
JRSO - Berlin

Re: Property Berlin-Steglitz, Arno-Holz-Str. 7  
Hirschberg - Juergens - II / H 556

Dear Dr. Weis:

~~With reference to our letter of February 28 in the above matter, I am pleased to enclose herewith copy of the letter which we have received from the attorney in Chicago.~~

I sincerely hope that this information will be helpful. Should you require further data, please let me know.

Cordially yours,

Saul Kagen

SK:N:djh

344398

March 22, 1955

Mr. Paul H. Vishny  
33 N. La Salle St., - Suite 1925  
Chicago 2, Illinois

Dear Mr. Vishny:

Thank you so much for your helpful letter of March 21, 1955.  
I am really most distressed to have to take so much of your time.

I am sending copy of your letter to our office in Berlin.  
Should they have further questions, I shall take the liberty to  
impose on you again.

With sincere appreciation.

Cordially yours,

Saul Kagan  
Secretary

SK:H:djh

344399

FINANCIAL 6-1492

PAUL H. VISHNY  
ATTORNEY AT LAW  
33 N. LA SALLE ST., SUITE 1925  
CHICAGO 2

MAR 21 1955

March 21, 1955

Mr. Saul Kagan  
Jewish Restitution Successor Organization  
270 Madison Avenue  
New York 16, N. Y.

Dear Mr. Kagan:

I hope that you can forgive me for the extreme delay in answering your previous letters. I hope I can make good my delay by promising you that I will attempt to give your requests more prompt attention in the future.

First of all, let me give you for your records the correct description of the second parcel of real estate:

Lots 19 to 23 in Block 7 in Clark & Co. fourth addition to Clarkdale, of the Northwest quarter of the Southwest quarter of Section 35, township 38 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

I see from the tax records that this property is undoubtedly still vacant. That is, it was vacant through 1953. The later tax bills were not as yet available. I do know that the neighborhood is new, and is presently being built up, so that it is altogether possible that the property is valuable. At any rate, the property was valued for tax purposes at \$2,133.00 in 1953.

As to the first parcel, the property was valued in 1953 at \$6,283.00. Let me say that both of these valuations are undoubtedly far below the true value of the property. There is no way of telling from the assessment the true value, but I have known properties to sell easily for two to three times the assessed tax valuation. I have been attempting to reach some real estate brokers who could give me some more definite information about the specific properties, but I have as yet been unsuccessful.

I don't know whether the above information will suffice, but in the event it does not, please do not hesitate to communicate with me, and I will make a further attempt to find out some information as to the value.

Once again, please pardon me for my delay and do not hesitate to call on me at any time.

Sincerely yours,

*Paul H. Vishny*

344400

February 28, 1955

Dr. G. Weis  
JRSD Berlin

Subject: Property Berlin-Steglitz, Arno-Holz-Str. 7  
Hirschberg Juergens - II / H 556

Dear Dr. Weis:

Thank you for letting us have another copy of your letter of November 29th in connection with the above matter.

On the basis of this letter we were in fact able to trace it in our files. I am pleased to advise you that on January 5th we had written again to Mr. Kopstein's office in Chicago raising the questions you had brought up in your letter of November 29th. We have not yet heard from Mr. Kopstein's office and I shall be writing him again today.

Sincerely yours,

SK:rfb

Saul Kagan  
Secretary

344401

February 28, 1955

Max A. Kopstein, Esq.  
33 North LaSalle Street  
Chicago 2, Illinois

Attn: Mr. Paul H. Vishny

Dear Mr. Vishny:

I was wondering whether you have had an opportunity to examine the questions raised in my letter of January 5th. While I am reluctant to trouble you, I would be most interested in any comments you might have.

Sincerely yours,

Saul Kagan,  
Secretary

SK:rfb

344402

JEWISH RESTITUTION SUCCESSOR ORGANIZATION

BERLIN REGIONAL OFFICE

BERLIN-DAHLEM

FONTANESTRASSE 16

TELEFON: 76 19 81

FEB 28 1955

25 February 1955  
Dr. W/c z

Mr. Saul Kagan  
c/o J R S O  
270 Madison Avenue  
New York 16, N.Y.

SUBJECT: Property Berlin-Steglitz, Arno-Holz-Str. 7  
Hirschberg ./. Juergens - II / H 556

Dear Mr. Kagan,

In reply to your letter of February 17, 1955 I am sending you copy of our letter of November 29, 1954.

Yours sincerely,

DR. G. WEIS

Incl: a/s

344403

FEB 28 1955

C o p y

Berlin, November 29, 1954  
HT/rm

Mr. Saul Kagen  
c/o JRSO  
270, Madison Avenue  
New York, N.Y.  
USA

RE: 7, Arno Holz St., Berlin-Steglitz

Dear Mr. Kagan,

Reference is made to Mr. Galewski's letter dated 13th October 1953, your answer of 19th November 1953 and Mr. Kopstein's reply attached thereto. We have now obtained some additional data which may help Mr. Kopstein to secure some further information.

As to the first parcel (Lot 25 Block 2 in Wolfram's subdivision) we would like to ascertain whether and at which price Mr. Waldon E. Rasmussen would sell the property.

Regarding the second parcel it is supposed to have been in November 1938, a plot not built upon in Crawford Ave) now Pulacki Road) Corner 84 Lots 19 to 23, 125 x 106 feet = 13250 square feet.

We wonder whether Mr. Kopstein can find out, whether the plot is still not built upon and, if so, at which price it could be bought.

Sincerely yours,

H. TUCH  
JRSO Berlin Regional Office

344404

*Revd. Max*

*Hirsch*

February 17, 1955

To: JRSO Berlin

Re: 7, Arno Holz St., Berlin-Steglitz

Gentlemen:

Upon my return from Europe I found your letter of January 26th, 1955, following up the above matter. Since our files, however, are based on the names of individuals, rather than the addresses of property, it was not possible for us to locate the correspondence in question on the basis of the above reference alone, and I would appreciate it if you could let us have some further particulars involved.

Sincerely yours,

Saul Kagan

SK:AUN

344405

JEWISH RESTITUTION SUCCESSOR ORGANIZATION  
BERLIN REGIONAL OFFICE

BERLIN-DAHLEM  
FONTANESTRASSE 16  
TELEFON: 76 19 81

January 26, 1955  
Sl./lm

JAN 31 1955

Mr. Saul Kagan  
c/o JRSO  
270, Madison Avenue  
New York, N.Y.

RE: 7, Arno Holz St., Berlin-Steglitz

In the above mentioned matter we wrote you under November 29, 1954 but did not get any answer. We hope to hear from you as soon as possible.

Sincerely yours

*Maria*  
JRSO Berlin Regional Office.

344406

*Re: Mr. H. M. Karpman*  
Max A. Kopstein, Esq.  
33 North LaSalle Street  
Chicago 2, Illinois

Attention: Mr. Paul H. Vishny

Dear Mr. Vishny:

In November 1953 you were good enough to assist our organization to obtain some information we required concerning two pieces of real estate in Chicago. We are very grateful for your helpfulness, and I hesitate indeed to burden you once more in the same matter.

We have now, however, received some additional information from our office in Berlin, which continues to be interested in the matter. This information relates specifically to the second parcel of real estate which had been listed by us, for which the description had been insufficient to enable you to locate it and determine its value. We have now received additional description as follows:

Crawford Ave (now Pulacki Road) Corner 84 Lots 19 to 23, 125 x 106 feet -  
13250 sq. feet.

In 1938 this was supposed to have been an empty lot. I wonder whether it would be possible, on the above description, to obtain some idea of its present value.

As regards the first parcel (Lot 25 in Block 2 in Wolfram's subdivision), I wonder whether it would be possible at least to obtain the tax value of this property.

With many thanks for your cooperation.

Sincerely yours,

SK:AUN

Saul Kagan  
Secretary

344407

JEWISH RESTITUTION SUCCESSOR ORGANIZATION

BERLIN REGIONAL OFFICE

BERLIN-DAHLEM  
FONTANESTRASSE 16  
TELEFON: 76 19 81

DEC 2 1954

Berlin, November 29, 1954  
HT/rm

Mr. Saul Kagan  
c/o JRSO  
270, Madison Avenue  
New York, N.Y.  
USA

Air Mail

RE: 7, Arno Holz St., Berlin-Steglitz

Dear Mr. Kagan,

Reference is made to Mr. Galewski's letter dated 13th October 1953, your answer of 19th November 1953 and Mr. Kopstein's reply attached thereto. We have now obtained some additional data which may help Mr. Kopstein to secure some further information.

As to the first parcel (Lot 25 in Block 2 in Wolfram's subdivision) we would like to ascertain whether, and at which price Mr. Waldon E. Rasmussen would sell the property.

Regarding the second parcel it is supposed to have been in November 1938, a plot not built upon in Crawford Ave (now Pulacki Road) Corner 84 Lots 19 to 23, 125 x 106 feet = 13250 square feet.

We wonder whether Mr. Kopstein can find out, whether the plot is still not built upon and, if so, at which price it could be bought.

Sincerely yours,

H. TUCH  
JRSO Berlin Regional Office

344408

Rabbi M. Hirschberg  
Jewish  
November 19, 1953

Mr. W. Galewski - JRSO Berlin

Re: 7 Arno-Holz-St., Berlin-Steglitz

Dear Mr. Galewski:

Reference is made to your letter of October 13, 1953, in the above matter. We had immediately contacted one of the Jewish organizations in Chicago, and they had placed the matter into the hands of one of their lay leaders, an attorney in Chicago.

I am now enclosing a copy of the reply we have received from the Chicago lawyer, which is self-explanatory. I wonder whether this information is sufficient for your purposes. Apparently it was not possible to ascertain the value of the real estate in question, but it would appear that there was in fact a transfer by Juergens to Mr. Hirschberg, although Juergens subsequently seemed to have tried to get aside this transfer.

If you have any additional data in this matter which might be helpful to the Chicago attorney, we shall of course be ready to communicate with him again to secure whatever further information possible.

Sincerely yours,

Saul Kagan

SK:AUN  
Enc.

344409

November 19, 1953

Max A. Kopstein, Esq.  
33 North LaSalle Street  
Chicago 2, Illinois

Attention: Mr. Paul H. Vishny

Dear Mr. Vishny:

This will acknowledge your letter of November 17th.

I would like to take this opportunity to express the sincere appreciation of our organization for your efforts in connection with this matter. I realize that this must have been a tedious and time-consuming matter and we are deeply grateful for your help.

I have forwarded your letter to our Berlin regional office, from which the inquiry originated and suggested that they send to us any further information in their possession which might serve to clarify the matter further.

With many thanks for your cooperation,

Sincerely yours,

Saul Kagan  
Executive Secretary

SK:AUN

344410

TELEPHONE FINANCIAL 6-1492

MAX A. KOPSTEIN  
ATTORNEY AT LAW  
33 NORTH LA SALLE STREET  
CHICAGO 2

November 17, 1953

NOV 17 1953

Mr. Saul Kagan,  
Executive Secretary  
Jewish Restitution Successor Organization  
270 Madison Avenue  
New York 16, N. Y.

Dear Mr. Kagan:

Your inquiry of October 19th with reference to certain parcels of real estate in Chicago was referred to us by Rabbi Sidney J. Jacobs, Executive Director of the American Jewish Congress in Chicago.

As to the first parcel (Lot 25 in Block 2 in Wolframs subdivision), there is no way we can ascertain what the value or the rental is. The same would probably apply to the second parcel. There was a transfer of the property from Otto Juergens to Siegfried Hirschberg on November 10, 1938, recorded November 30, 1938 as document No. 12242399. Subsequently, there was a suit to set aside this transfer. Mr. Hirschberg transferred title to one Katherine Marek on November 11, 1944. The property is apparently owned by one Weldon E. Rasmussen. Perhaps if I knew the interest of Rasmussen, I could find out more about the property. As far as I can ascertain, there were no encumbrances on the property at the time it was transferred in 1938.

As to the second parcel (Lots 19 to 23, Block 7, Wallace G. Clarck), the legal description which you gave is incomplete. There have been various further Clarck subdivisions, and I could not locate the property from the description I had. If you could send to me the correct description of the property, or the street address, I will be very happy to send to you any information which I am able to obtain.

I hope the above information is satisfactory to you. If I can be of service to you in any way, please let me know.

Sincerely yours,

*Paul H. Vishny*

PAUL H. VISHNY

PHV:YH

cc: Rabbi Sidney J. Jacobs

344411

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Director of Organization

RABBI SOLOMON ROSENBERG

# American Jewish Congress

SUITE 800 • 28 EAST JACKSON BOULEVARD • CHICAGO 4, ILL.

WEBSTER 9-4523

October 21, 1953

Mr. Saul Kagan  
Executive Secretary  
Jewish Restitution Successor Organization  
270 Madison Avenue  
New York 16, New York

Dear Mr. Kagan:

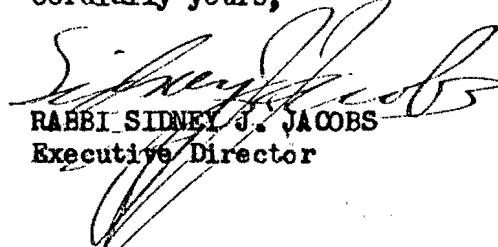
Your letter of October 19th addressed to Rabbi Solomon Rosenberg came to my attention, since Rabbi Rosenberg is no longer in our employ and has moved to California.

I have turned your communication over to one of the National Vice-Presidents of the American Jewish Congress who resides in Chicago and is an eminent lawyer. I am sure that he will communicate with you shortly. If you wish to contact him, his name and address are:

Mr. Max A. Kopstein  
Room 1925  
33 North La Salle Street  
Chicago 2, Illinois  
Financial 6-1492

Please be assured of our willingness to cooperate at all times with your organization.

Cordially yours,

  
RABBI SIDNEY J. JACOBS  
Executive Director

AT HOME

To organize the American Jewish Community for Unity and Democracy in Jewish Affairs . . . To Develop an Informed Public Opinion on Jewish Problems . . . To combat anti-Semitism in all its Phases.

ABROAD

To represent Jewish Interests before Governments and International Bodies . . . To work for Restoration of Jewish Rights . . . To outlaw anti-Semitism throughout the world.

34412

West. Hist.

October 19, 1953

Hirschberg - Juergen

Rabbi Solomon Rosenberg  
American Jewish Congress  
Suite 800, 28 East Jackson Blvd.  
Chicago 4, Illinois

Dear Rabbi Rosenberg:

I would greatly appreciate it if you could assist us in connection with an inquiry originating from our Berlin regional office. In the processing of a restitution claim in that city, our office requires information regarding the value of certain real estate in Chicago, described as follows:

- 1) Lot 25 in block 2 in Wolframs subdivision of block 8 in the Canal Trustee's Subdivision of the east half of section 29, Township 40, north range 14, east of the Third Principal Meridian, in Cook County, Illinois.
- 2) Lots 19 to 23, block 7, Wallace G. Clark & Co. S. 35. T. 38 R. 13.

The property mentioned under 1) was supposed to yield a monthly rent of \$52.00. There were supposed to be no encumbrances on the properties at the time they were transferred in 1938.

In addition to information regarding the value of these pieces, we would greatly appreciate it if it could be ascertained whether this property was transferred in 1938 from Dr. Otto W. Juergens to Mr. Siegfried Hirschberg.

I am very grateful for your help in this matter.

Sincerely yours,

SK:AUN

Saul Kagan  
Executive Secretary

344413

10/16

# JEWISH RESTITUTION SUCCESSOR ORGANIZATION BERLIN REGIONAL OFFICE

BERLIN - DAHLEM  
FONTANESTRASSE 16  
TELEFON: 76 19 81

October 13, 1953

Ga/tz.

Mr. Saul Kagan  
c/o JRSO  
270 Madison Ave.  
New York 16, N.Y.

Air Mail

Dear Mr. Kagan:

Re: 7 Arno-Holz-St., Berlin-Steglitz

We are working on a restitution claim concerning the above property. The sales contract was concluded on August 24, 1938, between Siegfried Hirschberg, in Berlin, and Dr. Otto W. Juergens, in Graz. In lieu of a purchase price the buyer conveyed to the seller properties in Chicago described as:

- (1) Lot 25 in block 2 in Wolframs subdivision of block 8 in the Canal Trustee's Subdivision of the east half of section 29, Township 40, north range 14, east of the Third Principal Meridian, in Cook County, Illinois.
- (2) Lots 19 to 23, block 7, Wallace G. Clark & Co. S. 35. T. 38. R. 13.

The property mentioned under (1) was supposed to yield a monthly rent of 52.-- dollars. There were supposed to be no encumbrances on the properties.

If you see any way of ascertaining the value of the Chicago properties, we should be glad to receive what information is available.

The buyer, Dr. Otto W. Juergens, Graz, Panorama-Hof, claims to be USA consul. Is this true?

Sincerely yours,



W. Galewski

JRSO Berlin Regional Office

344414

26.5.1955  
Dr.Ka/gf

M e m o

MAY 31 1955

To : Mr. Ferencz  
Dr. Weis

From : Dr.Katzenstein

Re : Martha Neuhaus ./. Sueddeutsche Bank A.G.

The appeal of the Sueddeutsche Bank A.G. against the judgment of the Landgericht Munich I of 1 April 1954 has been rejected by the 1st Civil Senate of the Bundesgerichtshof.

Dr.Kraus of Karlsruhe who represented Bavaria as Nebenintervent has informed me thereof, adding: "Nachdem der Beschluss des Grossen Senats vorlag, war dieses Urteil ja nur noch eine Formsache und konnte gar nicht anders ausfallen."

E. Katzenstein

cc: Mr. Kagan  
Dr. Lachs  
Dr. Simon

344415

MAY 6 1955

May 3, 1955  
Dr. Ka/gf

J. K. G. P.  
Memo  
Neuhaus ✓  
To : Mr. Ferencz  
Dr. Weis  
From : Dr. Katzenstein  
Re : Neuhaus ./ Sueddeutsche Bank A.G.  
The Decision of the Grosse Senat fuer Zivilsachen des  
Bundesgerichtshofes.

D. May  
Please look at the  
attached what are  
your views?  
SD ✓

With reference to my Memo of 2 May 1955 I enclose copy of my letter of 29 April 1955 addressed to Regierungsdirektor Kaizik of the Bavarian Ministry of Finance in Munich.

I have also spoken to Herr Kaizik over the phone. He will process the restitution case Land Bavaria ./ Deutsche Reich which is pending before the Restitution Agency Oberbayern with regard to the same securities (see: page 20 of the decision of the X. Grosse Zivilsenat). Land Bavaria will, according to Regierungsdirektor Kaizik, take this restitution case <sup>to the</sup> ~~to the~~ all Restitution Courts up to CORA.

He will also instruct Dr. Kraus, now to intervene as "Neben-intervent" on behalf of Land Bavaria before the 1. Zivilsenat of the Bundesgerichtshof.

I will contact Dr. Kraus as soon as I have a copy of Regierungsdirektor Kaizik's instructions to him.

E. Katzenstein

Encl.: a/s

cc: Mr. Kagan  
Dr. Lachs

344416

29.4.1955  
Dr.Ka/gf

An das  
Bayerische Staatsministerium der Finanzen  
Muenchen 22  
Ludwigstrasse 2

z.B.v. Herrn Regierungsdirektor Kaizik

Betr.: Martha Neuhause ./. Suddeutsche Bank

Sehr geehrter Herr Regierungsdirektor!

Ich nehme an, dass Sie von Herrn Dr.Kraus in Karlsruhe ueber die Entscheidung des Grossen Senats fuer Zivilsachen des Bundesgerichtshofes in Kenntnis gesetzt sind. Herr Dr.Kraus hat mir die Entscheidung uebersandt und ich gestatte mir, Ihnen in der Anlage eine Abschrift nebst Kopie seines Begleitbriefes zu uebersenden.

Ich glaube, dass wir darueber einig sind, dass die Entscheidung grundszaetlich falsch ist und die massgebenden Gesichtspunkte des Rueckerstattungsgesetzes nicht beruecksichtigt.

Weder durfte der Antrag der Wiedergutsachungsbehoerde Muenchen, der gem. Art.71 BEG gestellt war, abgewiesen werden, noch durfte dahin erkannt werden, dass die ordentlichen Gerichte fuer diese, den Rueckerstattungsgerichten allein vorbehaltene Frage zustaendig sind.

Die Sache wird nun zur Entscheidung an den 1. Zivilsenat zurueckgehen; dieser hat ja allein ueber die Sprungrevision der Suddeutschen Bank zu entscheiden, die Aeußerung des Grossen Senats fuer Zivilsachen stellt ja nur eine gutachtliche Stellungnahme dar.

Es erscheint mir deshalb nunmehr notwendig, dass in Form einer besonderen Nebenintervention, die dem 1. Zivilsenat zu ueberreichen ist, eingehende Stellungnahme genommen wird und die diesseitige Rechtsauffassung unter kritischer Auseinandersetzung mit dem Urteil des Grossen Zivilsenats dargelegt wird.

Ich waere Ihnen dankbar, sehr geehrter Herr Regierungsdirektor, wenn Sie sich dazu aussern wuerden und wenn etwaige Anweisungen von

- 2 -

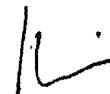
Ihnen an Herrn Dr. Kraus ergehen wuerden, mit dem ich mich dann gerne  
zwecks seiner Unterstuettung in Verbindung setzen wuerde.

Bei unserer Besprechung Ende Maerz hatten Sie darauf hingewiesen,  
dass im Fall Neuhaus ueberhaupt nichts geschehen sei; die Sueddeut-  
sche Bank habe nicht einmal einen Sperrvermerk gemacht oder dem Deut-  
schen Reich eine Mitteilung von der Existenz der Wertpapiere zugehen  
laessen.

Sie hatten weiter gesagt, dass - wenn der Bundesgerichtshof im  
Fall Neuhaus gegen Bayern entscheiden wuerde - Bayern einen zweiten  
Fall vor den Bundesgerichtshof bringen und keinen Vergleich mit den  
Banken genehmigen wuerde. Die Banken wuerden - nach Ihrer Ansicht -  
ohne Bayerns Zustimmung sich mit den Rueckerstattungsberechtigten  
nicht auf Freigabe der Wertpapiere einigen.

Ich waere Ihnen fuer Ihre baldgefaellige Rueckaeuseerung zu Dank  
verpflichtet und bin mit den verbindlichsten Gruesen

Ihr ergebener



Dr. E. Katzenstein  
Director  
Plans and Operations Board

Anlagen

344418

May 2, 1955

Dr.Ka/gf

MAY 6 1955

M e m o

To : Mr. Ferencz  
Dr. Weis

From : Dr. Katzenstein

Re : The Decision of the  
"Grosse Senat fuer Zivilsachen des Bundesgerichtshofes" -  
Martha Neuhaus ./ Sueddeutsche Bank A.G.

The Grosse Senat fuer Zivilsachen des Bundesgerichtshofes has handed down its decision, copy of which is enclosed together with copies of the covering letters of Dr. Kraus of 26 April 1955 who represented Land Bavaria in the proceedings.

When we heard of the order of the 1. Zivilsenat des Bundesgerichtshofes of 26 November 1954 to submit the case to the Grosse Senat fuer Zivilsachen (cf. my Memo of 7 February 1955), we immediately urged Land Bavaria to intervene as "Nebenintervent". Bavaria instructed Dr. Kraus of Karlsruhe to guard her interests. When Dr. Kraus contacted the Grosse Senat fuer Zivilsachen, he was informed that the Grosse Senat had already considered and decided the matter, but that the decision had not yet been issued. (*We also had the Munich Restitution Agency ask for stay of proceedings under Art. 7 Mil.L. 59*).

We, thereupon, immediately prepared a brief for Dr. Kraus with the points we saw proper to make in the case, which he presented to the Grosse Senat fuer Zivilsachen. It did not help, though the Grosse Senat at least, in Para 5 of the enclosed decision, made an exception for heirless securities.

Whether the proviso sufficiently protects the interests of the Successor Organization, is doubtful as it is open whether or not - in spite of Art.51 Mil.Gov.Law 59 - the onus is upon the IRSO to prove that securities are heirless.

The decision as an expression of a legal opinion, nevermind its motives and tendencies, is basically wrong. It is in flat disregard of the clear intention of the legislator of Mil.Gov.Law 59 and of unambiguous provisions therein. It is a dangerous precedent and an usurpation of rights and functions not entrusted, and never intended to be entrusted, to a German Civil Court; an encroachment upon prerogatives of Restitution Courts; the assumption of sovereign rights which, even after coming into force of the Contractual Agreement, would not be conferred upon the Highest German Civil Court. It tries to curtail the radius of activities of the IRSO by confining and restricting it to cases under Art.10 Mil.Gov.Law 59 in complete disregard of the provision of Art.11 Mil.Gov.Law 59, which holds a dominating position in the field of restitution in the US Zone of Germany, and, for all practical purposes, it intends to do away with CORA Advisory Opinion No.1.

Encl.: a/s

*E. Katzenstein*  
E. Katzenstein

cc: Mr. Kagan  
Dr. Simon  
Dr. Lachs  
Mr. Meyrowitz  
Dr. Schoenfeldt  
Dr. T...  
Dr. ...

344419

Fuer das Nachschlagewerk!

Fuer die Amtliche Sammlung!

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Gesetz: Par 3 der 11. DVO zum Reichsbuergergesetz vom 25. November 1941 (RG Bl. I, 722) ; Art 1, 2, 10, 11, 57, 60, 71 REG (AmZ)

Rechtssatz:

1. Ein Verfolgter des nationalsozialistischen Regimes kann, ohne ein Verfahren nach dem fuer die amerikanische Besatzungszone geltenden Rueckerstattungsgesetz eingeleitet zu haben, Wertpapiere von der Verwahrbank herausverlangen, die seinerzeit durch Par 3 der 11. DVO zum Reichsbuergergesetz vom 25. November 1941 zugunsten des Reiches fuer verfallen erklärt, gegen die aber keine weiteren Massnahmen getroffen worden waren, wenn die Wertpapiere unter seinem Namen während der nationalsozialistischen Herrschaft im Depot der Bank lagen und heute noch dort liegen und dem Herausgabeverlangen das Recht der Wertpapierbereinigung nicht entgegensteht.
2. Die Verfallserklärung des Par 3 der 11. DVO zum Reichsbuergergesetz war wegen Verstosses gegen die Eigentumsgarantie und den Gleichheitssatz von vornherein nichtig. Ein Sperrvermerk, der lediglich der Beachtung dieser nichtigen Verfallserklärung dienen sollte, ist als gegenstandslos zu behandeln.
3. Die Verfallserklärung bildete einen Entziehungstatbestand im Sinne der Rueckerstattungsgesetze, soweit sie eine tatsächliche Behinderung des Vermögensinhabers in der freien Verfügung über sein Vermögen zur Folge hatte. Der Verfolgte oder seine Erben gewannen jedoch mit dem Zusammenbruch des nationalsozialistischen Regimes ohne weiteres die uneingeschraenkte Verfügungsmacht über solche für verfallen erklärt Vermögensgegenstände zurück, die ohne Veränderung der sie betreffenden tatsächlichen Verhältnisse

- 2 -

erhalten geblieben waren. Der Durchfuehrung eines Rueckerstattungsverfahrens bedurfte es bei solcher Sachlage nicht.

4. Lebten zur Zeit des Zusammenbruchs weder der Verfolgte noch Leibes- oder Testamentserben von ihm, so handelt es sich bei dem von der Verfallserklaerung betroffenen Vermoegen, auch wenn es im uebrigen unangetastet geblieben ist, um entzogenes Vermoegen im Sinne der Rueckerstattungsgesetze, das von den Nachfolgeorganisationen in Anspruch genommen werden kann.
5. Die Entscheidung der Frage, ob ein Tatbestand in den Anwendungsbereich der Rueckerstattungsgesetze faellt, ist den ordentlichen Gerichten nicht entzogen.

Aktenzeichen: GSZ 4/54

Beschluss des Grossen Senats fuer Zivilsachen des BGH vom 28. Februar 1955

344421

A b s c h r i f t

Dr. jur. K. Kraus  
Rechtsanwalt  
beim Bundesgerichtshof  
Karlsruhe, Erzbergstr.2  
Tel. 24204  
Postscheckkonto: Nuernberg 9019

An die  
Jewish Restitution  
Successor Organisation  
Frankfurt / Main  
Grueneburgweg 119

Karlsruhe, 26. April 1955

Betr.: Suedd. Bank ./ Neuhaus

Sehr geehrter Herr Kollege!

Ich ueberreiche Ihnen der Einfachheit wegen

- a) den Beschluss des Grossen Senats GSZ 4/54
- b) einen Durchschlag meines Schreibens an die Oberfinanz-  
direktion - Zweigstelle Muenchen.

Wie Sie aus der Ziffer 4 des Leitsatzes des Beschlusses und auch  
aus dessen Begründung ersehen können, hat der Beschluss die  
Ihrer geschätzten Anregung entsprechend gebrachten Ausführungen  
gewürdig und auch den Fall behandelt, dass zur Zeit des Zu-  
sammenbruchs im Frühjahr 1945 weder der Verfolgte  
noch Erben von ihm vorhanden waren.

Ergebnis

gez. K. Kraus

Rechtsanwalt

2 Anlagen

344422

Dr. Karl Kraus  
Rechtsanwalt  
beim Bundesgerichtshof  
K a r l s r u h e  
Erzbergerstr. 2 - Tel. 24204

26.April 1955

An die  
Oberfinanzdirektion  
Zweigstelle

M u e n c h e n 27  
Ismaningerstrasse 95

Betr.: Rechtsstreit N euhaus ./ . Suedd. Bank  
Nr. M 23652 I B 443 II

In genannter Sache gestatte ich mir anliegend den Beschluss des Grossen Senats vom 28.2.55 - GSZ 4/54 - zu uebersenden, Wenn auch dieser Beschluss nach wie vor auf die Sitzung vom 28.2.55 Bezug nimmt, so ist aus seiner Begründung doch zweifellos ersichtlich, dass er die Ausfuehrungen, die ich speziell auf Anregung der JRSO machte, noch beruecksichtigt hat. Das deckt sich auch damit, dass nach meiner Information die Sache nochmals eingehend ueberprueft wurde. Allerdings hat das leider nicht zu einer Aenderung des frueheren Standpunkts gefuehrt, sondern nur dazu, dass die Begründung ergänzt und erweitert wurde.

Der Beschluss ist fuer die amtliche Sammlung und fuer das Nachschlagewerk des BGH mit folgendem Leitsatz bestimmt:

"Gesetz: Par 3 der 11. DVO zum Reichsbuergergesetz vom 25, November 1941 (RG Bl. I, 722); Art. 1, 2, 10, 11, 57, 60, 71 REG (AmZ).

Rechtssatz:

1. Ein Verfolgter des nationalsozialistischen Regimes kann, ohne ein Verfahren nach dem fuer die amerikanischen Besatzungszone geltenden Rueckerstattungsgesetz eingeleitet haben, Wertpapiere von der Verwahrbank herausverlangen, die seinerzeit durch

344423

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Par 3 der 11. DVO zum Reichsbuergergesetz vom 25. November 1941 zugunsten des Reiches fuer verfallen erklärt, gegen die aber keine weiteren Massnahmen getroffen worden waren, wenn die Wertpapiere unter seinem Namen waehrend der nationalsozialistischen Herrschaft im Depot der Bank lagen und heute noch dort liegen und dem Herausgabeverlangen das Recht der Wertpapierbereinigung nicht entgegensteht.

2. Die Verfallerklaerung des Par 3 der 11. DVO zum Reichsbuergergesetz war wegen Verstosses gegen die Eigentumsgarantie und den Gleichheitssatz von vornherein nicht. Ein Sperrvermerk, der lediglich der Beachtung dieser nichtigen Verfallserklaerung dienen sollte, ist als gegenstandslos zu behandeln.
3. Die Verfallserklaerung bildet-e einen Entziehungstatbestand im Sinne der Rueckerstattungsgesetze, soweit sie eine tatsaechliche Behinderung des Vermoegensinhabers in der freien Verfuegung ueber sein Vermoegen zur Folge hatte. Der Verfolgte oder seine Erben gewannen jedoch mit dem Zusammenbruch des nationalsozialistischen Regimes ohne weiteres die uneingeschraenkte Verfuegungsmacht ueber solche fuer verfallen erklarte Vermoegensgegenstaende zurueck, die ohne Veraenderung der sie betreffenden tatsaechlichen Verhaeltnisse erhalten geblieben waren. Der Durchfuehrung eines Rueckerstattungsverfahrens bedurfte es bei solcher Sachlage nicht.
4. Lebten zur Zeit des Zusammenbruchs weder der Verfolgte noch Leibes- oder Testamentserben von ihm, so handelt es sich bei dem von der Verfallserklaerung betroffenen Vermoegen, auch wenn es im uebrigen unangetastet geblieben ist, um entzogenes Vermoegen im Sinne der Rueckerstattungsgesetze, das von den Nachfolgeorganisatichen in Anspruch genommen werden kann.
5. Die Entscheidung der Frage, ob ein Tatbestand in den Anwendungsbereich der Rueckerstattungsgesetze faellt, ist den ordentlichen Gerichten nicht entzogen."

GSZ 4/54

B e s c h l u s s

In dem Rechtsstreit

der Sueddeutschen Bank AG, Filiale Muenchen, Lenbachplatz 2,  
gesetzlich vertreten durch die Vorstandsmitglieder Dr. Tron  
und Osterwind,

Beklagten und Revisionsklaegerin,

- Prozessbevollmaechtigter: Rechtsanwalt Prof.Dr.Moehring -

gegen

Martha Neuhaus, Diessen am Ammersee, Rotterstr. 242 1/3

Klaegerin und Revisionsbeklagte,

- Prozessbevollmaechtigter Rechtsanwalt Dr. Krille -

hat der Grosse Senat fuer Zivilsachen des Bundesgerichtshofes  
in der Sitzung vom 28. Februar 1955 unter Mitwirkung des  
Praesidenten des Bundesgerichtshofes Dr. h.c. Weinkauff, des  
Senatspraesidenten Dr. Tasche und der Bundesrichter Dr.h.c. Wil-  
de, Dr. Pagendarm, Johannson, Dr. Fischer, Dr. Krueger-Nieland,  
Dr. Hauss und Dr. Grossmann gemaess Par 136, 137 GVG beschlossen:

- A. Ein Verfolgter des nationalsozialistischen Regimes  
kann, ohne ein Verfahren nach dem fuer die amerikani-  
sche Besatzungszone geltenden Rueckerstattungsgesetz  
eingeleitet zu haben, Wertpapiere von der Verwahrt-  
bank herausverlangen, die seinerzeit durch Par 3 der  
11. DVO zum Reichsbuergergesetz vom 25.November 1941  
(RGBI I, 722) zu Gunsten des Reiches fuer verfallen  
erklaert, gegen die aber keine weiteren Massnahmen ge-  
troffen worden waren, wenn die Wertpapiere unter sei-  
nem Namen im Depot der Bank lagen und heute noch dort  
liegen und dem Herausgabeverlangen das Recht der Wert-  
papierbereinigung nicht entgegensteht.
- B. Der Antrag der Wiedergutmachungsbehörde Oberbayern  
vom 18. Februar 1955, das vor dem Grossen Senat fuer  
Zivilsachen anhaengige Verfahren gemaess Art 71 Abs 1  
Satz 2 am REG auszusetzen, wird abgelehnt.

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G r u e n d e :

A.

I. Dem I. Zivilsenat liegt folgender Fall zur Entscheidung vor: Die Klaegerin, eine wegen ihrer juedischen Abstammung Verfolgte des nationalsozialistischen Regimes, wanderte im Jahre 1939 in die Schweiz aus. Sie hinterliess bei der Beklagten ein Depot mit Wertpapieren. Dieses Depot ist waehrend der Zeit der nationalsozialistischen Herrschaft und auch spaeterhin unveraendert auf den Namen der Klaegerin in den Buechern der Beklagten eingetragen geblieben.

Die Klaegerin hat nach Kriegsende ihren Wohnsitz in die Bundesrepublik zurueck verlegt. Sie hat Rueckerstattungsansprueche nach Massgabe des hier in Frage stehenden Rueckerstattungsgesetzes fuer die amerikanische Besatzungszone (im folgenden am REG) nicht angemeldet. Mit der Klage verlangt sie die Herausgabe der in dem Depot befindlichen Wertpapiere.

Die Beklagte hat Klagabweisung beantragt. Sie macht geltend, dass sie nicht in der Lage sei, das Eigentum und Verfuegungsrecht der Klaegerin an den herausverlangten Wertpapieren anzuerkennen, da diese gemaess Par 3 der 11. DVO zum Reichsbuergergesetz seinerzeit dem Deutschen Reich verfallenen Wertpapiere von der Jewish Restitution Successor Organization (JRSO) unter Berufung auf Art 11 am REG zu Eigentum beansprucht wuerden.

Das Landgericht hat der Klage stattgegeben. Die Beklagte hat gegen diese Entscheidung mit Zustimmung der Klaegerin Sprungrevision (Par 566 a ZPO) eingelegt.

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II. Der I. Zivilsenat hat dem Grossen Senat fuer Zivilsachen unter Bezugnahme auf Par Par 136, 137 GVG folgende Fragen vorgelegt:

Kann ein Verfolgter des nationalsozialistischen Regimes nach Erlass des amerikanischen Rueckerstattungsgesetzes, ohne ein Verfahren nach diesem Gesetz eingeleitet zu haben, ueber Wertpapiere verfuegen, die unter seinem Namen waehrend der nationalsozialistischen Herrschaft im Depot einer deutschen Bank lagen und heute noch dort liegen, die seinerzeit durch Par 3 der 11. DVO zum Reichsbuergergesetz vom 15. September 1935 zu Gunsten des Reichen fuer verfallen erklaert, gegen die aber keine weiteren Massnahmen getroffen worden waren?

Der Große Senat ist bei Auslegung dieser Frage unter Berücksichtigung der Ausführungen des Vorlagebeschlusses davon ausgegangen, dass das Recht der Wertpapierbereinigung dem Herausgabebeverlangen der Klaegerin nicht entgegensteht und es dem vorlegenden Senat allein auf die Beantwortung der Rechtsfrage ankommt, ob die Klaegerin, die ein Rueckerstattungsverfahren nicht eingeleitet hat, durch die Verfallerklaerung in der freien Verffuegung ueber das Wertpapierdepot behindert ist. Durch die Fassung der Antwort sollte dieser rechtliche Kern der Vorlagefrage klargestellt werden.

III. Gegen die Zulaessigkeit der Vorlage bestehen keine Bedenken.

1. Obwohl die herausverlangten Wertpapiere in den Anwendungsbereich des Gesetzes zur Bereinigung des Wertpapierwesens vom 19. August 1949 (WiGBI S. 295) fallen, kann es nach Meinung des Grossen Senats fuer den beim I. Zivilsenat anhaengigen Rechtsstreit auf die gestellte Rechtsfrage ankommen. Die Frage ist daher zulaessigerweise gestellt worden.

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2. Die Voraussetzungen fuer eine Vorlage nach Par 136  
GVG sind erfuellt.

Der IV. Zivilsenat hat in seinem in einem Wertpapier-  
bereinigungsverfahren ergangenen Beschluss vom 27. Mai 1954  
(IV ZB 15/54 LM Nr 2 zur 11. DVO zum Reichsbuergergesetz)  
fuer einen im Grundsaeztlichen gleich gelagerten Sachverhalt  
die Auffassung vertreten, dass das Deutsche Reich gemaaess  
Par 3 der 11. DVO zum Reichsbuergergesetz hinsichtlich der be-  
troffenen Vermoegenswerte auch dann eine Rechtsstellung er-  
langt habe, die in den Rueckerstattungsgesetzen der eines  
Eigentuemers gleichgestellt sei, wenn der Verfallerklaerung  
keine Einziehungsmassnahmen gefolgt seien. Diese Stellung  
des Deutschen Reiches koenne nur in einem Verfahren geaendert  
werden, wie es in den Rueckerstattungsgesetzen vorgesehen  
sei. Der vorlegende Senat will dagegen einen ueber den Zusamen-  
bruch des Reiches fortwirkenden Entziehungstatbestand im  
Sinn der Rueckerstattungsgesetze verneinen, wenn die Verfall-  
erklaerung keine tatsaechlichen Auswirkungen auf das von ihr  
betroffene Vermoegen gehabt hat. Der I. Zivilsenat will somit  
von der vererwaehnten Entscheidung des IV. Zivilsenats ab-  
weichen.

Dagegen stehen der in dem Vorlagebeschluss vertre-  
tenen Rechtsauffassung die Entscheidungen des II. Zivil-  
senats vom 11. Februar 1953 (BGHZ 9, 34 / 43/44/) und des  
IV. Zivilsenats vom 8. Oktober 1953 (BGHZ 10, 340 / 342/)  
nicht entgegen. Es ging dort um die Beurteilung von Sach-  
verhalten, bei denen sich die Verfolgungsmassnahmen nicht  
in einer Verfallerklaerung erschoepft hatten, sondern das  
Reich die in Frage stehenden Vermoegensgegestaende tatsaech-  
lich in Anspruch genommen hatte. Diese Entscheidungen las-

344428

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sen die hier zu erörternde Frage offen, ob der durch Par 3  
der 11. DVO angeordnete Vermögensverfall auch dann einen  
"Tatbestand" ausgelöst habe, der nach Inkrafttreten der  
Rueckerstattungsgesetze nur nach Massgabe dieser Gesetze  
beseitigt werden kann, wenn die Verfallserklärung faktisch  
nicht vollzogen worden ist.

3. Der I. Zivilsenat hat zu Recht die Vorlage auch  
auf Par 137 GVG gestützt. Die gestellte Rechtsfrage ist nicht  
nur ganz allgemein für die Ansprüche der Verfolgten des  
nationalsozialistischen Regimes in Ansehung von in tatsäch-  
licher Beziehung unangetastet gebliebener Vermögenswerte  
bedeutsam. Von ihrer Beantwortung kann auch abhängen, wer  
in einem Wertpapierbereinigungsverfahren als Berechtigter  
anzuerkennen ist und ob ein Rueckerstattungsverfahren hin-  
sichtlich solcher Vermögensgegenstände überhaupt in Betracht  
kommt.

Es sind, nachdem dieses Verfahren beim Grossen Se-  
nat anhängig geworden ist, beim Bundesgerichtshof mehrere  
auf Par 28 Abs 2 EGG gestützte Vorlagen eingegangen, die  
darauf zurückzugehen, dass die vorlegenden Gerichte sich durch  
den Geschluss des IV. Zivilsenats vom 27. Mai 1954 gehindert  
sehen, das Eigentum von Verfolgten, die Rueckerstattungsan-  
sprüche nicht angemeldet haben, an Vermögensgegenständen  
anzuerkennen, die zwar nach Par 3 der 11. DVO zum Reichsbürger-  
gesetz als dem Reich verfallen erklärt waren, die aber  
nicht infolge Einziehungsmassnahmen des Reiches in den  
weiteren Güterverkehr gelangt sind (vgl u.a. den in NJW  
1955, 269 abgedruckten Beschluss des Oberlandgerichts  
Frankfurt, 1. Zivilsenat in Kassel).

344429

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IV. Die Sachfrage hat der Grosse Senat mit der durch das Recht der Wertpapierbereinigung bedingten Einschraenkung aus folgenden Gruenden bejaht:

1. Nach Par 2 der 11. DVO zum Reichbuergergesetz verloren Juden, die ihren gewoehnlichen Aufenthaltsort bei Inkrafttreten der Verordnung bereits im Ausland hatten oder ihn spaeter ins Ausland verlegten, die deutsche Staatsangehoerigkeit. Diese Ausbuergerung hatt nach Par 3 Abs 1 der Verordnung die unmittelbare Folge, dass das Vermoegen des Betroffenen dem Reich verfiel. Es kann schon zweifelhaft sein, ob formalrechtlich diese Vermoegensverfallserklarung durch die im Reichsbuergergesetz enthaltene Ermaechtigung zum Erlass von Durchfuehrungsbestimmungen gedeckt war, da es sich insoweit nicht um die im Reichsbuergergesetz allein geregelte Rechtsmaterie der Reichs- und Staatsangehoerigkeit handelt. Diese Frage kann aber dahinstehen. Denn der zwar formal in das Gewand eines Gesetzes geklaideten Verfallerklaerung muss jedenfalls ihrem sachlichen Gehalt nach der Charakter einer Rechtsnorm abgesprochen werden. Diese Bestimmung, die letztlich darauf abzielte, solche Verfolgten, die unter dem Druck rechtswidriger Verfolgungsmassnahmen ihre Heimat verlassen hatten, auch noch ihres Vermoegens zu berauben, verstieß in groebster Weise gegen den uebergesetzlichen Gleichheitssatz wie auch gegen den durch Art 153 WeimVerf gewaehrleisteten Eigentumsschutz und gegen die uebergesetzliche Eigentumsgarantie. Die Verletzung des Gleichheitssatzes, der geradezu das Fundament einer jeden Rechtsordnung darstellt, und wegen seines uebergesetzlichen Ranges auch fuer den Verfassungsgesetzgeber schlechthin undurchbrechbar ist, ergibt sich eindeutig daraus, dass der Vermoegensverfall, der an die Tatsache der Auswanderung oder des gewoehnlichen Aufenthaltes im Ausland geknuepft wurde,

344430

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nur ueber eine allein nach rassischen Gesichtspunkten abgegrenzte Personengruppe verhaengt wurde. Der Gesetzgeber versuchte nicht einmal, diese krasse Nichtachtung des Gleichheitssatzes und der Eigentumsgarantie durch Berufung auf Enteignungsgrundsaetze zu verschleiern. Obwohl Art 153 Abs 2 WeimVerf eine Enteignung nur zum Wohle der Allgemeinheit gestattete, hielt es der Gesetzgeber nicht fuer erforderlich, sich zur Rechtfertigung des entschaedigungslosen Vermoegensverfalls auf Interessen der Allgemeinheit zu berufen. Das verfallene Vermoegen sollte vielmehr nach der Bestimmung in Par 3 Abs 2 der 11. DVO "zur Foerderung aller mit deß Judenfrage im Zusammenhang stehenden Zwecke" dienen, also in Wahrheit nur einen weiteren Beitrag zur rechtswidrigen Verwirklichung des Programmepunktes des nationalsozialistischen Regimes bilden, die juedische Rasse planmaessig zu verfolgen und auszurotten. Die Verfallerklaerung war hiernach vom Standpunkt des Gesetzgebers als strafweise Konfiskation des Vermoegens des Betroffenen gedacht. Fuer die Verhaengung einer derartigen Strafmaessnahme gegen eine durch keinen Schuldvorwurf belastete, ausschliesslich nach ihrer Rasse abgegrenzte Personengruppe fehlte es aber an jeglicher Rechtsgrundlage.

Im Einklang mit der Rechtssprechung des II. und IV. Zivilsenats ist hiernach davon auszugehen, dass Par 3 der 11. DVO zum Reichsbuergergesetz wegen seines den Grunderfordernissen jeder rechtsstaatlichen Ordnung widersprechenden Unrechtsgehalts als von vornherein nichtig anzusehen ist. Die Verfallerklaerung hat somit auch unter der nationalsozialistischen Herrschaft Rechtswirkungen nicht zu erzeugen vermocht. Sie konnte dem Verfolgten weder sein Eigentum

344431

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noch sein Recht zum Besitz der von der Verfallerklaerung betroffenen Vermoegensgegenstaende nehmen. Dieser Rechtsstandpunkt entspricht auch der in der Rechtssprechung vor Erlass der Rueckerstattungsgesetze ueberwiegend vertretenen Auffassung (AG Wiesbaden, SJZ 1946, 36; KG Berlin SJZ 1947, 257).

2. Mit der Feststellung der urspruenglichen Nichtigkeit des Par 3 der 11. DVO zum Reichsbuergergesetz ist aber die Frage, ob die Verfallerklaerung einen Entziehungstatbestand im Sinne des am REG ausgeloest hat, noch nicht beantwortet. Es ist vielmehr zu pruefen, ob durch den an sich nichtigen Gesetzesbefehl in tatsaechlicher Hinsicht ein Zustand eingetreten ist, der sich rechtlich als Entziehung im Sinn der Rueckerstattungsgesetzgebung darstellt. Befand sich naemlich der betroffene Vermoegensgegenstand in den Haenden eines Dritten, der unter dem Druck der Zwangsmittel des damaligen Machthabers genoetigt war, diesen Gesetzesbefehl zu beachten, so hatte die Verfallerklaerung doch die tatsaechliche Wirkung, dass in die Herrschaftsmacht des Verfolgten ueber sein Vermoegen zwar nicht de jure, wohl aber de facto eingegriffen wurde. Das ist vor allem dann anzunehmen, wenn sich die fraglichen Vermoegenswerte in der Verwahrung einer deutschen Bank befanden, die besonderen staatlichen Aufsichts- und Kontrollrechten unterlag. Es kann ohne Darlegung besonderer Umstaende nicht angenommen werden, dass eine solche Bank etwa bereit und in der Lage gewesen waere, sich ueber die Verfallerklaerung trotz der mit ihrer Nichtachtung verbundenen Strafdrohungen des nationalsozialistischen Gewalthabers (vgl Par 7 der 11. DVO) einfach hinwegzusetzen.

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Diese tatsaechliche Behinderung des Verfolgten in der Ausuebung der Verfuegungsgewalt ueber sein Vermoegen aber reicht aus, einen Entziehungstatbestand im Sinne der Rueckerstattungsgesetze zu bilden. Nach dem am REG sind Vermoegensgegenstaende "entzogen", wenn der Verfolgte sie in der Zeit vom 30. Januar 1933 bis 8. Mai 1945 (vgl. Art 1 am REG) infolge einer "Wegnahme durch Staatsakt eingebuesst" hat (Art 2 Abs 1 h am REG). Als Wegnahme durch Staatsakt gilt nach den in Art 2 Abs 3 am REG aufgefuehrten Beispielfaellen auch der Verfall kraft Gesetzes. Das Tatbestandsmerkmal der Einbusse aber ist schon dann erfüllt, wenn die tatsaechliche Moeglichkeit gemindert war, ueber den Vermoegensgegenstand zu verfuegen, ihn zu gebrauchen, zu geniessen oder zu verbrauchen (von Godin, Rueckerstattungsgesetze Art 2 am REG Anm 3). Diese Voraussetzungen sind in Ansehung der dem Deutschen Reich fuer verfallen erklaerten Wertpapiere, die sich in Verwahrung einer deutschen Bank befanden, zweifellos zu bejahen. Hieraus folgt, dass die von der Klaegerin herausverlangten Wertpapiere ihr waehrend der nationalsozialistischen Herrschaft im Sinne der Rueckerstattungsgesetze entzogen waren.

3. Dies besagt jedoch nicht, dass die Klaegerin die uneingeschraenkte tatsaechliche Herrschaftsmacht ueber diese Wertpapiere nur durch Einleitung eines Rueckerstattungsverfahrens nach Massgabe der Rueckerstattungsgesetze haette zu rueckgewinnen koennen. Da das Eigentum und das Recht zum Besitz durch die rechtsunwirksame Verfallerklaerung unberuehrt geblieben war, bestand die Entziehung ausschliesslich in der tatsaechlichen Behinderung, diese Rechte auszuueben. Diese Behinderung war aber nicht etwa die Folge von rechtlichen oder tatsaechlichen Einwirkungen auf das

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betroffene Vermoegen selbst, sondern beruhte allein auf der Macht des nationalsozialistischen Regimes, die Beachtung der nichtigen Verfallerklaerung zu erzwingen. Nachdem diese Macht zusammengebrochen war und auch im Raume des rein Tatsaechlichen wieder rechtsstaatliche Grundsaezze herrschten, ruckte bei solcher Fallgestaltung der Verfolgte ohne weiteres in die der materiellen Rechtslage entsprechende Verfueitungsgewalt wieder ein. Der Richtigstellung einer durch die Unrechtsakte des nationalsozialistischen Regimes etwa geschaffenen verworrenen tatsaechlichen Lage durch eine gesetzliche Regelung bedurfte es bei solcher Sachlagenicht. Zur Bereinigung der Entziehung genuegte vielmehr der Wegfall des einzigen Umstandes, der den Verfolgten rein tatsaechlich in der Ausuebung seiner Rechte behindert hatte, naemlich der Wegfall der Zwangsmittel des nationalsozialistischen Regimes, seine Willkuermassnahmen durchzusetzen. Ein Rueckerstattungsanspruch nach Massgabe der Rueckerstattungsgesetze konnte somit gar nicht zur Entstehung kommen, weil es im Zeitpunkt des Inkrafttretens der Rueckerstattungsgesetze an einer zurueckzugewaehrenden tatsaechlichen oder rechtlichen Position des Verfolgten fehlte. Der Verfolgte war vielmehr zu diesem Zeitpunkt bereits im vollen Umfang in sein urspruengliches Verhaeltnis zu den verfallen erklaerten Vermoegensgegenstaenden wieder eingetreten, da diese sich - der Substanz nach unbewuehrt - noch im Besitz desjenigen befanden, dem er selbst sie anvertraut hatte und der durch den fortbestehenden Verwahrungsvertrag rechtlich verpflichtet und nun auch tatsaechlich nicht mehr gehindert war, sie fuer den Verfolgten zu verwahren (so u.a. LG Hannover WM 1953 Teil IV B, 815; KG Berlin WM 1954 Teil IV B, 194; vgl auch Tormann WM 1953 Teil IV B, 285 und 814; Schenk JZ 1953, 134; Linden BB 1954, 761). Die Rechtsstellung des Verfolgten ist

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in derartigen Faellen nicht anders zu beurteilen als die eines jeden Rueckerstattungsberechtigten, dessen Ansprueche durch Rueckgabe des entzogenen Vermoegens noch vor Erlass der Rueckerstattungsgesetze ihre Erledigung gefunden haben.

Die vom IV. Zivilsenat vertretene Auffassung, wonach die Verfallserklaerung, auch wenn sie nicht zu einer Vermoegenseinziehung gefuehrt hat, dem Deutschen Reich ueber den Zusammenbruch hinaus eine Eigentuemerstellung im Sinne der Rueckerstattungsgesetze verschafft haben soll, die nur nach Massgabe dieser Gesetze beseitigt werden koennte, ist unvereinbar mit der auch von dem IV. Zivilsenat gebilligten Rechtsansicht, dass die 11. DVO zum Reichsbuergergesetz wegen ihres Unrechtsgehaltes von Anfang an nichtig war. Sie ist auch schwerlich mit dem Sinn des Kontrollratgesetzes Nr 1 und des Militaerregierungsgesetzes Nr 1 in Einklang zu bringen, die ausdruecklich die Anwendung des Reichsbuergergesetzes einschliesslich einer Durchfuehrungsbestimmungen untersagen, soweit diese Anwendung Nachteile aus Gruenden der Rasse zur Folge haben koennten.

Von dem Boden des hier dargelegten Rechtsstandpunktes aus konnte zwar die Verfallerklaerung, auch wenn tatsaechliche Einwirkung auf das betroffene Vermoegen unterblieben waren, einen Entziehungstatbestand im Sinne der Rueckerstattungsgesetze bilden. Sie loeste jedoch dann keine Rueckerstattungsansprueche aus, wenn der Verfolgte oder seine Erben bei Inkrafttreten der Rueckerstattungsgesetze bereits ihre ursprungliche Stellung in bezug auf die betroffenen Vermoegensgegenstaende zurueckerlangt hatten. Dies aber ist in der Regel anzunehmen, wenn die Verfallerklaerung tatsaechlich Auswirkungen auf das betroffene Vermoegen nicht gehabt

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hat, insbesondere Einziehungsmassnahmen, die einen Rechts-schein zugunsten eines Dritten haetten begruenden koennen, unterblieben sind, oder dieser Rechtsschein bei Inkrafttreten der Rueckerstattungsgesetze bereits wieder beseitigt war.

4. Dieses Ergebnis ist nicht nur mit dem Wortlaut der Rueckerstattungsgesetze vereinbar, da diese sich mit bereits bereinigten Entziehungsfaellen nicht befassen, sondern entspricht darueber hinaus allein dem Sinn und Zweck dieser Sondergesetzgebung. Denn nur von diesem Rechtsstandpunkt aus koennen Streitfaelle der vorliegenden Art einer Loesung zugefuehrt werden, die den Interessen der Verfolgten, deren Schutz die Rueckerstattungsgesetze dienen wollen, gerecht werden.

Wuerden unveraendert erhalten gebliebene Vermoegensgegenstaende nur deshalb der Rueckerstattungsgesetzgebung unterstellt, weil sie von einer Verfallerklaerung betroffen waren, so wuerden hieraus den Verfolgten schwerwiegende Nachteile erwachsen koennen. Die Verfolgten haben in der Regel in Ansehung solcher Vermoegenswerte von der Anmeldung von Rueckerstattungsansprüchen abgesehen, weil sie darauf vertrauten, dass ihre Verfuegungsmacht nach dem Zusammenbruch des Reiches durch die nichtige Verfallerklaerung nicht mehr beeinträchtigt sei. Sie wurden von den Verwahrern ihres tatsaechlich und rechtlich unangetastet gebliebenen Vermoe-gens regelmaessig als Berechtigte anerkannt und behandelt; ein solches Verhalten haette notfalls sogar gerichtlich erzwungen werden koennen. Es bestand fuer sie deshalb kein Anlass anzunehmen, es beduerfe zur Rueckerlangung einer uneingeschraenkten Eigentuemerstellung noch der Durchfuehrung

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eines foermlichen Rueckerstattungsverfahrens gegen das Deutsche Reich, zumal nach der einhellig in der Oeffentlichkeit, insbesondere aber in der Rechtssprechung und im Fachschrifttum vertretenen Auffassung die Verfallerklaerung keine Grundlage fuer einen Eigentumsuebergang auf das Reich hatte bilden koennen.

Wenn nun entgegen dieser Beurteilung der Rechtslage durch die Betroffenen eine foermliche Beseitigung der Verfallerklaerung nach Massgabe der Rueckerstattungsgesetze als unumgaenglich angesehen wuerde, so wuerde die nur tatsaechliche Behinderung des Verfolgten in der Ausuebung seiner Rechte waehrend der nationalsozialistischen Herrschaft nachtraeglich zu einem endgueltigen Eigentumsverlust fuehren. Denn nach der Auffassung der Court of Restitution Appeals (CORA), des Obersten Rueckerstattungsgerichts fuer die amerikanische Besatzungszone, ist ein endgueltiger Rechtsverlust des Berechtigten eingetreten, wenn er die Anmeldefrist fuer die Geltendmachung von Rueckerstattungsanpruechen versaut hat (Rechtsgutachten Nr 1 der CORA, offizielle Sammlung 1951, 494 197, CORA Entscheidung Nr 160 in RzW 1952, 102). Die JRSO, die sich zumeist auf sogen. Globalahmeldungen im Rueckerstattungsverfahren stuetzen kann, haelt bislang - trotz der scharfen Kritik, den diese Stellungnahme im Schrifttum gefunden hat - an dem Standpunkt fest, sie sei gemaess Art 11 Abs 2 am REG "originaer" in die Rechtsstellung des Berechtigten eingerueckt und der Berechtigte selbst sei von jeglichen Anspruechen auf die entzogenen Vermoegenswerte ausgeschlossen (BB 1950, 38; vgl zu dieser Frage u.a. die ablehnende Kritik von Rosenthal zu den Rechtsgutachten der CORA in RzW 1950, 364; NJW 1950, 595; Boerner BB 1949, 567; Weisstein BB 1950, 921; Engler DRZ 1950, 531). Dem Vorwurf von Moser, diese Auffassung laufe

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auf eine "entschaedigungslose Enteignung" hinaus, ist die JRSO mit dem Argument entgegengetreten, der Berechtigte habe seine Rechte durch die Versaeumung der Anmeldefrist "verwirkt", er koennte deshalb nicht mehr zugunsten der JRSO enteignet werden (Moser BB 1949, 695 696; 1950, 179). Diese formale Begründung hat angesichts der Treuhaenderstellung, die die Nachfolgeorganisationen im Interesse der Verfolgten nach dem Schutzgedanken der Rueckerstattungsgesetze einnehmen sollen, wenig Ueberzeugungskraft. Es entbehrt aber zweifellos dann jeder sachlichen Rechtfertigung, eine Verwirkung von Rechten durch Fristversaumnis anzunehmen, wenn der Betroffene mit guten Gruenden davon ausgehen konnte, fuer ein Rueckerstattungsverfahren sei kein Raum, weil die tatsaechlichen Auswirkungen der Entziehungsmassnahmen bereits vor Inkrafttreten der Rueckerstattungsgesetze entfallen waren. Denn der Rechtsgedanke der Werwirkung, den die Rechtsprechung aus allgemeinen Billigkeitsgrundsaetzen entwickelt hat, kann nur dann zur Anwendung kommen, wenn aus dem Verhalten des Berechtigten nach Treu und Glauben zu folgern ist, er werde auf seine Rechte nicht mehr zurueckgreifen.

Da aber der Standpunkt der JRSO von der CORA gebilligt wird, muss mit einem endgueltigen Rechtsverlust des Berechtigten gerechnet werden, wenn auch Faelle der vorliegenden Art in das formale Rueckerstattungsverfahren einbezogen werden, Damit wuerde praktisch ueberhaupt erst durch die Einschaltung der Rueckerstattungsgesetze die Entziehung vollzogen und sich nunmehr erst der Unrechtsgehalt der Verfallerklaerung der 11. DVO voll zu Lasten des Verfolgten auswirken.

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Ein solches Ergebnis muessste mit Recht das Rechtsgefuehl des Verfolgten verletzen, dem von einem solchen Standpunkt aus auf Grund eines zu seinem Schutz erlaessenen Gesetzes Vermoegenswerte streitig gemacht werden koennen, in deren unbeeintraechigtem Genuss er sich bereits sicher waehnte. Dies gilt besonders dann, wenn nunmehr die Laender der Bundesrepublik auf Grund von Abtretungserklaerungen der JRSO als Anspruchsberechtigte dem Verfolgten gegenuebertreten sollten, (ueber die Globalabkommen der JRSO mit den Laendern vgl BB 1951, 978). Es ist zwar zu hoffen, dass von der Verfolgung derartiger Ansprueche zu Lasten des wahren Eigentuemers zumeist schon aus dem Gedanken Abstand genommen werden wird, dass die Gefahr der Erschuetterung des Rechtsbewusstseins schwerer wiegt als die erfolgreiche Durchsetzung reiner Fiskalinteressen. Rechtlich gesehen koennte aber eine solche Moeglichkeit nicht ausgeschlossen werden, wenn der Ansicht gefolgt wuerde, dass der Verfolgte die volle Eigentuemerstellung ueber verfallen erklaerte Vermoegensgegenstaende stets nur im Rahmen eines foermlichen Rueckerstattungsverfahrens gegen das Deutsche Reich zurueckerlangen koennte.

Die Gerechtigkeitsidee, die der Wiedergutmachungs- und Rueckerstattungsgesetzgebung zugrunde liegt, ist grundsatzlich nur dann erfüllt, wenn der Schaden in der Person desjenigen beseitigt wird, der ihn erlitten hat. Die Rueckerstattungsgesetze hatten allein den Zweck, die beschleunigte Rueckerstattung feststellbarer Vermoegenswertbestaende sicherzustellen (Art 1 Satz 1 am REG, Art 1 brit. REG). Sie strebten keinesfalls an, auch fuer solche Tatbestaende eine Bereinigung durch ein besonderes Verfahren vorzu schreiben, die einer Bereinigung infolge des Wegfalls der

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nationalsozialistischen Gewaltherrschaft nicht mehr bedurf-  
ten. In der Entscheidung Nr. 437 der CORA heisst es: "Der  
ganze Zweck der Rueckerstattungsgesetze ist auf die Er-  
leichterung, nicht die Behinderung der Rueckerstattung ge-  
richtet" (DRiZ 1955, 59). Hiernach zwingt gerade der Schutz-  
zweck der Rueckerstattungsgesetze zu der Folgerung, dass der  
Verfolgte oder seine Erben mit dem Zusammenbruch des Reiches  
ohne weiteres die ihnen kraft ihres Eigentums zustehende  
uneingeschraenkte Verfueigungsgewalt ueber solche Vermoegens-  
gegenstaende zurueckgewonnen, die zwar von einer Verfall-  
erklaerung erfasst, vom Reich aber nicht tatsaechlich in An-  
spruch genommen waren.

5. Diese Folgerung beeintraechtigt nicht etwa das in  
Art 10, 11 am REG zum Ausdruck gekommene gesetzgeberische  
Ziel, eine Staatserbfolge in verwaiste Rueckerstattungsan-  
sprueche auszuschliessen und die den Verfolgten entzogenen  
Vermoegenswerte ueber die Wiedergutmachungsfonds der Nachfolgeor-  
ganisationen fuer die Gesamtheit der noch lebenden Ver-  
folgten oder deren Erben zum Ausgleich ihrer Schaeden nutz-  
bar zu machen. Denn nach der hier vertretenen Rechtsauf-  
fassung loeste in der Regel allein schon die Verfallerklae-  
rung einen Entziehungstatbestand aus, der nur dann durch  
den Zusammenbruch des Reiches beseitigt wurde, wenn in die-  
sem Zeitpunkt der Verfolgte oder seine Leibes- oder Testa-  
mentserben in die volle Herrschaftsmacht in Bezug auf das  
betreffene Vermoegen einzuruecken vermochten. An dieser  
Voraussetzung fuer die Beseitigung der Entziehung fehlt es  
aber, wenn beim Wegfall der nationalsozialistischen Herr-  
schaft weder der Verfolgte noch Erben von ihm lebten. Fie-  
len die fraglichen Vermoegenswerte in den erblosen Nachlass  
eines Verfolgten, so handelt es sich auch vom Boden

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der hier vertretenen Rechtsansicht aus um entzogenes Vermoegen im Sinn der Rueckerstattungsgesetze, das die JRSO in Anspruch nehmen kann.

6. Aus der 4. Verordnung zur Ausfuehrung des Gesetzes Nr 59 vom 27. Maerz 1950 (ABl AHK Nr 13 vom 25. Maerz 1950, 146; vgl auch die entsprechende Regelung fuer Berlin vom 10. Oktober 1950 - GVBl Berlin I, 487 -) koennen gleichfalls keine Bedenken gegen die hier vertretene Rechtsansicht hergeleitet werden. Diese Verordnung bestimmt, dass bei Entziehungen auf Grund der 11. DVO zum Reichsbuergergesetz das Zentralanmeldeamt von sich aus die "Rueckerstattung" anordnen kann, wenn der Verfolgte trotz der Verfallerklaerung unveraendert im Grundbuch als Eigentuemer eingetragen geblieben ist. Da auch ohne Umschreibung im Grundbuch tatsaechliche Einwirkungen auf das Grundstueck denkbar sind, wie etwa eine durch die Verfallerklaerung ausgeloste Aenderung der Besitzverhaeltnisse, die die Annahme einer auch nach dem Zusammenbruch des Reiches fortduernden Entziehung rechtfertigen koennen, kann aus dieser Verordnung nichts gegen den hier vertretenen Rechtsstandpunkt entnommen werden. So weit diese Verordnung in ihrer Begründung ausfuehrt, Vermoegen der in ihr bezeichneten Art unterliege den Vorschriften das am REG, handelt es sich nicht um die Setzung einer verbindlichen Rechtsnorm, sondern um die Aeusserung einer unverbindlichen Rechtsansicht.

7. Schliesslich koennen auch aus dem Recht der Wertpapierbereinigung keine durchgreifenden Einwendungen gegen den hier vertretenen Standpunkt erhoben werden,

Es muss zwar damit gerechnet werden, dass im Bereinigungsverfahren bereits eine groessere Zahl rechtskraeftiger

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Entscheidungen ergangen sind, die im Widerspruch zu dieser Beurteilung der Rechtslage stehen. Ein solches Ergebnis muss aber oftmals hingenommen werden, wenn ueber eine Grundsatzfrage erst nach dem Abschluss von Verfahren, fuer die die gleiche Rechtsfrage erheblich war, eine hoechstrichterliche Entscheidung herbeigefuehrt wird.

Im uebrigen koennten auch die im Wertpapierbereinigungsverfahren bereits entschiedenen Faelle in der Regel im Ergebnis noch im Sinn der hier vertretenen Rechtsauffassung geloest werden, wenn sich die beteiligten Stellen das Anliegen zu eigen machten, das hinter diesem Beschluss des Grossen Senats steht, naemlich im Interesse der Verfolgten eine Stoerung der bisherigen Eigentumsordnung zu vermeiden. Sind trotz unveraenderten Depotbesitzes des von der Verfallerklaerung betroffenen Depotkunden die in dem Depot ruhenden Wertpapiere zugunsten des Reiches oder der JRSO anerkannt worden, so koennte dieser Eingriff in das Eigentum des Verfolgten ausgeglichen werden, wenn die JRSO oder der von den Militaerregierungen fuer das Reich eingesetzte Treuhaeander fuer zwangsuebertragene Vermoeegen die fraglichen Wertpapiere ihren urspruenglichen Eigentumern zur freien Verfuegung stellen wuerden. Dies duerfte auch allein den diesen Stellen uebertragenen treuhaeaderischen Funktionen entsprechen.

Hat in noch schwebende Verfahren der Verfolgte mit Ruecksicht auf Anmeldungen der JRSO oder des Reiches von einer eigenen Anmeldung im Bereinigungsverfahren abgesehen, so dass nach dem hier vertretenen Rechtsstandpunkt eine ordnungsgemaesse Anmeldung ueberhaupt nicht vorliegt, so koennte einem Rechtsverlust des Verfolgten dadurch begegnet

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werden, dass die JRSO oder das Reich einem Eintritt des wahren Berechtigten in ihre Anmeldungen zustimmen. Wird diese Zustimmung verweigert, so koennte das unbefriedigende Ergebnis, dass der Eigentuemer nicht mehr in den Genuss seiner Wertpapiere gelangt, nur durch die Eroeffnung einer neuen Anmeldefrist durch den Gesetzgeber vermieden werden. Bei Wertpapieren, die sich unveraendert auf den Namen des juedischen Depotkunden bei dessen Verwahrbank befinden, wird im uebrigen eine Versaeumung der Anmeldefrist fuer den Depotkunden wohl kaum in Betracht kommen, weil hier die Anmeldepflicht der Banken nach Par 19 Abs 2 WBG eingreift.

Fraglich kann sein, ob ein ueber den Zusammenbruch des Reiches fortwirkender Entziehungstatbestand dann anzunehmen ist, wenn die Wertpapiere im Hinblick auf die Verfallerklaerung im Bereinigungsverfahren zugunsten des Reiches anerkannt worden sind, cbwohl der urspruengliche Eigentuemer wegen dieser Papiere Rueckerstattungsanprueche angemeldet hat. Die Interessen des Verfolgten sprechen dafuer, bei solcher Sachlage einen Rueckerstattungsfall anzunahmen, weil das Wertpapierbereinigungsgesetz eine Ausnahme von der bindenden Wirkung der Anerkennung nur zu gunsten des Rueckerstattungsberechtigten vorsieht (Par 60 Abs 3 WBG). Im Rahmen dieses Beschlusses bedarf es jedoch keiner abschliessenden Stellungnahme zu dieser Frage.

8. Zusammenfassend ist als Ergebnis der vorstehenden Eroerterungen festzuhalten:

Par 3 der 11. DVO zum Reichsbuergergesetz hindert den von dieser Bestimmung betroffenen Rechtsinhaber nicht in der freien Verfuegung ueber solche Vermoegensgegenstaende, die

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ohne Veraenderung der bei der Verfallerklaerung gegebenen tatsaechlichen Verhaeltnisse erhalten geblieben sind. Der Durchfuehrung eines Rueckerstattungsverfahrens bedarf es bei solcher Sachlage in der Regel nicht, weil eine durch die Verfallerklaerung etwa herbeigefuehrte Entziehung dieser Vermoegensgegenstaende bereits durch den Wegfall des nationalsozialistischen Regimes beseitigt war, wenn in diesem Zeitpunkt der Verfolgte oder Erben von ihm lebten.. Dies gilt insbesondere fuer Wertpapiere, die noch im Depot der Verwahrbank fuer den juedischen Depotkunden verbucht sind. Ein Sperrvermerk ist als gegenstandslos zu behandeln, da er lediglich die Beachtung der nichtigen Verfallerklaerung sichern sollte.

B.

Die Wiedergutmachungsbehörde Oberbayern hat unter Berufung auf Art 71 Abs 1 Satz 2 am REG beantragt, das vor dem Grossen Senat anhaengige Verfahren auszusetzen.

Zur Begründung dieses Antrags hat die Wiedergutmachungsbehörde geltend gemacht, vor ihr schwebt wegen der gleichen Wertpapiere, die Gegenstand des beim Bundesgerichtshof anhaengigen Rechtsstreits sei, ein Verfahren zwischen dem Freistaat Bayern und dem Deutschen Reich. Die JRSO habe wegen dieser Wertpapiere rechtzeitig Rueckerstattungsansprüche angemeldet. Diese Rueckerstattungsansprüche seien durch Vertrag vom 29. Juli 1952 von der JRSO dem Freistaat Bayern abgetreten worden, der diese Ansprüche weiterverfolge. Die Entscheidung der Frage, wer Anspruch auf die Wertpapiere habe, hängt davon ab, ob eine Entziehung dieser Wertpapiere im Sinn der Rueckerstattungsgesetze vorliege.

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oder nicht. Es stehe somit eine rueckerstattungsrechtliche Frage zur Entscheidung, zu deren Klaerung allein die hier-fuer vorgesehenen Wiedergutmachungsbehoerden zustaendig seien.

Der Grosse Senat hat den Aussetzungsantrag abgelaent, weil die Voraussetzungen des Par 71 am REG nicht gegeben sind. Zweck dieser Bestimmung allein ist, die Zustaendigkeit zur Entscheidung ueber Rueckerstattungsansprueche zwischen den Wiedergutmachungsbehoerden und den ordentlichen Gerichten abzugrenzen. Es werden durch diese Vorschriften somit nur solche Faelle betroffen, bei denen Rueckerstattungsansprueche gleichzeitig mit Vorschriften anderer Gesetze begruendet sind. In dem beim Bundesgerichtshof anhaengigen Verfahren macht jedoch die Klaegerin keine Rueckerstattungsaprueche geltend, sondern allein Ansprueche aus Eigentum und Verwahrungsvertrag. Dies folgt schon daraus, dass sie ihr Klagebegehren gegen die Verwahrbank, nicht aber das Deutsche Reich richtet. Als Anspruchsgegner fuer einen etwaigen Rueckerstattungsanspruch kaeme aber allein das Deutsche Reich als Rueckerstattungspflichtiger in Frage (Art 14 am REG).

Da Art 71 am REG voraussetzt, dass der "Berechtigte" in dem vor dem ordentlichen Gericht schwebenden Verfahren einen Anspruch nach Massgabe der Rueckerstattungsge-setze klage- und einredeweise geltend macht, als Berech-tigte im Sinne dieser Bestimmung im vorliegenden Fall aber nur die Klaegerin Neuhaus in Betracht kommen koennte, die ihren Klagenspruch gerade nicht auf das Rueckerstattungsge-setz stuetzt, ist fuer eine Zustaendigkeitsbereinigung nach Art 71 am REG hier kein Raum.

Wie bei der Pruefung der vom I. Zivilsenat dem Grossen Senat vorgelegten Rechtsfrage dargelegt worden ist, waren

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die fraglichen Wertpapiere der Klaegerin bei Inkrafttreten des amerikanischen Rueckerstattungsgesetzes nicht mehr im Sinne dieses Gesetzes entzogen, sodass eine Anwendung von Rueckerstattungsvorschriften im Streitfall ausscheidet. Der Ansicht der Wiedergutmachungsbehoerde, dass ausschliesslich die Wiedergutmachungsorgane darueber befinden koennten, ob ein Tatbestand in den Anwendungsbereich der Rueckerstattungsgesetze faellt, kann nicht beigetreten werden. Die Zuständigkeitsregelungen der Art 57, 60 und 71 am REG betreffen nach ihrem eindeutigen Wortlaut nur Ansprueche, auf die das Rueckerstattungsgesetz anzuwenden ist. Ob dies der Fall ist, ist eine Vorfrage, deren Entscheidung den ordentlichen Gerichten nicht entzogen ist (vgl Entscheidung des II. Zivilsenats des Bundesgerichtshofs vom 31. Januar 1952 - II ZR 56/51 -).

Sollten die Wiedergutmachungsbehoerden einen von der Entschiedung des Grossen Senats abweichenden Standpunkt zu der Frage einnehmen, ob ein Rueckerstattungsfall vorliegt, so wuerde sich gemaess Art 15 am REG die Wirkung dieser zwischen anderen Parteien im Rueckerstattungsverfahren ergebenden Entscheidungen darauf beschraenken, dass der angeblich auf der 11. DVO des Reichsbuergergesetzes beruhende Rechtsverlust als nicht eingetreten gilt. Eine solche Entscheidung wuerde den Parteien des beim Bundesgerichtshof anhaengigen Rechtsstreits schon deshalb nicht entgegengehalten werden koennen, weil die Voraussetzungen des Art 15 Abs 2 am REG nicht erfuellt sind. Die Auffassung der Wiedergutmachungsbehoerde, die Entscheidung des Grossen Senats vermoegte die Unsicherheit nicht zu beseitigen, wem die fraglichen Wertpapiere im Endergebnis zustehen, ist hiernach nicht zu treffend, soweit es sich um die Entscheidung des zwischen den Parteien beim Bundesgerichtshof anhaengigen Rechtsstreit handelt.

344446

- 23 -

Die Moeglichkeit, dass die Frage, ob ein Rueckerstattungsfall gegeben ist, in verschiedenen Verfahren ueber das gleiche Objekt unterschiedlich beantwortet wird, ist zweifellos unerfreulich. Es ist dies jedoch die zwangslaeufige Folge des Umstandes, dass nach den von den Besatzungsmaechten erlassenen Rueckerstattungsgesetzen zwei verschiedene Rechtszuege hinsichtlich des gleichen Vermoegensgegenstandes in Betracht kommen koennen. Die sich aus dieser Zweigleisigkeit ergebenden Gefahren koennen nicht dadurch gebannt werden, dass den ordentlichen Gerichten die Entscheidung von Streitfaellen entzogen wird, die auch nach der in den Rueckerstattungsgesetzen getroffenen Regelung in ihren Zuständigkeitsbereich fallen.

Weinkauff Dr. Tasche Wilde Dr. Pagendarm

Johannsen Dr. Fischer Krueger-Nieland

Dr. Hauss Dr. Grossmann

HEADQUARTERS  
JEWISH RESTITUTION SUCCESSOR ORGANIZATION  
FRIEDRICHSTRASSE 29 - FRANKFURT/MAIN

FRANKFURT 70831  
RESTITUTION FRANKFURT

FEB 26 1955

(2) A. P. O. 757  
U. S. ARMY

23 February 1955.

Mr. Saul Kagan  
JRSO - New York

JRSO Hq. letter #2095.  
7030.

Dear Saul:

With reference to your letter #1887 of 18 February concerning Weis's request to have HICOG remove a case from the Bundesgerichtshof, I am familiar with it, but have not yet been persuaded that we ought to intervene. Dr. Katzenstein also doubts the wisdom or usefulness of an attempt on our part at this late date to have the Allies try to restrict the German courts from rendering a decision.

I will talk to Weis about it tomorrow, and if I am persuaded that intervention in Washington is called for I will write to you again.

Cordially yours,

Ben

BENJAMIN B. FERENCZ

BBF.11

Dictated but not read

344448

18 February 1955

Letter No. 1887

Mr. Benjamin B. Perenoz  
U.R.O. - Frankfurt/Main, GERMANY

Dear Ben:

One of the items which I wanted to mention to you on Friday afternoon was a call from George Weis concerning the possible need of intervention with HICOG to remove a case from the jurisdiction of the Bundesgerichtshof and transfer it to GORA. I believe that Weis wrote to you or Katzenstein about it.

I told Weis, in the expectation of my seeing you before I left, that I will report to you on it and take up with you the question of the advisability of putting this request to the High Commissioner. I am writing to you instead as I did not feel that I should trouble you about it on Friday or Saturday.

Sincerely yours,

Saul Kagan

SK:h

3444:3

FEB 18 1955

JEWISH RESTITUTION SUCCESSOR ORGANIZATION

BERLIN REGIONAL OFFICE

BERLIN-DAHLEM  
FONTANESTRASSE 16

TELEFON: 761981

14. February 1955  
Dr. W/cz

Mr. Saul Kagan  
c/o J R S O  
270 Madison Avenue  
New York 16, N.Y.

Dear Mr. Kagan,

Referring to our conversation over the telephone I am sending you copies of

my letter to Dr. Katzenstein of 24 June 1954,  
my letter to Mr. Ferencz of 19 July 1954,  
Dr. Katzenstein's letter to me of 23 July 1955,  
Dr. Lachs' letter to me of 6 July 1955  
my today's letter to Dr. Katzenstein.

Yours sincerely,

DR. G. WEIS

Incls: a/s

344450

14. Februar 1955  
Dr. W/ez

Herrn  
Dr. E. Katzenstein  
c/o J R S O  
N u e r n b e r g  
Fuerther Str. 112

Lieber Herr Dr. Katzenstein,

Bezugnehmend auf mein Schreiben vom 24. Juni 1954 an Sie und Mr. Ferencz sowie bezugnehmend auf den letzten Absatz meines Schreibens an Mr. Ferencz vom 19. Juli 1954, dessen Abschrift ich Ihnen gesandt habe, erlaube ich mir, folgende Vorschlaege fuer die unmittelbar zu unternehmenden Schritte gegenueber des Beschlusses des 1. Zivilsenates des Bundesgerichtshofes wegen Anrufung des Grossen Senates zu machen:

1. Wir muessen vorerst feststellen, wann fruehestens der grosse Senat zusammentritt, sofern dies nicht etwa bereits geschehen ist.

2. Sollte Herr Dr. Werthauer, den Sie ja, wie Sie mir gestern telefonisch sagten, beauftragen werden, Gelegenheit haben, zur Sache selbst gespraechsweise Stellung zu nehmen, so sollte er meiner Ansicht nach folgende Punkte betonen:

a. Die Nachfolgeorganisationen haben alle Werte der bezeichneten Art immer an die fruheren Berechtigten oder deren Erben ausgefolgt, bzw. Ansprueche abgetreten, ohne Gebuehren zu berechnen.

b. Konflikte koennen sich daher nur dort ergeben, wo die Nachfolgeorganisationen ihre Ansprueche an die Laender abgetreten haben, doch sind diese Konflikte, wenn ich nicht irre, in Hessen beigelegt, sie werden vermaetlich in Wurttemberg-Baden nicht entstehen und in Bayern gewiss beigelegt werden. Es stehen daher auch da wesentliche Interessen der fruheren Berechtigten nicht in Frage. Ausserdem koennen sich in diesen Faellen die fruheren Berechtigten immer im Equity-Verfahren an die Nachfolgeorganisationen wenden.

344451

c. Soweit es sich um Konten und Depots handelt, die weder von den frueheren Berechtigten noch von den Nachfolgeorganisationen angemeldet wurden, sind Verhandlungen wegen Wiedereroeffnung der Anmeldefrist im Gange.

d. Nachdem somit wesentliche Interessen von Seiten der individuellen Berechtigten nicht auf dem Spiele stehen, wurde der Standpunkt des 1. Zivilsenates dahin fuhren, dass unbeanspruchte Konten und Depots

i. ausserhalb der amerikanischen Zone an den Laenderfiskus fallen wuerden, dass also gerade dort, wo der klare Raub durch das 3. Reich vorliegt, der Laenderfiskus erben wuerde, gegen den klaren Willen des Gesetzgebers. Die wiederholt betonte grundsätzliche Rueckerstattungsbereitschaft des deutschen Volkes muss in einem merkwuerdigen Lichte erscheinen, wenn die Jurisprudenz des hoechsten deutschen Gerichte dahin fuhrt, dass diese Verwoegens an die Laender verfallen.

ii. In der amerikanischen Zone kann zwar die Nachfolgeorganisation auch diese Verwoegens an sich sichern, aber nur nach einem Aufgabtsverfahren, welches (da es sich immer um geringfuegige Konten handelt) den groessten Teil des fraglichen Verwoegens aufzehren wird.

3. Wir waren uns gestern am Telefon daruber einig, dass versucht werden soll festzustellen, ob der Vertreter der Klaegerin ein Vertreter der Banken ist. Es handelt sich dabei aber nicht, wie wir gestern am Telefon besprachen, um Herrn Dr. Grille, sondern um den Anwalt erster Instanz. Die Zahl der Anwaelt am Bundesgericht ist so gering, dass ja wohl jeder von ihnen auch Banken vertritt. Natuerlich kann es nicht schaden, wenn man sich auch ueber Herrn Grille erkundigt; wichtiger waere es aber wohl festzustellen, dass der Anwalt in erster Instanz regelmaessig der Anwalt der Bank ist oder ihr sonst nahestehnt.

4. Wir sollten ferner den Versuch machen herauszubekommen, ob denn Frau Neuhaus oder der Bankenverband den Prozess finanziert. Ich bin sicher, dass Letzteres der Fall ist.

5. Wir sollten ferner den besten Weg suchen, den grossen Senat ueber unseren Rechtsstandpunkt zu informieren. Ich hatte vorschlagen, dass wir in der hiesigen Schriftenreihe so rasch als moeglich eine Broschuere herausgeben, und dass ja zu diesem Zwecke nach Berlin kommen, damit wir den Inhalt mit Herrn Dr. Tuch und Herrn Dr. Herzfeld besprechen koennen.

6. Die gesetzliche Bestimmung, unter welcher meiner Ansicht nach die Angelegenheit in Ordnung gebracht werden konnte, ist Art. 71 URREG. Diese setzt aber wohl voraus, dass der nach dem Rueckerstattungsgesetz Berechtigte einen Antrag, sei es beim Zivilgericht, sei es bei der Wiedergutmachungsbehörde, stellt. Da wir unseren Anspruch abgetreten haben, müsste der Antrag vom Land Bayern gestellt werden. Ich weiss nicht, ob es möglich sein wird, dieses zu veranlassen, den Antrag sofort zu stellen.

7. Ob es noch möglich ist, den Höhen Kommissar einzuschalten und die Gerichtsbarkeit der deutschen Gerichte durch ihn ausschalten, weiss ich nicht, da ich nicht weiss, welche bezüglichen Bestimmungen in der US Zone noch wirken sind, ganz abgesehen davon, dass ich natürlich nicht weiss, ob der Höhe Kommissar noch bereit ist, so etwas zu tun.

Falls eingeschritten werden soll, müsste darauf verwiesen werden, dass

a. durch Rechtsprechung dieser Art der ganzen alliierten Rueckerstattung der Beden unter den Füssen weggesogen werden kann, indem einfach erklärt wird, es liege keine Entziehung vor,

b. dass natürlich gar nicht abzusehen ist, welche Konsequenzen sich aus einer solchen Entscheidung ergeben könnten,

c. dass Konflikte unvermeidbar sind. Durch einen Zufall ist der erste Konfliktfall dieser Art gerade heute auf meinen Tisch gekommen. Durch den in einer Ausfertigung beigelegten Beschluss des Wiedergutmachungsamtes Berlin - 52 VCA JRSO 968 und 969 vom 20. Januar 1955 - der inzwischen rechtskräftig geworden ist, wurde uns ein Konto eines früheren Berechtigten, Fritz Krinke, bei der Dresden Bank zugesprochen. Die Bank wurde von diesem Beschluss verständigt und hat daraufhin den in Abschrift beigelegten Brief vom 29. Januar 1955 an das Wiedergutmachungsamt gesandt. Während also nicht nur wir und das Wiedergutmachungsamt, sondern auch die Sonderverwaltung der Ansicht sind, dass eine Entziehung vorliegt, erklärt die Bank, dass sie sich für alles das gar nicht interessiert und das Geld an Herrn Krinke auszahlt, falls der Bundesgerichtshof erklärt, es liege eine Entziehung nicht vor. Wenn wir den Anspruch durchsetzen wollen, so werden wir dann meiner Ansicht nach die Bank verklagen müssen, da ja der Rueckerstattungsbeschluss nicht mehr bedeutet, als dass die Gläubigerrolle vom Reich auf uns übertragen wurde. Die Klage ist bei den ordentlichen Gerichten zu überreichen, und diese werden sich natürlich an die Entscheidung

nicht

des Bundesgerichtshofes halten. Wir werden also dann im Rück-  
erstattungsverfahren obliegt haben, aber unser Recht nicht durchsetzen  
können. Warum man wegen des Eigensinns irgend welcher Bankindividu-  
(man soll mir einreden), dass die Banken die Interessen der früheren  
Berechtigten im Auge haben) im letzten oder vorletzten Jahre der  
Rückerstattung noch diesen Konflikt zwischen deutscher und alliierter  
Rechtsprechung herauftauchte, ist mir unerfindlich.

Ich bemerke noch, dass sich Herr Krimke bereits an uns gewendet  
hat und dass wir selbstverständlich grundsätzlich bereit sind, ihm  
unsere Rechte abzutreten, dass ich aber vermutlich dies so lange  
nicht machen werde, so lange nicht die Angelegenheit geklärt ist.  
Ich glaube nicht, dass wir es hinnehmen können, dass die Bank Ver-  
fügungen der JAGO, trotz eines Beschlusses, "nicht zulässt" und  
ich werde unsere Rechte, bei gleichzeitigen Erklärungen an Herrn  
Krimke, bei uns zurück behalten, um gegebenenfalls in der Lage zu  
sein, die Frage sofort auszufechten, wer denn nun eigentlich zu ent-  
scheiden hat, die Wiedergutmachungsbehörden, die Dresdner Bank oder  
das Bundesgericht. Ich kann momentan nicht feststellen, wieviel die  
Deutsche Bank, Filiale München, an der Sache beteiligt ist. Wir  
hatten es bisher nur mit der Dresdner Bank in Berlin bzw. mit ihrer  
Nachfolgerin, der Bank für Handel und Industrie zu tun.

Ich zeichne

mit den besten Grüßen

ergebenst

DR. C. BRIS

cc: Mr. Kagan  
Mr. Ferencz  
Dr. Lachs

C o p y

24 June 1954  
Dr. W/cz

Herrn  
Dr. E. Katzenstein  
c/o Hq., J R S O  
N u e r n b e r g  
Fuerther Str. 112  
(Justizgebäude)

Dear Dr. Katzenstein,

1. I have just got knowledge of a decision of the Landgericht Muenchen I, copy of which I inclose. I assume that the decision is the result of a put up job between some claimants and the Bankenverband. The Betriebsberater speaks expressly of a "Musterprozess" (test case) and it is said on page 3 of the copy that "es ist damit zu rechnen, dass der Streitfall im Wege der Sprungrevision an den Bundesgerichtshof gelangt".

2. I think we should try to stop these proceedings as quickly as possible. They are nothing else than an attempt to exclude the jurisdiction of the restitution courts just by stating that there was no confiscation in the meaning of restitution legislation.

Yours sincerely,

DR. G. WEIS

Incls: a/s

34455

C o p y

JEWISH TRUST CORPORATION FOR GERMANY  
Hamburg 1

6th July 1954  
RL/MH

Dr. G. Weis  
Jewish Restitution  
Successor Organization  
Berlin-Dahlem  
Fontanestr. 16

Dear Dr. Weis,

Subject: Seizure of Banking Accounts  
under Regulation No. 11 pursuant  
to the Reich Citizenship Law.

I acknowledge receipt of your letter of 1st July, 1954 in which you refer me to a decision of Landgericht Muenchen reported in "Betriebs-Berater" vol. 9, No. 16. This decision appears to be superseded by the decision reported in Betriebs-Berater" vol. 9 No. 17 on page 517. The Supreme Court has ruled in unambiguous terms that banking accounts and securities were automatically forfeited to the Reich by virtue of Regulation No. 11 and that regress can only be had by way of restitution proceedings. There is, therefore, no need to take remedial action. As you may wish to inform Mr. Ferencz accordingly, I am sending this letter in duplicate.

Yours sincerely,

/s/ R. Lachs

344456

C o p y

19 July 1954  
Dr. W/cz

Mr. B. B. Ferencz  
c/o J R S O  
Frankfurt / Main  
Grueneburgweg 119

Dear Mr. Ferencz,

1. I am referring to my letter of 24 June 1954 in which I sent you a decision of the Landgericht Muenchen I, published in the Betriebsberater of 10 June 1954. Dr. Lachs draws my attention to a new decision of the Bundesgerichtshof which has been published in the Betriebsberater of 20 June 1954. I am sending you copy of the note published in the Betriebsberater which contains a quotation of the decision.

2. One should think that the banks would accept this decision. To my great surprise I received just a letter, copy of which I inclose, from which you will see that the Bankenverband is still waiting for a decision in its own case.

3. This is done although in Berlin there are no difficulties with individual claimants. We always have assigned and still are assigning claims for existing accounts and deposits to former owners and heirs in a very simplified procedure and without asking for fees.

4. In my opinion a responsible organization would normally accept the decision of the Bundesgerichtshof as final. As the Bankenverband is a responsible organization their attitude can only be explained out of an irrational hostility against restitution legislation or a late attempt to torpedo the law.

5. The decision "die erneute Stellungnahme des genannten hoechsten Gerichtes abzuwarten", complicates matters considerably. If we cannot easily find out whether an account exists or not our claims for existing accounts will be delayed. I am, therefore, writing to the Bundesverband

whether they would not advise the Berlin banks to give us information,  
considering the fact that in Berlin at least there is no conflict  
of interests.

6. Apart from that I am still of opinion that something should  
be done about the Munich case as I still think the Courts are deciding  
questions of restitution law when deciding these cases.

. Yours sincerely,

DR. G. WEIS

344458

C o p y

HEADQUARTERS  
JEWISH RESTITUTION SUCCESSOR ORGANIZATION

23 July 1954  
Dr. K/k

JRSO Berlin  
Attn: Dr. Weis

Dear Dr. Weis,

With reference to your letter to Mr. Ferencz of 19 July 1954 I would like to mention that, on 30 June 1954, I have asked the Landgericht Muenchen I for a copy of their judgment of 1.4.1954 - 6 0 417/53.

The Munich Landgericht has informed me that the file has been sent to the Bundesgerichtshof as an appeal (Sprungregress) has been lodged.

On 12 July 1954 I have asked the Bundesgerichtshof for a copy of the judgment which I have, however, not received yet.

Sincerely yours,

/s/ E. Katzenstein

344459

**B7D1278 D0010**  
**COPY ORDER FORM**

DATE 13.2.00 תאריך

NAME John 10/10 90%

ADDRESS 2628 1/2 N 2 ~~1/2~~ 23/13 20' N CIRCUIT

TELEPHONE 08-946992 טלפוננו

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שודן

78

Kill

October 17, 1947

GEN. & EMERG.

Restitut-

General Lucius D. Clay,  
Commander-in-Chief, European Command,  
Pentagon Building  
Washington, D. C.

Dear General Clay:

On December 1, 1946, representatives of interested Jewish groups conferred with you in New York City regarding proposals which they had theretofore submitted to General J. H. Hilldring, then Assistant Secretary of State, relative to the custody and ultimate disposition of Jewish cultural property confiscated by the former German government and its various agencies. These proposals contemplated that certain categories of such property, specified therein, should be transferred to a membership corporation, to be formed under the laws of New York, in behalf of their former Jewish owners and the entire Jewish people.

In accordance with these proposals, the Jewish Restitution Commission has been incorporated and organized under the Membership Corporations Law of New York. The membership of the corporation is at present composed of the following organizations:

The American Jewish Committee  
The American Jewish Conference  
The American Jewish Joint Distribution Committee  
The Board of Deputies of British Jews  
The Central Committee of Liberated Jews in Germany  
Conseil Representatif des Juifs de France  
The Council for the Protection of the Rights and  
Interests of Jews from Germany  
The Jewish Agency for Palestine  
Jewish Cultural Reconstruction, Inc.

The World Jewish Congress is a member of the corporation last named. The membership of The Jewish Restitution Commission is not closed, and we assure you that as soon as the surviving Jewish communities of Germany and Austria form organizations to represent them, those organizations will be admitted to membership in the corporation.

The gentlemen who conferred with you on December 1, 1946, understood you to express the following views:

1. The corporation which succeeds to ownerless and unidentifiable Jewish cultural property should be representative of surviving German and Austrian Jews and of the entire Jewish people. We submit that by virtue of its membership, as now constituted and as it will be expanded, the Jewish Restitution Commission meets your view in this regard.

344460

General Lucius D. Clay

-2-

October 17, 1947

2. There should be turned over to such a representative corporation confiscated Jewish cultural property which is now in, or may hereinafter come into, the possession of the United States (a) which is unidentifiable or (b) which is identifiable as having been owned either by a Jewish community which is extinct or by a Jewish philanthropic or cultural institution which has ceased to function, - but upon the understanding that the corporation will hold all such property until the expiration of the period fixed by the proposed restitution law for the filing of claims thereto and will continue to hold all of such property to which claims are filed until such claims are adjudicated.

3. Confiscated Jewish cultural property, now or hereafter possessed by the United States, which is identifiable as having been owned otherwise than by extinct Jewish communities or by Jewish institutions which have ceased to function, should, if unclaimed, be turned over to the corporation at the expiration of whatever period may be fixed by the proposed restitution law for the filing of claims thereto or, if claimed during such period, upon adjudication that the claims are invalid.

4. The corporation should be permitted to take possession of confiscated Jewish cultural property which is in the possession of individual Germans or of private German corporations or associations only if it establishes its claims thereto, by the procedures established by the proposed restitution law, as the successor in interest of the former owners of such property.

We therefore respectfully request:

a. That in addition to being appointed successor organization to Jewish property pursuant to Sections 7, 9, 10 and 12 of the proposed restitution law, the Jewish Restitution Commission be recognized as the successor to unidentifiable and ownerless confiscated Jewish cultural property.

b. That a small mission, representing the Jewish Restitution Commission, be admitted into Germany for the purposes of taking possession of the confiscated Jewish cultural property referred to in sub-paragraph 2, *supra*, of consulting with the United States authorities with respect to other Jewish cultural property, and of negotiating with the lawful owners of such property for the purchase of other acquisition thereof.

c. That the mission of the Jewish Restitution Commission be provided by the Military Government and the German authorities with all the facilities, and that the members of the mission be given the status, necessary to enable the mission to perform its functions effectively.

Very respectfully yours,

The Jewish Restitution Commission,

By

JEROME MICHAEL

344461

THE AMERICAN JEWISH  
JOINT DISTRIBUTION COMMITTEE, INC.

270 MADISON AVENUE

NEW YORK 16, N.Y.

MEMORANDUM

From B. M. Joffe  
Eli Rock *E.R.*

To Moses A. Leavitt

New York, September 30th, 1947

*W. Reitblum*  
GEN. & EMERG.

Subject Meeting of Five Agencies, Friday, September 26th

Present: Messrs. Robinson Joffe  
Hevesi Rock  
Grossman Boukstein  
Michael Marcuse

At this meeting the first item of business involved correction and final drafting of the letter which had earlier been prepared by the Jewish Cultural Reconstruction, Inc. to the State Department. (The letter was prepared at the specific suggestion and following discussions with the State Department.) This letter requests that unclaimed and unidentified Jewish cultural property located in the American zone of Germany now be turned over to Jewish Cultural Reconstruction, Inc., as intermediary trustee, and that the latter organization be permitted to send a mission into Germany for the purpose of handling all necessary details. On the basis of corrections made at the meeting the letter was finally approved to be sent to the State Department after having been presented to General Clay for his unofficial perusal.

Another item discussed dealt with the forthcoming visit of General Clay to this country. It was agreed that the top officers of each of the agencies should meet with General Clay and discuss with him particularly the question of restitution legislation. In this connection Mr. Grossman pointed out that a prior promise had been made to the Agudas that one of its representatives would be included in the next delegation visiting the State Department. It was Mr. Grossman's opinion that this promise required the inclusion of an Agudas representative in the forthcoming delegation to General Clay. In any event it was agreed that prior to the time that such a meeting would be held a caucus of all of the members of the delegation would be arranged to prepare arguments and to reconcile points of view. Grossman will hold preliminary discussions with the Agudas.

Another item of business involved reading a cable which had been sent from OMGUS to Washington, setting forth the differences between the Russian and the other Allied powers in connection with the restitution negotiations. According to this cable, the main differences continue to involve the question of a successor organization and the right of avoidance, with the Russians still holding out for escheat in the case of heirless property. The wire appeared to point to the likelihood of an agreement between the Western Powers, which would provide for the right of each Zone Commander to designate his own successor organization. No action was taken on this wire, but in a subsequent conversation with the State Department the desire of the agencies for an agreement which provides specifically for the designation of Jewish successor organizations in all zones was reiterated. According to the State Department, a cable will be sent off to OMGUS, requesting further clarification on this point.

/over/

344462

-2-

The last item of discussion involved an extension of the suggestion made by Mr. Marcuse at the previous meeting, that an attempt to effectuate personnel changes be initiated among those individuals at Property Control OMGUS dealing with restitution. It was agreed, however, that the agencies in this country as yet had insufficient specific data to support a move of this sort and that more specific ammunition would have to be gathered before such question is to be placed on the agenda.

ER:AU

cc. P. Baerwald  
E.M.M. Warburg  
Isaac H. Levy  
Harold F. Linder

344463

Memorandum : For Dr. Schwartz

TO) FR SEP 25 1947  
September 20, 1947

Subject: Developments with respect to Austrian Restitution Law

During my recent trip to Vienna I talked to Dave Ginsburgh and Monroe Keriseck and also to Albert Loewy, Legal Advisor to USACA, regarding developments with respect to the Austrian Restitution Law.

Dr. Ginsburg was very informative concerning progress on the Austrian Peace Treaty. As you know, under Article 44 of the Peace Treaty (the text of which has not yet been released and which I did not have time to copy) the Austrian government is required to transfer heirless property to a successor organization which has been approved by the four zone commanders "with the agreement of the Austrian government", the property to be used for the relief and rehabilitation of victims of Nazi powers. There are also the provisos that (a) no transfer of property may be effected which might unduly burden the Austrian economy and (b) no payment in foreign exchange could be made. Dave stated that he felt the provision was very objectionable but pointed out that it had already been agreed to by the four powers in Moscow. He did point out, however, that there is a disagreement between Russian and the U. S. as to what properties could be restituted; the Russians taking a narrow position that property taken under duress is not restitutable, with the U.S. taking the opposite view. Ginsburg feels that while it may be possible to reconcile the US and Soviet positions on this matter, still for purposes of strategy, he prefers to keep the disagreement so as to perhaps have the whole matter reconsidered at the Foreign Ministers' meeting at London. He points out that unless he preserves the disagreement it will be practically impossible to have the Article considered again; with the disagreement preserved "there is one chance in fifty" that the whole article will be reconsidered. In answer to my question, Dave did not feel it would be possible to reconsider Article 44 in Vienna at this time under the guise of making certain necessary drafting changes (and thus perhaps change policy as well). I also restated the points made in Colonel Bernstein's memorandum.

Loewy points out that the Jewish Community has already made secret proposals to the Austrian government as to the scope and nature of the Successor Organization. Although Loewy has not seen the text of the proposals he understands that they call for an Austrian organization which would collect all heirless property, put it in a pool, and then permit those persons having claims for restitution to satisfy their claims, even partially, from this pool. War damage claims would not, of course, be satisfied from this pool because of the provision of Article 42<sup>1/2</sup> of the Austrian Treaty which states that persons shall not be entitled to restitution of property damaged by the war to a greater extent than Austrians are compensated for property which has been damaged by the war. I pointed out to Loewy that under this scheme only Austrians would benefit from the sale of heirless property whereas under Article 44 it was expressly provided that such proceeds should be used for the "relief and rehabilitation of victims of nazi powers" and that the clause did not appear to refer

Developments with respect to Austrian Restitution Law

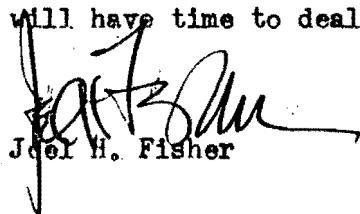
-2-

only to Austrian victims. Loewy, who objects to the policies of the Austrian Jewish community, said he was opposed to this plan, and that he hoped that some other plan would be adopted. I reviewed the proposals for a successor Restitution Organization for Germany and suggested that this might serve as a guide for an organization in Germany. Loewy, who is an old friend, told me that he had perhaps not kept in as close touch as he might have with the developments on the Restitution Law. He said he would have no objection if I keep in touch with him by weekly telephone calls to learn progress in this matter.

It should be pointed out that Dr. Butler, an attorney on our staff in Austria, has already accumulated a great deal of information as to the whereabouts of heirless property in the US/UK and French zones of Austria.

I also talked to Mr. Loewy about implementation of Austria Restitution Law No. 3 whereby individuals may file claims for restitution of specific property. Under the provisions of the law, tribunals are to be set up in Vienna and in the various lander to receive and adjudicate claims for property. Although the law has been in force for the past six months, tribunals have been established only in Vienna and in no other place in Austria. Mr. Loewy promised to make strong representations to the Austrian authorities to establish the tribunals as quickly as possible. Mr. Olson of the American Legation in Vienna, whom I also saw, promised to coordinate with Mr. Loewy and make a similar representation.

At Irwin Mason's suggestion I asked Dave Ginsburgh to try to get to Berlin in order to help getting the German Restitution Law passed. Mason points out that Dave is still very well liked in Berlin and his presence there would be helpful. Dave said he plans to go to Berlin within the next two weeks and will contact Mason there; he does not believe he will have time to deal with this matter but will do what he can.

  
Joel H. Fisher

344465

GEN. & EMERG. GERMANY

*Reichsbahn  
E. F. Rosenblum*

September 18, 1947

Letter No. 3117

From: AJDC New York

To: AJDC Paris

Attention: Herbert Schenker

John Rosenthal of Denver, a recent VIP in Europe, called me the other day to ask that I send Dr. Werner Peiser a minimum of 1000 sheets of legal size photostatic paper with the necessary chemicals for development. It seems that Dr. Peiser has unearthed a large Nazi file of former Jewish property in Hessen which he must return to the Chief of Police. Before he does so, he wants to photostat the whole file.

I have been informed that some time ago a large supply of photostatic paper and chemicals was sent to Paris and is not being used there. Will you supply Dr. Peiser's needs or if unable to do so, forward the necessary procurement order?

MJJ:PG

M. Jacob Joelew  
Executive Assistant

344466

CONFIDENTIAL

To: Mr. Moses A. Leavitt  
From: B. M. Joffe and Eli Rock  
Subject: Meeting of Five Agencies, Thursday, September 18, 1947

SEN. C. ENERGIE

The meeting last night, at the offices of the American Jewish Conference, was devoted largely to addresses by Major Abraham Hyman (assistant to Rabbi Bernstein and now to Judge Leventhal), Rabbi Philip Bernstein himself and Mr. Marcuse, formerly of the Legal Division, OMGUS in Berlin. The highlights of these three talks are as follows:

MAJOR HYMAN

Restitution - Major Hyman's discussion was devoted to the problems of restitution legislation in Germany and Austria. Regarding the former, he stated that the deadlock between the Americans and the other three powers continues, particularly over the questions of a successor organization and the right of avoidance.

The British now seem to support the French and Russian positions, and lean in favor of escheat of heirless property. General Clay's promise, however, regarding the October 1 deadline for unilateral American legislation, in the event quadripartite agreement proves impossible, remains effective.

With regard to Austria, five restitution laws have been passed dealing with all phases of the subject. Under these laws it has been required that all Austrians declare property which may be subject to restitution and 29,961 declarations of this sort have already been filed. On the other side, 2,800 claims for the return of restitutable property have also been filed. As a result, 766 pieces of property have already been returned to rightful owners who are in Austria. Thus far, according to Major Hyman, the restitution commissions in Austria have demonstrated an extremely liberal attitude, which has kept at a minimum the possible damaging effects of the several important weaknesses in the laws.

The DP Situation - Although morale continues to be low among the DPs, with continued apathy and small inclination to work or to clean up the camps, Major Hyman states that the situation is far from being explosive, as alleged by recent visitors returning from Germany. With regard to the return of the Exodus passengers to Germany, there were no demonstrations of any importance, largely due to the agreement between the U.S. military and the DP leaders that continued public demonstrations in German cities represented a real security threat. Nor was there any demonstration of an opposite kind upon the issuance of the UNSCOP report. Although the findings were generally received with favor by the DPs, there is also considerable cynicism, however, regarding its future implementation. Major Hyman also described in considerable length the Ansbach incident of several months ago in which two American soldiers were allegedly beaten by Jews and abducted into a DP camp (the story at the time was that they had been abducted by Irgunists). Official army investigations revealed extreme provocation on the part of the soldiers, who were beating up Jews outside the camps, and the retaliatory action by the DPs against the two individual GIs involved only a slight beating up plus their retention by the DP camp police pending their being turned over to the army MPs. Despite the facts disclosed by the investigation, however, two Jewish DPs have been sentenced to six months in jail, whereas the ten GIs participating in the original provocation have been let off with little more than a reprimand from the Army court marshal. It was suggested that pressure be exerted immediately to have the sentences of the two Jews reduced or reversed. Major Hyman stated that he asked the JDC to furnish lawyers, but did not get them. He finally was able to get some volunteers from the Nuremberg trial staff.

34467

DRAFT

9/10/47

Honorable Charles E. Saltzman  
Assistant Secretary of State  
Department of State  
Washington, D. C.

Sir:

On August 26, 1946, The Commission on European Jewish Cultural Reconstruction, The World Jewish Congress, The Hebrew University in Jerusalem, and other Jewish organizations made certain proposals (hereinafter referred to as the Proposals of Aug. 26, 1946) to your predecessor, General J. H. Hilldring, relative to the custody and ultimate disposition of the books and other confiscated Jewish cultural objects in the American Zones of Occupation in Germany and Austria.

The Proposals of Aug. 26, 1946, have since been modified as the result of certain objections raised thereto by the Commanding Generals of the United States Forces for Germany and Austria and because of the desirability of harmonizing them with the provisions of the proposed restitution laws for Germany and Austria and with the plans for the implementation of these laws.

The Proposals of Aug. 26, 1946, contemplated that certain categories of confiscated Jewish cultural property, specified therein, should be transferred to a membership corporation, to be formed under the laws of New York, as trustee for their former Jewish owners and for the Jewish people. As contemplated by these Proposals, the undersigned, Jewish Cultural Reconstruction, Inc., has been incorporated and organized under the Membership Corporations Law of the State of New York. We enclose copies of our certificate of incorporation and of our by-laws. Our initial membership has been expanded so that we now have the following members:

The American Jewish Committee  
The American Jewish Conference  
The American Jewish Joint Distribution Committee  
The Board of Deputies of British Jews  
The Commission on European Jewish Cultural Reconstruction  
The Council for the Protection of the Rights and Interests of the Jews from Germany  
The Hebrew University in Jerusalem  
The Jewish Agency for Palestine  
The Synagogue Council of America  
The World Jewish Congress

Our membership has not been closed and will in due course be enlarged so as to include the organizations which are most representative of the existing Jewish communities of Germany and Austria and the Jewish communities of France and other countries.

The proposed restitution laws do not distinguish between confiscated property which has only economic value and that which has cultural value as well, and the plans for their implementation contemplate that there shall be a single trustee of confiscated Jewish property which is ownerless or unidentifiable or which may be unclaimed. The Jewish Restitution Commission has been

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incorporated and organized under the Membership Corporations Law of the State of New York to act as such trustee. We enclose a copy of its certificate of incorporation and by-laws. The membership of The Jewish Restitution Commission is at present composed of the following organizations:

The American Jewish Committee  
The American Jewish Conference  
The American Jewish Joint Distribution Committee  
The Board of Deputies of British Jews  
The Central Committee of Liberated Jews in Germany  
Conseil Representatif des Juifs de France  
The Council for the Protection of the Rights and  
Interests of Jews from Germany  
The Jewish Agency for Palestine  
Jewish Cultural Reconstruction, Inc.  
The World Jewish Congress (?)

While the membership of The Jewish Restitution Commission, like that of Jewish Cultural Reconstruction, Inc., will be expanded, we submit that, even as presently constituted, their memberships adequately represent all Jewish interests throughout the world.

By contracts, copies of which are enclosed, The Jewish Restitution Commission, organized, as we have said, to act as trustee of all unidentifiable, ownerless and unclaimed confiscated Jewish property, has appointed the American Jewish Joint Distribution Committee and The Jewish Agency for Palestine, jointly, its agents in relation to property having only economic value, and us, Jewish Cultural Reconstruction, Inc., its agent in relation to cultural property.

The first modification of the Proposals of Aug. 26, 1946, is, therefore, that upon the enactment or promulgation of restitution laws for Germany and Austria The Jewish Restitution Commission shall become the trustee of all confiscated Jewish property, including cultural property, and Jewish Cultural Reconstruction shall become its agent in relation to cultural property, but that in the meantime Jewish Cultural Reconstruction, Inc. whose members are on the whole the same as those of The Jewish Restitution Commission, shall act as the trustee of unidentifiable, ownerless and unclaimed Jewish cultural property.

Having been informally advised by Mr. Max Lowenthal, formerly legal advisor to General Clay on Jewish matters, of the objections of the Commanding Generals of the United States Forces for Germany and Austria to the Proposals of Aug. 26, 1946, representatives of interested Jewish groups discussed those objections with General Clay, in Mr. Lowenthal's presence, in New York City on December 1, 1946. We understood General Clay to take the following position during that conference:

1. The organization recognized as trustee of ownerless and unidentifiable Jewish cultural property should be one which is truly representative of surviving German and Austrian Jews and of the entire Jewish people, but it is the function of the Department of State to determine what organization shall be recognized as trustee.

344469

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2. As soon as the trustee is recognized by the Department of State and the other necessary arrangements can be made, there should be turned over to the trustee confiscated Jewish cultural property which is now in, or which may hereafter come into, the possession of the United States which is either unidentifiable or identifiable as having been owned by a Jewish community which is extinct or by a Jewish philanthropic or cultural institution which has ceased to function, but upon the understanding that the trustee will hold all such property until the expiration of whatever period may be fixed for the filing of claims thereto and will continue to hold all of such property to which claims are filed until such claims are adjudicated.

3. Confiscated Jewish cultural property now or hereafter possessed by the United States which is identifiable as having been owned otherwise than by extinct Jewish communities or by Jewish institutions which have ceased to function, should, if unclaimed, be turned over to the trustee at the expiration of whatever period may be fixed for the filing of claims thereto or, if claimed during such period, upon the adjudication that the claims are invalid.

4. The trustee should be permitted to take possession of confiscated Jewish cultural property which is in the possession of individual Germans or Austrians or of private German or Austrian corporations or associations only if it establishes its claims thereto, by the procedures duly established by the restitution laws or otherwise, as the successors in interest of the former owners of such property.

5. A small mission representing the trustee should be admitted into Germany and Austria for the purposes of taking possession of the confiscated Jewish cultural property which should at this time be transferred to the trustee (see sub-paragraph 2, supra), of consulting with the United States authorities with respect to other Jewish cultural property, and of negotiating with the lawful owners of such property for the purchase or other acquisition thereof.

The second modification of the Proposals of Aug. 26, 1946, consists, therefore, of such changes therein as are necessary to adjust them to the views of General Clay, above stated.

In view of the foregoing we respectfully request:

1. That the Department of State recognize Jewish Cultural Reconstruction, Inc., as the trustee ad interim of confiscated Jewish cultural property which is unidentifiable or ownerless or unclaimed, and it inform the Secretary of War and the Commanding Generals of the United States Forces for Germany and Austria that it has done so. (It will, of course, be understood that upon the enactment or promulgation of restitution laws for Germany and Austria Jewish Cultural Reconstruction, Inc., shall be replaced as trustee by The Jewish Restitution Commission and shall be regarded as having in the meantime acted as the trustee's agent.)

2. That a mission representing the trustee, not to exceed six in number, be permitted to enter Germany and Austria for the purposes above stated (see sub-paragraph 5, supra), and that the Commanding Generals of the United States Forces for Germany and Austria be requested to give its members freedom of movement throughout the American Zones of Occupation and to provide them with housing, food and such transportation and other facilities as are reasonably necessary to enable them to perform their functions. (If a mission of six is

-4-

approved, it will be composed of three citizens or residents of this country, two Palestinians, and a British citizen.)

3. That two members of the trustee's mission be permitted to enter Czechoslovakia for the purpose of consulting and negotiating with the Council of Jewish Communities in Bohemia and Morava-Silesia and the Czechoslovakian authorities regarding the Jewish books referred to in the letter of General Hilldring to Professor Jerome Michael, Acting Chairman, Commission on European Jewish Cultural Reconstruction, dated July 8, 1947.

Very respectfully yours,

Jewish Cultural Reconstruction, Inc.,

by

President.

344471

C O P Y

Mrs. Reta L. Stein

Miss Ann Petluck, USNA

ZIO  
Petluck, GEN. & EMERG. GERMANE  
Restitution  
September 3, 1947  
Property

Restitution of Property in Germany

Attached are excerpts of a letter we received from the Personal Service Department in Paris. Please note that the information, though of general interest, relates to a particular case which is being handled here. Dr. Mayer, at present living in Iran, has requested a loan in order to return to Germany to put through in person his claim for restitution of his property.

We trust that this information will be of interest to you and your staff.

cc/Mr. Joslow  
Miss Robbins & Rebecca Silverman  
Reta L. Stein  
Mrs. Chasen & Miss Klotz  
Miss Kogan & Miss Engelson

344472

C O P Y

AMERICAN JOINT DISTRIBUTION COMMITTEE  
PARIS

August 5, 1947

Mrs. Esther C. Elbogen  
A.J.D.C.  
270 Madison Ave.  
New York 16, N.Y.

In reply please refer  
to: #PSI.709

Re: MAYER, Dr. August

The only specific claim made by Dr. Mayer is that of 600,000 Marks, which is the value of personal belongings, including furniture, sold by the Nazis while in bond in Bremen and Hamburg. These belongings cannot be a claim for restitution as long as they have not been found or identified. It is instead a claim for indemnification. As yet no steps have been taken to solve the problem of indemnification claims, and there is very little chance that this problem will be taken up in the near future.

Regarding furniture belonging to Jews, attempts are being made to trace such furniture which was sold in Bremen and Hamburg. This is, however, a very delicate matter, as almost all the documents have been destroyed, and it will take much time before these files can be reconstructed. Mr. Mayer's presence in Germany would not facilitate this work; also, it would not be possible to claim any of the furniture before the files have been reestablished, and unfortunately it is very doubtful whether the furniture would be found even after this is done.

The suggestion is that the only thing Dr. Mayer can do at the present time is to register his claims with the Zentralamt fuer Vermoegensverwaltung, Stadthagen, Seilestr. 28, Westphalia, British Zone of Germany. He should file a separate claim in duplicate for each property. These claims should be written in German as well as in English. The following information should be given:-his name, birth date, his last residence, his present residence, the "Kreis" in which the property was or is still situated, and a brief description of the property and its approximate value. The latter should not be exaggerated.

Sincerely,

/s/ Dorothy Lewy  
Personal Service Department

rw  
9/8/47

344473

THE AMERICAN JEWISH  
JOINT DISTRIBUTION COMMITTEE, INC.

270 MADISON AVENUE  
NEW YORK 16, N.Y.

M E M O R A N D U M

From B. M. Joffe *[Signature]*  
To Mr. M. A. Leavitt

New York, July 10, 1947

Subject World Jewish Congress and the Austrian Treaty

Dr. Hevesi of the American Jewish Committee informed me yesterday, unofficially, that there was a meeting of the 11 organizations discussing the Austrian Treaty. At that meeting, a showdown was reached with the World Jewish Congress. The latter demanded to be the first signatory on the document which the Conference was preparing and demanded an acknowledgment by the conferees of its unique position as the only representative of world Jewry.

The participating organizations unanimously voted against it.

Mr. Hevesi feels that in this connection the World Jewish Congress will again demand allocation of commanding positions to it on the Jewish Restitution Commission.

While you were away, the position of Co-Treasurer on the Jewish Restitution Commission was left open for a representative of the World Jewish Congress. Messrs. Eliezer Kaplan and Maurice Bokstein did not reach a final understanding with the World Jewish Congress but felt that the WJC will, at least, not attack the Jewish Restitution Commission.

As you no doubt know, the WJC would like to be partners in the administration of the Restitution Committee together with the JDC and the JA.

RMJ:MSR

344474

CERTIFICATE OF INCORPORATION

- of -

THE JEWISH RESTITUTION COMMISSION

(Pursuant to the Membership Corporation Law)

WE, the undersigned, for the purpose of forming a membership corporation pursuant to the Membership Corporations Law of the State of New York hereby certify:

1. The name of the proposed corporation shall be THE JEWISH RESTITUTION COMMISSION.

2. The purposes for which it is to be formed are:

- a) To assist, aid, help, act for and on behalf of, and as successor to, Jewish persons, organizations, cultural and charitable funds and foundations, and communities, which were victims of Nazi or Fascist persecution and discrimination, in all matters relating to claims for the restitution of property and property rights of every nature and description, and for compensation and indemnification arising out of loss or damage suffered by them in consequence of such persecution and discrimination; and in connection with the foregoing to discover, claim, acquire, receive, hold, maintain, manage, administer, hire, liquidate, and otherwise dispose of property and property rights of every nature and description for the benefit of victims of Nazi or Fascist persecution or discrimination, and to apply the income therefrom, the increments thereto, and the proceeds thereof for the relief, rehabilitation, reestablishment, resettlement and immigration of such victims, all in accordance with the laws and policies established by the Governments or authorities in control of the countries, or areas, where any or all of the foregoing activities may be carried on.
- b) To act in the aforementioned respects for the purpose of ascertaining claims to restitution, compensation or indemnification; claiming, acquiring, receiving, reducing to possession, or prosecuting

such claims; holding, maintaining, salvaging, repairing, managing, administering, and in all respects dealing with such property and claims, and effecting disposition, liquidation or conversion of such property or claims by all appropriate means for the purposes herein stated.

- c) To act in the aforementioned respect with regard to Jewish books, manuscripts, and other Jewish cultural and religious and historic objects in Germany, and in areas formerly occupied by Germany, and to distribute such objects to their rightful owners and to such Jewish organizations, institutions, and communities anywhere in the world as may be determined to be equitably and appropriately entitled to them.
- d) To assist governmental and intergovernmental agencies, in a representative capacity or otherwise, in locating, identifying, preserving, cataloguing and determining the proper disposition of Jewish books, manuscripts, and other Jewish cultural, religious, and historic objects in Germany or in areas formerly occupied by Germany.
- e) To have power to borrow money, and, from time to time, to make, accept, endorse, execute, and issue bonds, debentures, promissory notes, bills of exchange, and other obligations of the corporations for moneys borrowed or in payment for property acquired or for any of the other objects or purposes of the corporation or its business, and to secure the payment of any such obligations by mortgage, pledge, deed, indenture, agreement, or other instrument of trust, or by other lien upon, assignment of, or agreement in regard to all or any part of the property, rights, or privileges of the corporation wherever situated, whether now owned or hereafter to be acquired.
- f) Without limitation of the foregoing to do all and everything necessary, suitable and proper for the accomplishment of any of the purposes hereinbefore set forth and to do every other act or acts, thing or things incidental or appurtenant to or growing out of or connected with the aforesaid purposes, or any part thereof, provided the same be not inconsistent with the laws under which this corporation is organized or the laws of any country in which the activities of the corporation are carried on.

3. The corporation shall have no capital stock and shall not be conducted for profit. All assets remaining solely for purposes

of the relief, rehabilitation, resettlement and immigration of victims of Nazi or Fascist persecution or discrimination, in the manner provided in the By-Laws of the corporation, subject to the approval of the Supreme Court of the State of New York.

4. The territories in which its operations are principally to be conducted are the United States of America, Germany and formerly German occupied areas of Europe, and other areas throughout the world.

5. The city and county in which its office is to be located are the City of New York, County of New York.

6. The number of directors shall not be less than five (5), nor more than sixty-one (61). Officers and directors of the corporation need not be members.

7. The names and residences of the directors until the first annual meeting are:

<u>NAMES</u>	<u>ADDRESSES</u>
Louis Lipsky	303 West 86th Street New York, N.Y.
Jacob Blaustein	Alto Dale, Pikes Well, 6, Baltimore County, Md.
Dr. Stephen S. Wise	91 Central Park West New York, N.Y.
Zelig Brodetsky	77 Great Russell Street London, England
Prof. Salo W. Baron	405 West 118th Street New York, N.Y.
Edward M. M. Warburg	550 Park Avenue New York, N. Y.
Emanuel Newman	749 West End Avenue New York, N.Y.

8. All of the subscribers to this Certificate are of full age; at least two-thirds of them are citizens of the United States and at least one of them is a resident of the State of New York. Of the persons named as directors, at least one of them is a citizen of the United States and a resident of the State of New York.

IN WITNESS WHEREOF, we have made, subscribed and acknowledged this Certificate this 25th day of April, 1947.

LOUIS LIPSKY

JACOB BLAUSTEIN

STEPHEN S. WISE

ROBERT SZOLD

SALO W. BARON

EDWARD M. M. WARBURG

E. NEUMANN

STATE OF NEW YORK

COUNTY OF NEW YORK : SS.

On this 25th day of April, 1947, before me personally came LOUIS LIPSKY, to me known and known to me to be the same person described in and who executed the foregoing Certificate of Incorporation, and he thereupon duly acknowledged to me that he executed the same.

Lucy Gerstein  
Notary Public

344478

STATE OF NEW YORK )  
: SS:  
COUNTY OF NEW YORK )

On this 25th day of April, 1947, before me personally came JACOB BLAUSTEIN, to me known and known to me to be the same person described in and who executed the foregoing Certificate of Incorporation, and he thereupon duly acknowledged to me that he executed the same.

Henry A. Weiller  
Notary Public, State of New York  
Residing in Bronx County  
N.Y.C. Clk's No. 303, Reg. No. 252-W-9  
Commission Expires March 30, 1949

Henry A. Weiller  
Notary Public

STATE OF NEW YORK )  
: SS:  
COUNTY OF NEW YORK )

On this 25th day of April, 1947, before me personally came DR. STEPHEN S. WISE, to me known and known to me to be the same person described in and who executed the foregoing Certificate of Incorporation, and he thereupon duly acknowledged to me that he executed the same.

Lucy Gerstein  
Notary Public

STATE OF NEW YORK )  
: SS:  
COUNTY OF NEW YORK )

On this 25th day of April, 1947, before me personally came PROF. SALO W. BARON, to me known and known to me to be the same person described in and who executed the foregoing Certificate of Incorporation, and he thereupon duly acknowledged to me that he executed the same.

Lucy Gerstein  
Notary Public

344479

STATE OF NEW YORK )  
: SS:  
COUNTY OF NEW YORK)

On this 25th day of April, 1947, before me personally came EDWARD M. M. WARBURG, to me known and known to me to be the same person described in and who executed the foregoing Certificate of Incorporation, and he thereupon duly acknowledged to me that he executed the same.

Lucy Gerstein  
Notary Public

STATE OF NEW YORK )  
: SS:  
COUNTY OF NEW YORK)

On this 25 day of April, 1947, before me personally came EMANUEL NEUMANN, to me known and known to me to be the same person described in and who executed the foregoing Certificate of Incorporation, and he thereupon duly acknowledged to me that he executed the same.

Lucy Gerstein  
Notary Public

STATE OF NEW YORK )  
: SS:  
COUNTY OF NEW YORK)

On this 25 day of April, 1947, before me personally came ROBERT SZOLD, to me known and known to me to be the same person described in and who executed the foregoing Certificate of Incorporation, and he thereupon duly acknowledged to me that he executed the same.

Lucy Gerstein  
Notary Public

344480

~~HIGHLY CONFIDENTIAL~~

GEN. & EMERG.

MINUTES

*Restitution*

MEETING OF THE ADMINISTRATION COMMITTEE  
OF THE JOINT DISTRIBUTION COMMITTEE  
Wednesday, June 11, 1947 - 12:30 PM

Present:

Edward M.M. Warburg, presiding  
Paul Baerwald  
I. Edwin Goldwasser  
Isaac H. Levy  
Harold F. Linder

B. M. Joffe  
Evelyn M. Morrissey  
Joseph J. Schwartz  
Louis H. Sobel  
Henrietta K. Buchman  
Benjamin B. Goldman  
Dorothy L. Speiser

By Invitation:

Henry Morgenthau, Jr.

REMARKS BY THE CHAIRMAN

Mr. Warburg spoke of the following matters:

1. Lajos Dinnyes, the new Hungarian Premier, has renewed the invitation to Mr. Leavitt and Dr. Schwartz to visit Hungary as the guests of the Hungarian Government. Mr. Leavitt plans to proceed to Hungary directly from Italy. Dr. Schwartz will also avail himself of the invitation and, if possible, he will meet Mr. Leavitt there.
2. The results of the UJA meetings in Wernersville, Pa., and in New York, were on the whole gratifying. Leaders who were at the Wernersville meeting were impressed with the cash crisis facing the agencies in the UJA, and left with a conviction that the full amount of the 1947 quota of \$170,000,000. was urgently needed to carry on the work.
3. At the first meeting of the Jewish Restitution Commission, which took place on June 9th, the following JDC officers were elected on the Commission: Messrs. Edward M.M. Warburg, President, Isaac H. Levy, one of the Vice-Presidents, Moses A. Leavitt, member of the Executive Committee. Emanuel Newman of the Jewish Agency was elected Chairman of the Executive Committee. All of the foregoing are also members of the Commission Board. The discussion centered on the admission of other agencies and particularly on the inclusion of the Central British Fund as an administrative agent along with the JDC and the Jewish Agency. The UP&A and the JDC have taken similar positions that there should be only two administrative agents. The matter was referred to the Commission Executive Committee. Dr. Schwartz explained that the British group is very much hurt. They feel that they have always cooperated as partners of the JDC in meeting overseas needs, but that now when they are hard pressed, they are being ignored by the JDC.

Dr. Schwartz also advised that he had met with Mr. Eliezer Kaplan the night before and discussed with him the question of an executive director to head up the organization of the Jewish Restitution Commission. Two names were considered whom they recommended for approval by the respective organizations - the first was David Ginsberg, who is now in Europe on a governmental mission. He was general counsel for the OPA and has had good governmental experience. If he is not available, they

(over)

344481

- 2 -

recommended that Irwin Mason should be considered. Mr. Mason is in the employ of the State Department and has been working on the entire question of restitution, particularly in Germany. They felt he is probably more informed than any other person on that subject. They suggested that the salary be limited to \$10,000. per annum, but it may be necessary to pay as much as \$12,000. They recommended that a commitment should be made for a period of only six months.

Mr. Linder suggested that Dr. Schwartz be authorized to go ahead on that basis, although he recognized that it may be difficult to obtain the services of a person for a six-month period. If the arrangement has to be made for a longer period - up to a year - Dr. Schwartz is authorized to do so.

Dr. Schwartz pointed out that Mr. Kaplan indicated his discouragement about the entire matter of restitution since his arrival in this country and his talks in Washington. He is not sure that anything positive will come out of it and does not want to involve the JDC or the Jewish Agency in commitments beyond a six-month period. He realizes that an organization has to be set up and that an executive director must be selected to head such an organization, but feels that because of the uncertainties, it might be unwise to make commitments too far ahead.

Dr. Schwartz reported further that he and Mr. Kaplan had met with Mr. Leo Hemmendinger of the State Department, who has been working on the reparations problem. Mr. Hemmendinger stated that he came as an emissary of the State Department and in that capacity, wanted to inform the JDC and the Jewish Agency representatives that the U. S. Government, together with the British and French Governments, are very anxious to have Sweden come into the IRO. They feel it is important to the functioning of the IRO for Sweden to be a member. Sweden's contribution to the IRO will amount to about \$3,500,000. Sweden has agreed to give the IGC for the Jewish Agency and the JDC a sum of 50 million kronor, which will amount to \$13,925,000., calculated at the official exchange rate. Sweden considers that this is not reparations money, but a free-will contribution, and has therefore stipulated that its contribution to the IRO must come out of the 50 million kronor.

Dr. Schwartz recalled that when Sweden made the proposal previously, the State Department indicated that the \$3,500,000. differential would be made up either in escudos or some other currency. Accordingly, eighteen nations entitled to get reparations funds were canvassed, but the proposal was turned down completely. That means that there is no chance of getting the \$3,500,000. from reparations funds because the other eighteen nations will not increase the total beyond \$25,000,000. and will not sacrifice \$3,500,000. for the benefit of the people who are to receive those funds. The State Department has therefore come to the conclusion, together with the British and French, that they have no way out except to ask the JDC and the Jewish Agency to give up their claim to their share (or 90%) of \$3,500,000. worth of reparations funds. Technically, only the IGC has to be consulted and not the JDC and the Jewish Agency, but the government felt it did not want to agree to this arrangement without getting prior consent from the two agencies.

Mr. Hemmendinger, who is in General Hilldring's office, and Mr. Herbert Fierst, have drawn up the following statement, which they have asked the JDC and the Jewish Agency to approve:

"The JDC and the Jewish Agency have been informed of the proposal of the three governments to take Swedish first year contribution to the IRO from the 50,000,000 kronor otherwise available for non-repatriable victims of German action pursuant to Article 8 Paris Reparations Agreement, and while greatly regretting such action, would acquiesce upon the

- 5 -

the support of yeshivot in the European countries. Mr. Sobel made clear to the group that if the Vaad undertakes to collect money for yeshivot which receive assistance from the JDC, the JDC will necessarily have to withdraw its support from those institutions. The Union of Orthodox Rabbis accepted this condition.

With respect to the funds which the central body will require for its administrative expenses under this plan, Mr. Sobel suggested that they raise the necessary sum through their own efforts by appeals to communities or through their synagogues. The Agudas Harabonim pointed out that if they were to undertake to raise a fund for the administrative costs of the new organization, it would delay the program considerably. They were therefore not disposed to make application to communities at this point. They proposed that the JDC advance the necessary sums to them in order that the program may be implemented as soon as possible. This would afford an opportunity to make plans for collecting funds through their own channels or through application to communities, and at the same time, not delay the work. They gave every assurance to the JDC that they would in due course repay the sums advanced to them. They mentioned \$100,000. as the amount which they would wish to receive for the implementation of the plan and which they would repay out of funds they eventually collected. They would be prepared to submit a budget of their requirements in support of a request for a loan.

Dr. Schwartz pointed out that sponsorship of this central body by the Union of Orthodox Rabbis and the latter's support of the JDC, will tend to dispel rumors that the JDC is irreligious and discourage separate activities of other orthodox groups. Mr. Levy was of the opinion that it would be worthwhile for the JDC to cooperate in this new arrangement for at least one year. He believed that it would pay for the JDC to advance a fund of up to \$100,000. if their full cooperation can be enlisted in support of the United Jewish Appeal.

It was agreed that the central body be asked to present a budget, and the meeting authorized an advance of up to \$50,000.-\$60,000. for approved budgetary requirements.

#### UJA MATTERS

At this point, Mr. Warburg welcomed Mr. Henry Morgenthau, Jr. and expressed the Committee's appreciation of his leadership as General Chairman of the United Jewish Appeal. Mr. Morgenthau stated that he had come to the meeting to get the feel of what is going on so that he might be in a better position to interpret the work of the JDC in connection with his fund-raising activities. He emphasized that it has been most helpful to have Dr. Schwartz here to present the needs abroad to the leadership of the country at the meetings in Wernersville and in New York. He was sure that Dr. Schwartz in turn can report back to the Jews in Europe the sympathetic feeling here and what is being done in their behalf.

Mr. Morgenthau emphasized that it was most important for him to receive material to support the campaign effort. In this connection, he mentioned that he had received word that the Cleveland community felt they had done all they could for the campaign, although they had fallen short of their goal by \$1,000,000. He immediately telephoned to Mr. Samuel Goldhamer in Cleveland and has arranged to go their Sunday night to see what he can do personally to stimulate that community to raise additional funds. He indicated that Mr. Montor and Mr. Coons are going along with him, and asked that a lay officer of the JDC accompany him. It was suggested that Mr. Morgenthau get in touch with Judge Maurice Berzon in Cleveland, who is a member of the Administration Committee and Chairman of the JDC National Council.

#### COMMISSION ON EUROPEAN JEWISH CULTURAL RECONSTRUCTION

Mr. Levy stated that a meeting held with the Commission on European Jewish Cultural Reconstruction, which is a subsidiary of the Jewish Restitution Commission,

- 6 -

Professors Salo W. Baron and Jerome Michael strongly urged that the JDC and the Jewish Agency, as members of the Jewish Restitution Commission, should become members of the Commission on European Jewish Cultural Reconstruction. Prof. Baron and his group pointed out that the Commission takes the position that it will accept the assurance of the Military Government that the ownership of cultural objects which they will send to Palestine is not identifiable. In this connection, some situations may arise where a European community may lay claim to certain objects, the ownership of which may not be considered identifiable in the opinion of the Military. In such instances, the JDC would have to reserve the right to support the claims of the communities, if necessary.

Messrs. Baerwald and Linder were of the opinion that the JDC should not join the Commission officially. They pointed out that to do so might prove embarrassing to the JDC should communities raise questions about some of the cultural-religious objects claimed by the Commission.

Mr. Levy stated that he could see no reason why the JDC should not join, and Mr. Warburg felt that there was no danger involved in having the JDC associated with the Commission on European Jewish Cultural Reconstruction. He emphasized that the Commission needs the support of the JDC, especially in its relationship with the Military.

After a full discussion, the earlier decision of the Committee not to join the corporation of the Commission was reversed, and it was agreed that the JDC should become a member.

#### INTERNATIONAL CHILDREN'S EMERGENCY FUND

Mr. Scobel reported that a question has come up in connection with the special campaign which is being contemplated in behalf of the International Children's Emergency Fund whereby the public is to be solicited for contributions of one day's pay. He explained that the agencies in the American Council of Voluntary Agencies for Foreign Service had expressed themselves very definitely as opposed to that plan. In the meantime, another plan has been put forth for a united campaign in behalf of the voluntary agencies in which the International Children's Emergency Fund will be included. A question has arisen as to what position the JDC should take with respect to the proposed campaign for contributions of one day's pay. It was the sense of the meeting that the JDC, as a member of the American Council, should go along with the position taken by that organization.

#### CASH ACCOUNT - From 1/1/47 To 6/9/47

##### Receipts

From UJA 1947 Campaign.....	\$ 3,534,000.
" " 1946 " .....	14,692,500.
Income from abroad and miscellaneous.....	<u>3,170,100.</u> \$ 21,396,600.

##### Disbursements

Payments against 1947 appropriations.....	\$ 22,537,800.
" " 1946 and prior years.....	<u>3,669,700.</u> \$ 26,207,500.
Excess of Disbursements over Receipts.....	<u>\$ 4,810,900.</u>
Total Bank Loans as of June 9, 1947.....	<u>\$ 14,000,000.</u>

AMERICAN JOINT DISTRIBUTION COMMITTEE  
19 rue de Téhéran  
Paris 8e

GEN. & LEGAL

*Restitution  
of Property*

JUN 21 1947

European Executive  
Council

June 10, 1947

To : All Country Directors

Re : Restitution of Jewish property.

We have been receiving applications from various countries for special grants in connection with the recovering or restitution of Jewish property.

We realize that the rehabilitation and the economic reconstruction of the Jewish population depends to a great extent on the possibility of recovering their confiscated property. We are therefore considering the extent to which we can help the Jewish population in facilitating the recovery of their property, although such activity does not normally come within the frame of our regular program. However, the applications submitted to this office so far, do not contain such information or data as will make it possible for us to decide the policy to be followed by us concerning this problem. Therefore, we would appreciate very much if you could furnish us with the following information with as little delay as possible.

1. Has the Government of your country passed or adopted any legislation for the restitution of property.  
If such a law or decree has been adopted we would like to have an authoritative presentation and interpretation of this law with special emphasis on its practical possibilities and limitations as far as Jewish property is concerned :
  - a) community property
  - b) property of individuals or their heirs.
2. A quantitative analysis and estimation of Jewish community property which can be recuperated under the provisions of the law.
3. The approximate number and percentage of the Jewish population of the country which might be able to recover their property or part of it in such forms as :
  - a) confiscated bank accounts
  - b) jewellery or valuables
  - c) real property.

344485

To all country directors.

10/6/47

With regard to real property it is important to know if it refers to living quarters, industrial enterprises or workshops and finally agricultural land. In the case of agricultural land, it is important to know how far the recuperated farms would be affected by such land reform laws as may recently have been passed in your country.

4. An estimated average of the per capita expenses involved for legal advice or action required to be taken by an individual and the percentage which this might represent of the value of the property to be recovered.

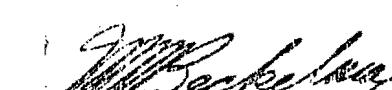
In cases where the restitution law provides for repayment of the amount received at the time of the forced liquidation of the property involved we would like to have some indication of

- a) the average percentage such repayment would represent of the present value of the property and
- b) the approximate number of such cases.

5. What steps if any, have been or are to be undertaken by the Jewish communities or other organizations in your country in connection with the recuperation of a) community property  
b) individuals or their heirs and  
c) heirless property.

We are sure you realize the importance of having this information, as soon as possible and would appreciate, therefore your prompt reply.

Of course, until a decision has been taken by this office, no commitments whatsoever can be made.



M. W. Beckelman

Vice-Chairman

344486

MEMORANDUM

To: Staff

December 19, 1947

From: Eli Rock

Re: Restitution Law In Germany

Almost since the time of the surrender of the Nazi Armies in Germany, attempts have been made to effect restitution legislation. Actually, even before the armistice, the Allied commanders had recognized the obvious necessity for returning to the racial, political, religious, etc. victims of the Nazis the property which had been taken from them by confiscation or duress, and provisions for earliest possible restitution were contained in the Joint Chiefs of Staff Memorandum No. 1067. It was only recently, however, on November 10, 1947, that a restitution law was in fact passed. After months and months of negotiations, much of it in the direction of either a quadripartite or bi-zonal law, and after strong resistance on the part of the Germans and many others who opposed the passage of meaningful restitution legislation, General Clay decided that there was no alternative but to issue a law by Military Government in the American Zone alone.

Very recently legislation was also issued for the French zone of Germany, which is far inferior to the American version and thoroughly inadequate. Legislation for the British Zone is still under consideration, and legislation for the Russian Zone apparently will be completely unsatisfactory, although no definite indication of a date of enactment is as yet available.

The Law in the American Zone

Military Government Law No. 59, the Restitution Law in the American Zone, is a document of some 50 pages which sets out in detail the rights of claimants as against the rights of those who are or were subsequently in possession of the property, and provides for the detailed procedures to be followed by would-be claimants. In drafting the law the crucial problem presented was that of finding an acceptable formula to reflect properly the atmosphere of duress under which the victims of the Nazis were compelled to liquidate their holdings. Where a law would permit duress to be presumed or where outright confiscation could be established, there would be no question regarding the right of the claimant to regain possession of his property; but where duress could not be presumed and where an actual sale had taken place, it would be extremely difficult for a claimant at the present time to produce evidence regarding pressure and duress at the time of the transfer under Hitler. The final product contains the following compromise between the various points of view advanced:

- 1) In the case of transfers made by Jews between January 30, 1933 and September 15, 1935 duress is rebuttably presumed; in the absence of other circumstances showing confiscation this presumption may be rebutted by showing that the transferor was paid a fair purchase price.
- 2) Contracts made by Jews between 15 September 1935 and 8 May 1945 may be avoided (i.e. may be canceled, and the property returned) unless
  - a) The transaction would have taken place even in the absence of National Socialism; or
  - b) If the transferee protected the interests of the claimant in an unusual manner and with substantial success, e.g. by helping him in transferring his assets abroad.

-2-

In order to determine whether the transaction would have occurred in the absence of National Socialism, the fact that the transferor himself had offered the property to the transferee or the fact that he had received a fair purchase price over which he could freely dispose may be taken into consideration, together with all other facts, but they are not by themselves sufficient to defeat restitution.

As to the procedure to be followed by claimants seeking to regain property, the law provides for the filing of claims not later than December 31st, 1948 with a Central Filing Agency, established at Bad Nauheim near Frankfurt. Regulation No. 1 issued under the law sets forth the information which must be included in the petition for Restitution. The Central Filing Agency will transmit the papers to the Restitution Agency (German), basically an administrative body under Military Government supervision, which prepares the case and attempts to work out a settlement. Disputed cases will be decided by the Restitution Chamber. Contrary to the earlier plans, this court will be composed of three individuals who must meet the qualification of being eligible under German Law either to be judges or to serve in the higher administrative service; one of these three must be a persecutee. Thus no laymen will serve in the Restitution Chambers. An appeal lies from the Restitution Chamber to the ordinary German Appellate Courts. A Military Government Board of Review may in its discretion review the decisions of the lower German bodies.

#### The Role of the JDC and the Jewish Restitution Commission

Insofar as private individual claimants are concerned, those residing in Germany can proceed at once to pursue their remedies under the above procedures. As to those residing outside of Germany, it is required by the law that they retain an attorney or other agent in Germany to pursue their remedies for them, and where the claim is a substantial one, they may also find it helpful to retain an attorney in this country. For a list of attorneys in Germany a claimant may write to the Jewish Gemeinde in the locality where the property is located. Beyond referring claimants to Gemeinden in Germany or perhaps to other non-profit organizations which may be established outside of Germany for this purpose, the JDC will probably play no role in the case of the individual private claims.

The important function of the JDC under the Restitution Law will be in connection with heirless and unclaimed property. It is anticipated, of course, that a portion of the Jewish property will not be claimed, either because the owners and their heirs have all disappeared or because the owner may simply not find it profitable to press his claim. In such instances, in order to assure that the property will not be left in the hands of the looters and in order to provide for the use of such property in the direction of aiding the victims of Nazism, the law provides for the establishment and recognition of successor organisations who shall have the right in their own name to file claims for the property of such organizations as have been dissolved under the Nazis (e.g. German Jewish Gemeinden) and for other confiscated property which is heirless or unclaimed. In the case of Jewish property under this category, a Jewish Restitution Commission which has been incorporated under the laws of the State of New York and which is made up of member organizations from throughout the world, is now seeking recognition as the successor organisation. In addition to being a member of the Jewish Restitution Commission, the JDC has signed an agreement with the Restitution Commission whereby the JDC and the Jewish Agency for Palestine shall act as the operating field agents of the Restitution Commission in connection with Jewish property of a non-cultural character. (For Jewish property which is of a cultural, religious, historic, etc. character, an agreement has been signed by the Jewish Restitution Commission in which Jewish Cultural Reconstruction, Inc. is recognized as the operating field agent.)

-3-

Within the past several weeks formal requests have been submitted to General Clay and Secretary of State Marshall for the recognition of the Jewish Restitution Commission as the successor organization under the Restitution Law for Jewish property. These requests are now under active consideration and it is hoped that within the near future an implementing regulation to the Restitution Law will be issued by Military Government in Germany providing for recognition of the Jewish Restitution Commission and defining its powers and jurisdiction.

#### Implications of the Law

In summary, it may be said that passage of the Restitution Law, insofar as it establishes the process of restitution and insofar as it sets a standard for those zones in Germany which still don't have laws, represents a major achievement. To the Jewish organizations, the JDC included, whose diligent and constant contact with General Clay and the State Department on this matter served so effectively to offset the resistance against restitution on the part of the Germans and others, much credit is due.

At the same time it must be pointed out that while it does provide for the physical recovery of property now by these few Jewish claimants who live in Germany, the law does little more at this stage for the hundreds of thousands of Jewish claimants outside of Germany than to provide for the return of legal title. Until such time as the German economy has built up a sizeable fund of dollar exchange, which means an indefinite delay of many years, there will be no opportunity for these outside claimants to realize any meaningful proceeds under restitution. Similarly, the JDC and the other organizations connected with the Jewish Restitution Commission can for the time being only hope to use in Germany the proceeds which they might be able to realize from restituted heirless and unclaimed property and must also look forward to a long delay before there will be a possibility of using these proceeds in behalf of the victims of the Nazis in outside countries. Lastly, it must be pointed out that this law only provides for the restitution of identifiable property. Where the property cannot be traced or where there are claims arising out of other damages (e.g. physical injury, loss of family, etc.) which were inflicted on the Jews by the Nazis, no action will be possible until an indemnification law has been passed. The possibilities of such a law being passed in the near future are extremely slight.

ER:AU

344489

*File  
Reb  
Restitutions*

J.T.A. NEWS

- 4 -

12/10/47

VIENNA FORCING JEWS TO RETURN TO NAZIS PROPERTY THEY "ARYANIZED" UNDER HITLER

VIENNA, Dec. 9. (JTA) -- The Vienna municipality is re-examining Jews who obtained all post-war transfers of property to victims of the Nazis and, in many cases, is ordering Jewish property returned to the same Nazis who seized it from Jews during the Hitler regime, it was revealed by David Brill, president of the Vienna Jewish Community Council.

Former Nazis, who fled Vienna after the liberation of the city, are now returning to the Austrian capital and are receiving the apartments and the furniture which they "Aryanized" under the Nazi regime, but which was given by the Red Army, through the municipality, to victims of the Nazi regime, he declared.

A typical case is Dr. Brill's own situation. He received from the municipality furniture which was confiscated by the Russians from a Nazi leader, Karl Lesniak, who was arrested after the liberation. Now the municipality has notified Dr. Brill that he must return the furniture to Lesniak, although the latter acquired the furniture and his apartment from a Jew whose property he "Aryanized" during the Nazi regime.

Another aspect of the restitution problem which is causing some concern among Jews whose property was acquired by Nazis, either forcibly or under duress, is the stand on reparations taken by Soviet Foreign Minister Molotov at the London Conference of Foreign Ministers.

The Jews fear that Molotov's stand may bar the return of their property to them, since the Soviet Foreign Minister is insisting that property acquired by Germans during the Nazi regime must be considered German assets and thus subject to seizure by the Soviet authorities as reparations.

Dr. Brill, in an interview today, declared that Jewish leaders in Austria do "not recognize the Soviet standpoint whose wording is not clear." He added that up to now the Russian authorities in Austria have agreed to return Nazi-confiscated Jewish property only in cases where it was established that the Jews received no payment from the Germans to whom the property was transferred.

"There is lack of clear differentiation between Aryanized and non-Aryanized property," the Jewish Community president emphasized. He revealed that a delegation of the Jewish community has made several visits to the Soviet authorities in Vienna and presented the Jewish viewpoint. General V.I. Borisov, he said, was friendly and promised an investigation into individual cases, but refused to commit himself to a general statement of the Soviet policy of confiscated Jewish property. "Under such a procedure we cannot go far," Dr. Brill pointed out.

344490

AMERICAN JOINT DISTRIBUTION COMMITTEE

EUROPEAN EXECUTIVE  
COUNCIL

19, RUE DE TÉHÉRAN  
PARIS (8<sup>e</sup>)

*Restitution*  
TÉLÉPHONES  
LA BORDERIE 07-70  
70-84

CABLES & TELEGRAMS  
JOINTFUND-PARIS

November 21, 1947

Paris Letter No. 7674

To: AJDC NEWYORK

From: AJDC PARIS, Office of General Counsel

Re: OGC/POL/50 - Restitution

Attention: Mr. Eli Rocke.

- (1) We have just been informed that by decree of October 28, 1947, published under No. 66, the period for filing claims under the Polish Restitution Law has been extended until December 31, 1948.
- (2) Just yesterday we had a visitor in our office who, being obviously destitute in this country, has real property in Poland valued at about \$100,000. If his claim for restitution were successful, as it most probably would be, he would then be in a position to obtain \$7,000 to \$15,000 in this country which would, of course, utterly change his position, and it could be avoided that the gentleman in question would become a charge upon Jewish charity. 25,000 Zlotyes, i.e. approximately \$50 to \$100 are needed to start restitution proceedings in Poland. The claimant is not in a position to obtain this amount, and if the period for claiming had not been extended, the claim would have been forfeited.

The JDC legal adviser at Salzburg reports that there are approximately 400 claims registered with his office which had not yet been submitted to the proper authorities up to the end of October.

- (3) The extension of the time limit may offer an opportunity to go into this question ~~shortly~~ thoroughly and to set up machinery which would avoid a situation where, for lack of a few Dollars or Zlotyes, claims cannot be filed or proceeded with.

When Mr. Bein, our Director in Poland, was here he informed us that he is discussing with the Community in Warsaw a proposal put forward by them which endeavours to assist claimants.

*A*  
Dr. George Weis  
Attorney

GW/hf

344491

CIN 3-5-67

November 1st, 1947

The Honorable  
The Secretary of State  
Department of State  
Washington 25, D.C.

Sir:

The officers of the undersigned organization have recently been informed that a Constitution Law for the United States Area of Control in Germany is about to be enacted. Such a law, we understand, will include provision for the appointment by Military Government of a successor organization authorized to file claims to community, business, and unclaimed property. It is our purpose in writing to you at this time to request a determination by the State Department that the undersigned Jewish Restitution Commission be acceptable as the representative successor organization to Jewish property.

The Jewish Restitution Commission, as indicated in the attached Certificate of Incorporation and By-Laws, is made up of outstanding Jewish member organizations, American and non-American, which represent the great majority of Jews throughout the world. In addition to the member organizations listed, the By-Laws of the Commission (Article I Section 2) make clear provision for the admission of other organizations, and in this connection immediate arrangements will be made to admit representatives of the German Jews in Germany as soon as word is received that plans for a central organization of local German Jewish communities have been completed and that such organization or organizations have the legal authority to participate in the Restitution Commission. Two new members have been admitted to the Jewish Restitution Commission since the date of incorporation, to wit: Agudas Israel World Organization and the Central British Fund of Holland.

The Directors of the Restitution Commission have been chosen from the leadership of member organizations. We attach a list of directors.

In our opinion it is clear that by its representative character the Jewish Restitution Commission is eminently qualified to receive the important trust which will be vested in it as a successor organization under the Constitution Law.

May we point out also that field operations of the Jewish Restitution Commission will be carried on by the American Joint Distribution Committee, the Jewish Agency for Palestine and Jewish Cultural Reconstruction, Inc., as agents for the Commission. The former two agencies are well known to

November 3rd, 1947

American Army authorities for their extensive programs of relief and rehabilitation in Germany and have now been appointed operating agents by the Jewish Restitution Commission for all Jewish property not of a cultural, religious or historic nature. The Jewish Cultural Reconstruction, Inc., whose articles of incorporation and by-laws are attached, an organization which is made up of number bodies from throughout the world and whose ranks will also be enlarged to include German Jewish representatives if and when the latter groups are in a position to furnish such representatives, will act as operating agent for the cultural, religious and historic property. The personnel to be furnished by Jewish Cultural Reconstruction, Inc. will consist of individuals equipped with specialized scientific and technical backgrounds required for the handling of such property.

In view of all the foregoing, we respectfully request the Department of State that it advise General Clay that the Jewish Restitution Commission is a suitable and proper successor organization for Jewish property.

Respectfully,

Edward M. Mandelburg, President  
Jewish Restitution Commission

34493

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)  
Legal Division  
APO 742

27 February 1948

Mr. Eli Rock  
American Joint Distribution Committee  
270 Madison Avenue  
New York, New York

Dear Eli:

1. I am attaching a copy of a memorandum which I sent to Finance Division concerning the decontrol of restituted properties and the answer thereto from the Chief of Property Control. I think this clears up the point you raised in one of your letters to me.

2. I am attaching a copy of the Chief's cable to War Department concerning the Successor Organization and the memorandum I drew up for him on commitments made by the government with respect thereto.

I think it might be a good idea to raise now the question of extending the final filing date, at least as regards the Successor Organization. We have already lost four months since the promulgation of the Law. It will probably be at least another month before the designating ordinance is out and will take at least a month or two thereafter for the organization to be set up adequately to begin its work--which would leave a maximum of seven months to complete the enormous task of seeking out heirless properties amongst possibly thirty to forty thousand claims in the American Zone, preparing the cases and filing them. Inasmuch as the original date was set in the contemplation that the Law was to have been issued in March of 1947 (which would have allowed approximately twenty-one months for the Successor Organization to form its task), I think State Department should agree to at least a six to nine months extension of the filing period.

MAR 8 1948

Perhaps it would be best not to press this point at the present time until we have started the work and find ourselves up against an insurmountable deadline. But I think it would be a good idea at least to raise the point at this time that we may have to ask for an extension for the filing period.

53861

3. I am afraid my cable concerning the objections to a German subsidiary was not too informative. The objections definitely exist but the explanation is somewhat ineluctable, the point being of course not that a German subsidiary couldn't operate in Germany satisfactorily, given the proper cooperation on the part of the German authorities, but

344494

- 2 -

that in the absence of such good will on the part of the Germans it could very well be suffocated by the necessity of complying with all sorts of rules and regulations which would inordinately delay and hinder the Successor Organization's work. Moreover, the German commercial law does not "fit" the type of organization we are contemplating setting up. They don't have membership corporations. This is not an endowment or an association. The only way it could be set up with international control is, as I have indicated, by establishing it as a so-called public law corporation under Military Government law. As I have also indicated in my cable, German law would apply to the operations of the corporation in Germany so that it is hard to see the validity of the State Department's objections to an American incorporation.

4. We have had no word as to the reaction of the organizations to the proposed budget. The budget is, to a certain extent, flexible, depending on whether or not voluntary agencies will be permitted to raise Mark contributions in Germany rather than forced to buy them from the Finance Office. In this connection a German subsidiary might be somewhat of an advantage. However, to do any sort of a job, \$130,000 to \$140,000 is an absolute minimum for the next year, and, if we cannot get an extension of the filing date, a larger staff may have to be taken on to complete the work within the short time available, thus increasing the budget considerably.

Moe Beckleman and Sam Haber of AJDC were here this week and we discussed the current situation with respect to restitution. We are all agreed more or less on the budget outlined (which was sent to you last January by Joe Schwartz) and on the necessity for the immediate start on the research and hiring of personnel. I am going down to Frankfurt tomorrow to talk to Hoffman and Levy of the Agency and see if we can't get started on canvassing the DPs and German Gemeinde for local personnel.

5. I had a talk with Bill Haber yesterday, giving him a fill-in on the restitution situation and outlining the problem to come concerning conversion. He promised to give the matter some thought and I think he will be a big help on it in view of his background as an economist and the excellent contacts he has both in Military Government and State Department.

Best regards,

Irwin S. Mason  
Irwin S. Mason

Enclosures (3)

344495

GEN. & EMERG.  
*Restitution*

MEMORANDUM

7 February 1948

TO : General Lucius D. Clay

SUBJECT: Designation of Successor Organization under Military Government Law No. 59, "Restitution of Identifiable Property".

1. As you requested during our discussion yesterday, Friday, 6 February 1948, I have checked my files with a view to determining the extent to which the government has been committed throughout the negotiations on the Restitution Law to the establishment of an International Jewish Successor Organization as the successor to heirless and unclaimed properties of Jewish victims of Nazi aggression and of Jewish communal property.

While I can find no commitment in writing to the Jewish organizations that such an International Jewish Successor Organization would be recognized, I do find that you made this commitment to them orally during your conversations with their representatives in America in the Fall of 1946 and that this commitment was incorporated in an inter-office memorandum to General Hilldring and approved by him. It was also incorporated in a memorandum drafted by the Jewish organizations and submitted to the State Department in November 1946 and transmitted by the State Department via War to OMEUS with the approval of both Departments. Various cables between War Department and OMEUS indicate that the War Department was clearly aware of this understanding and that the only question left open was whether or not the participating membership in the organization set up was sufficiently representative of world-wide Jewry. It was this question which you left for determination by the State Department.

As late as 30 July 1947 we indicated in a cable to the War Department that the British differed from ourselves by insisting that heirless property should go to a German corporation and asked for any comments or instructions that War Department might have prior to our issuing a unilateral law in view of our inability to get agreement with the British on this point. While Washington in its reply to this cable did suggest the possibility of using the formula of the Reparations Agreement as a possible compromise to this deadlock, they did not insist upon it when we pointed out the impracticability of such a formula, and at no time suggested that we accept the British position that the Successor Organization should be a German corporation. It was thus over this very question that we broke off negotiations with the British and issued a unilateral Restitution Law.

344496

General Clay

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7 February 1948

2. The summary of negotiations concerning the Successor Organization set out in L. ~~SURE~~, are based on the following documents in my files:

a. Memorandum from Mr. Hemmendinger (State Department) to General Hilldring dated 3 December 1946: ". . . On November 21, 1946 representatives of the five leading Jewish organizations saw General Clay. The State Department has seen no minute of the conversation approved by General Clay. It appears, however, that General Clay agreed to the following points:

"1. An international Jewish organization should be recognized as trustee of unclaimed and heirless Jewish property and should be permitted to prosecute claims thereto before restitution tribunals. . . ."

b. Memorandum of the five organizations dated 27 November 1946 concerning the meeting of their representatives with General Clay: ". . . General Clay agrees that in the reservations to be made by Military Government at the time of signing the draft law it will be clearly provided that Military Government and not the German authorities will designate . . . the organizations to act as successors for the Jews who have died leaving no heirs. General Clay also stated that he would want the trustee for the Jews to be a Jewish organization representing Jews throughout the world. He also said that such trustee for the Jews would be the one who would be allowed to come into the tribunals in Germany and make claims on behalf of the Jews and Jewish bodies. . . ."

c. In a memorandum dated 27 November 1946 from the Jewish organizations to the State Department concerning the 18 October 1946 draft of the Restitution Law it was recommended: ". . . 1. Military Government and not the German authorities should designate the successors to heirless and unclaimed Jewish interests in corporations and unincorporated bodies and to Jewish communities and foundations; the successors to the claims of Jews who died leaving no heirs; and the persons who may claim on behalf of the aforementioned Jews and Jewish bodies before the tribunals provided in the law. Military Government should recognize a Jewish organization, representative of Jews throughout the world, including Jews now in Germany, as trustee for such Jewish interests. The property or its proceeds acquired by such trustee should be used exclusively for the purpose of rehabilitation and resettlement of Jews. . . ."

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General Clay

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7 February 1948

In a letter dated 2 December 1946 from General Hilldring to General Echole, Chief, CAD, War Department, it was stated: "The Department of State has carefully considered the annexed memorandum dated November 27, 1946 by [redacted] and concurs in the comments and suggestions made therein with respect to the draft German restitution law of October 18, 1946, with the following qualifications [not related to the matter discussed herein] . . ."

d. In WCL 25176 (from War Department from Lowenthal) comment was requested from General Clay or Mr. Rockwell on the draft of incorporation papers for the Jewish Restitution Commission [which was subsequently incorporated in the State of New York in April 1947]. This cable stated: ". . . Organizations contemplate filing incorporating papers within few days and would like any comments suggesting changes that ONUC may consider advisable." In our reply of 7 March 1947 we stated: "General Clay requests State Department be consulted re participating membership Jewish Restitution Commission . . . believes Department best qualified determine whether Commission has sufficient world-wide representation and will be guided by their opinion."

e. In your CC 1076 of 30 July 1947 to AGWAR you stated: "It appears unlikely that we will be able to reach quadripartite agreement on Restitution Law. The one major remaining obstacle is question of Escheat. The British have now adopted the position that they can accept only Escheat to a German organization. . . . I have personally talked to General Robertson who informed me that the British could now only accept the position set forth above. It is my belief that this is due to the fact that the British believe funds allotted to an outside organization might possibly be used in Palestine. As you know, I have made certain commitments regarding the issuance of a Unilateral Law. Our previous impression had been that the British would go along with our draft on a bizonal basis. This is no longer a possibility. However, before promulgating the law on a unilateral basis I wish to advise you of the positions of the other three powers and to receive any comment or instructions you might have."

In reply War cabled in its WZ 83916 of 9 August 1947: ". . . would appreciate your views re compromise in successor organizations which would make possible quadripartite agreement. Your attention invited as a possible basis for solution of formula used in 14 June 1946 five power agreement implementing Article 6, Paris reparations agreement."

In your reply of 13 August 1947 (CC 1260) you stated: ". . . Only new ideas would be one international organization to

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General Clay

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7 February 1948

allocate funds with a certain percentage guaranteed for non-Jewish persecutes. . . . We do not believe that this would solve dilemma because first, Soviets are not members of IRO or any other such international organization, and second, percentage distribution does not answer the basic objections of the other powers as outlined in our previous cables. A Quadripartite body to receive and distribute heirless property would be faced with the same stalemate in which we now find ourselves in the Finance Directorate."

In AGWAR's WX87275 of 30 September 1947, they asked: ". . . will heirless property be handled by separate organizations pursuant Draft Law being worked out with British? We had hoped agreement would be possible at least with British on this matter. . . ."

In our CC 1671 of 7 October 1947 we replied: ". . . re your paragraph 3, the British cannot agree to our concept of successor organization and therefore heirless property will be handled differently in the two zones. . . ."

f. It thus appears that from November 1946 up to October 1947, both State and War were aware that it was contemplated that an International Jewish Successor Organization would be appointed and that this was the disagreement with the British on the basis of which we failed to obtain a Bizonal Restitution Law.

In your CC 2119 to War dated 29 October 1947, you stated that the Jewish Restitution Commission had been incorporated under the Membership Corporation Law of the State of New York for the purpose of claiming heirless and unclaimed property subject to restitution, and had requested that it be appointed Successor Organization for all Jewish property pursuant to the pertinent provisions of the Restitution Law: ". . . Before considering this request we ask to be advised whether you and State consider this organization to be appropriate one for designation as a successor organization under this law."

The question thus presented to War and State was merely as to the appropriateness of the membership of the instant applicant and not as to the nature of its organization.

Irwin S. Mason  
Advisor on Internal Restitution

344499

I BELIEVE THAT IMPLIED

Page 1

COMMITMENTS TO JEWISH RESTITUTION COMMISSION WOULD MAKE THE GOVERNMENT'S POSITION MOST DIFFICULT TO EXPLAIN IF NOT UNTENABLE PD

IT WAS OUR UNDERSTANDING THAT GENERAL HILLERING HAD ALMOST TWO YEARS AGO ACCEPTED THAT AN INTERNATIONAL JEWISH RESTITUTION COMMISSION WOULD BE THE SUCCESSOR ORGANIZATION TO HEIRLESS JEWISH PROPERTY IN GERMANY CMA AND IN SEVERAL CONVERSATIONS WHICH I HAVE HAD WITH JEWISH REPRESENTATIVES HEADED BY JUDGE FROSKAUER I HAVE ALWAYS LET THEM UNDERSTAND THAT A JEWISH RESTITUTION COMMISSION WOULD BE THE SUCCESSOR ORGANIZATION PD THE COMPOSITION OF THIS COMMISSION WAS TO BE DETERMINED BY THE STATE DEPARTMENT PD LATER IN SEEKING QUADRIPARTITE AGREEMENT CMA THE QUESTION WAS RAISED ON SEVERAL OCCASIONS PD WHILE THIS QUESTION DID NOT EFFECT QUADRIPARTITE AGREEMENT CMA WE WOULD HAVE BEEN ABLE ~~TO OBTAIN~~ TO OBTAIN TRIPARTITE AGREEMENT TO A NON-DENOMINATIONAL SUCCESSOR ORGANIZATION AND PARTITE AGREEMENT WITH THE BRITISH TO A GERMAN ORGANIZATION PARA AS SUCCESSOR ORGANIZATION PD/OUR DECISION TO PUBLISH A UNILATERAL LAW WAS PRIMARILY

(2 pages)

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BASED ON THE DESIGNATION OF A SUCCESSOR ORGANIZATION TO HEIRLESS JEWISH PROPERTY AS AN INTERNATIONAL JEWISH RESTITUTION COMMISSION PD IN POINT OF FACT IT WAS OUR UNDERSTANDING THAT OUR GOVERNMENT WAS UNWILLING FOR US TO ENTER INTO ANY OTHER AGREEMENT PD OBVIOUSLY CMA THE JEWISH REPRESENTATIVES IN THE UNITED STATES WERE FAMILIAR WITH THESE NEGOTIATIONS AND CLEARLY UNDERSTOOD THAT THE SUCCESSOR ORGANIZATION WAS TO BE A JEWISH RESTITUTION COMMISSION PD I DO NOT KNOW WHETHER OR NOT JUDGE FROSKAUER AND HIS ASSOCIATES HAVE ANY COMMITMENTS IN WRITING BUT I AM QUITE SURE THAT THEY WERE GIVEN CLEARLY TO UNDERSTAND BY ALL RESPONSIBLE GOVERNMENT OFFICIALS WITH WHOM THEY DISCUSSED THE PROPOSED RESTITUTION LAW OVER THE PAST TWO YEARS THAT THE SUCCESSOR ORGANIZATION WOULD BE A REPRESENTATIVE JEWISH COMMISSION PD I KNOW THAT IN MY OWN CASE I HAVE ALWAYS TALKED TO THE JEWISH REPRESENTATIVES ON THIS ASSUMPTION WHICH WAS CERTAINLY NOT MY OWN ASSUMPTION BUT BASED ON MY CONVERSATIONS AND DISCUSSIONS WITH RESPONSIBLE OFFICIALS IN BOTH STATE AND ARMY DEPARTMENTS PD IN POINT OF FACT CMA MY ORIGINAL VIEWS WERE OPPOSED IN FAVOR OF A GERMAN CORPORATION PD PARA, REGARDLESS OF THESE ORIGINAL VIEWS CMA I AM SURE THAT AT MINIMUM WE WOULD BE BREAKING AN IMPLIED AGREEMENT IF WE DID NOT DESIGNATE A REPRESENTATIVE JEWISH COMMISSION AS SUCCESSOR ORGANIZATION PD PARA I WOULD LIKE TO POINT OUT THAT EARLY DECISION IS IMPERATIVE AS CLAIMS UNDER THE LAW MUST BE FILED BY THE END OF THE PRESENT CALENDAR YEAR PD BY THE TIME SUCH A COMMISSION IS FORMED CMA THE REMAINING TIME IN WHICH TO FILE CLAIMS WILL BE QUITE LIMITED PD

344501

1 Mr. E.W. I. S. 19 Feb  
Reinsel, Macon 1948  
Property  
Control

1. Mr. Ball and I discussed recently the problem of the decontrol of property restituted under Military Government Law No. 59, "Restitution of Identifiable Property". At his suggestion I am presenting the problem to you for your comment.

2. Mr. Ball said he thought it was quite clear that property restituted under the Law automatically loses its character as duress property under Military Government Law No. 52, Article 1, Paragraph 2 and would remain subject to Property Control only if it fell into one of the other classifications of Law No. 52.

3. I believe this matter could be handled either by the issuance of a general license removing restituted properties from Property Control or by an interpretive letter sent to you field offices to the same effect.

Telephone 43059  
Rm 2087, Dir Bldg

Irwin S. Macon  
Advisor to General Gley  
on Internal Restitution

344502

2. Mr. I.S. Mr. E.N. 24  
Havon, Reinsel Feb.  
Adv to PG 1948  
Gen Clay Br.  
on Internal  
Restitution

The position of Mr. Ball, as stated in para-  
graph 3 of minute 1, is the position of Property Control  
Branch and field personnel have already been so notified.  
In addition the new revision of Title 17 will, when  
published, contain specific language to the same effect.

Tel: Ext. 43931  
Ext 416, YD Bldg.

E. N. REINSEL  
Chief,  
Property Control Branch

344503

GEN. S. L. T.

Restatement

February 19th, 1948

Letter No. 77

CONFIDENTIAL

From: AJDC NEW YORK

To: AJDC PARIS - Attention Mr. Joel M. Fischer, General Counsel

Re: Various matters taken up in Washington on Wednesday, February 11th

Belatedly I am sending you this brief summary of the status of a number of problems which interest us mutually and which have recently been the subject of some action at this end. I am giving you these various bits of information particularly in the light of a visit I made to Washington last week.

1. Status of the Jewish Partition Commission. The situation last week has now been rendered out of date by the letter which we received in the last few days from Mr. Frank Wagner, Deputy to Saltman in the State Department (a copy of this letter has already been sent to you). In addition and in order to bring you up to date, I am attaching a copy of a memorandum of a telephone call which I had several days ago with Washington. (Let me emphasize the confidential character of the letter.)

At the present the situation is that we plan to hold a meeting of the various Jewish organizations tomorrow at which time we will decide the position we will be taking at the time of the requested meeting with Fischer - which presumably will be the latter part of next week. Of importance to this phase of the problem is information which I have requested by air still awaiting from Irwin Nathan regarding the legal implications and possible legal obstacles in the way of the suggested compromise of a totally owned German subsidiary subsidiary corporation. If I have not mentioned it in my previous memorandum, let me say only that the State Department proposal rests on the fear of having an outside New York corporation holding title to large chunks of German property; the fear comes from such factors as the possible resemblance between this type of organization and the Soviet government trusts which have title to large German holdings in the Russian Zone of Germany, alleged possible anti-Semitism arising in Germany, vague phrases like "extra-territoriality", etc. At the same time it is argued by the State Department that the setting up of a subsidiary corporation in Germany which will be

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February 19, 1948

totally owned and controlled by the New York corporation will in no way hamper the effective recovery of heirless Jewish property and at the same time will give the appearance of the property being held within the framework of German law and by an organization within Germany.

**II. Negotiations with the Alien Property Custodian.** You will recall our discussions regarding the "Memorandum" for claiming enemy assets which turn out to be heirless Jewish property. The discussions on this phase of the problem have proceeded, and last Wednesday we discussed with the APC representatives the specific clauses of the amendment which will have to be drafted to the Trading with the Enemy Act in order that a Jewish organization may be recognized as successor to the heirless Jewish property. I might say that everyone was agreed both in State and at the APC's, as to the desirability of this amendment; at this point the question is only one of drafting, procedural machinery, strategy, and the ultimate question of getting the bill through Congress.

In connection with the latter points, there is a bill called HR 4044 which has already passed the House and is in the Senate, dealing with the general liquidation of the enemy assets in the hands of the APC. The idea of this bill is to provide for compensation of American civilians who have been injured at the hands of the enemies, and among other things the bill contains a clause setting up a commission which will look into the problem of injured American claimants and will recommend steps and procedures to Congress.

It has been suggested by at least one Congressman that we ought to attach our amendment to this same bill, on the theory that as long as it stands up for this act we should ride through on its momentum, rather than to try to get stuck up again; in fact, this Congressman is frankly skeptical as to the possibility of achieving the required amendment to the act at a subsequent date. On the other hand, it is apparently the feeling of the legal department here in the APC's office that this procedure would be extremely undesirable for the reason that it would put us in the position of competing with American claimants. This phase of the problem we are also now "watching about." (I have just received a phone call to the effect that HR 4044 was the subject of hearings within the last few days before a Senate subcommittee; at the time of this hearing the specific question was raised as to why enemy assets should be paid back at all to persecuted individuals under Section 12, thereby depleting the amount which will be available to compensate Americans.) I understand that the APC boys who were present were very successful in meeting this situation, but at the same time it does seem to justify their position in not joining our amendment to HR 4044.

Another development of great importance is the recently announced report of the National Advisory Council providing for the unfreezing of the blocked assets in this country, excepting those assets have been deposited from Marshall Plan countries. On the other hand, this proposal has been

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FEBRUARY 19, 1947

regarded very favorably by us [us] as it provides that all of the assets which will be turned over to the AIC, which office will then determine the details of handing back the assets to the individual Marshall Plan countries. I repeat, if Section 32 of the Treaty with the Party Act will apply also to these assets and assuming course is our attempt to get through the above mentioned amendment to the Act, we will then have the possibility of establishing a vastly enlarged pool of heirs to whom assets.

On the other hand, the Marshall Plan countries will also undoubtedly be claiming this type of property, and it will be extremely important that we prevent them from succeeding in their claims. I might say that when Dr. Robinson and I discussed this problem with the AIC people, it turned out to be completely new to them and something which they had not at all considered or anticipated. Although there will be considerable time before the proposed policy of the National Advisory Council will be implemented, it now seems clear that the AIC people will watch out for fairlute Jewish assets and will endeavor to arrange for separate treatment.

The last item in connection with the AIC: In connection with the August 3, 1947 deadline date for claim by persecuted individuals under Section 37 and in connection with the problems previously presented to me by Dr. Gold and yourself regarding the dilemma which confronts the German Jews in Germany whose assets will automatically be confiscated by the German authorities as soon as the persecutors have reclaimed them from the AIC, there now seems to be a definite indication that an extension of this August 3rd deadline will be requested of Congress. This is no final decision, however, and could prove to be an embarrassing if it ever leaked out, therefore I must submit strongly the exclusive retention of the information either by myself or by some one or two other people in the Justice Office. I might say also that the request will probably not be made until just before the deadline date.

III. State Legislation. In view of the pending transfer of frozen assets into the hands of the AIC and in view of the above mentioned plans for amendment to the Treaty with the Party Act, it would now seem that practically all of the divisible assets which we are interested in will go in the hands of the AIC and will have the responsibility of being handled entirely independently of that office. If this is the case, there would seem to be considerably less pressure at the moment for enacting state legislation. Above the only items which would be covered by state legislation would be certain frozen assets which might not pass to the AIC and certain frozen heirless assets which are being claimed by "public administrators" appointed in each country as Holland and for which certification of no family claim has already been presented to the bank holders in this country, meaning that they have already been technically unclaimed. Since these bank holders may not have recognized the ownership rights of the public administrators in Europe and since these holdings have been technically unclaimed and are no longer being claimed in the frozen assets which will pass to the AIC, it is right to think that we would want to seek state legislation to penalize such actions.

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February 19th, 1947

Also, of course, there is the argument that we have no assurance of successful passage of the aforementioned ADG legislation and that we ought therefore to continue to seek State legislation as a kind of double protection. However, there does seem to be an answer to this too. Since much as we could not, in all likelihood, obtain State legislation which would transfer fairless assets directly to the Jewish organizations, (this would be so both because of the provision in the State constitution against transfers by the State to non-public organizations, and because of the citizenship of the New York banks,) thus, since the State legislation would probably have to provide merely that the assets be turned over to the Federal government to be disposed of under procedures set up by the Federal government, we would still ultimately stand in full on the passage of Federal legislation.

IV. Importatory Gold. I suppose you have heard by this time that the attempts by the ADG to obtain customs waiver on the importatory gold which is now in this country were denied. Quite clearly, the opposition came from the Attorney General's office, which felt that the law simply could not be stretched to exempt this type of importation from customs.

Although there was some talk of seeking legislation on the subject, it now appears that this will not be done.

Eli Rock  
Council, ADG

MRIAU  
Enc.

CC. MAZ  
MMJ

344507

Eli Rock

Moses A. Leavitt

February 5th,

48

### Recent Unblocking Regulations

Undoubtedly you saw the story in Tuesday's New York Times regarding the unblocking of assets to Marshall Plan countries. Although I have written to Washington for a copy of these regulations and will be in a better position to evaluate their meaning for us when they have arrived, I have in the meanwhile discussed the information contained in the newspaper story and it is the feeling that the following implications and problems present themselves:

- 1) As you know, blocked property from the Western European countries has been in a continuous process of unblocking since the war. Regulations apparently were that any such property could be unblocked where the owner could present a certificate from his government certifying that the property was free of enemy taint. The announcement on Monday provides that the four billion dollars which have thus far been unblocked, otherwise known as "free" assets, will not be touched or disturbed.
- 2) It has been understood all along, however, that a considerable amount of property from these countries has not been certified, probably because the owners in most instances were afraid that their assets would be confiscated by their home governments once disclosed. This property, estimated in amount to be one billion, one hundred million dollars, will be turned over after three months to the Alien Property Custodian, provided that it has not been unblocked by the owner in the meanwhile. When the APC has received the property, he will take a new census and will then turn over to the respective governments the names of the holders of record; upon receipt of a certificate from the government that there is no enemy taint, the APC will release the assets to that government. (Where the property has been deposited through Swiss or other agents who appear as "fronts", title will be taken by the APC in the name of the United States, unless the owners disclose ownership to their respective governments and thereby permit repatriation.)
- 3) It appears under the above arrangement that heirless assets will ultimately fall into the hands of the national governments, and this proposal therefore contains the implication for the Jewish organizations that they may lose out on some of the heirless assets which they will be claiming either through Federal or State channels, particularly the latter, since most of the property which will be seeking through Federal channels will be that which was deposited from enemy countries.

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Insofar as this heirless property is concerned, there appears to be a conflict between the Federal regulations herein discussed and the State laws regarding abandonment of property. Although the information is too meager to answer the question with certainty, it does seem as though the State would have reason for protesting that these Federal regulations attempt to supersede State procedures regarding abandoned property located here. In any event, should the Jewish organizations decide to contest the claims of Marshall Plan countries to these heirless Jewish assets, they might wish to make use of this possible conflict with State law.

4) In addition, there is the situation where, for example, a Polish Jew, located in Italy, deposited his funds in an Amsterdam bank from which they were transferred to the U.S. Under the new Federal procedure, it would appear that the government of Holland might have the right to claim these assets, even though the owner had neither been a national nor even a resident of that country. It may be that the Jewish organizations will want to argue that this type of assets, or even the assets of a German Jewish resident of Holland who was not treated as a national of that country, should be turned over to a successor Jewish organization and withheld from the Marshall Plan countries.

5) Although the New York Times story gives the impression that these regulations do not apply to Austria or Germany, it may be that these countries will be considered Marshall Plan countries, in which case the heirless assets from enemy countries which are now in the hands of the APC might also be in jeopardy.

I am planning to contact the State Department people within the immediate future in order to obtain some light on the above questions, both for purposes of this problem and others which are now pressing for action. It would seem that another trip to Washington in the near future is indicated.

ER:AU

344509

Eli Rock

Moses A. Leavitt

February 2nd,

48

Liquidation of non-monetary gold in this country.

Several days ago, at his request, I had lunch with a Mr. Rolbein, who is the IRO representative that brought over the non-monetary gold from Europe and who is now charged with the responsibility for liquidation of these assets. We discussed a number of things, but the main point involved the problem of individuals in this country who may be claiming property from the non-monetary gold shipment. Mr. Rolbein stated that he had already received some inquiries of this sort and expected that many more would be coming in as soon as sales began to take place.

It appeared, from my discussion with Mr. Rolbein, that the following specific problems might be arising in the future and I call them to your attention for whatever they are worth.

1) Inasmuch as the Inter-Allied Reparations Agreement and the Five Power Pact provided specifically that only "unidentifiable property" would be turned over to the IRO, it is Mr. Rolbein's opinion that the IRO may be bound to permit individual claimants to examine the property in order to determine whether specific pieces are in fact identifiable. Should anybody be able to prove that a certain piece of property belonged to him, it may be necessary under the above treaties to turn over the property to him. In addition to these possible legal considerations, Mr. Rolbein also mentioned the moral and equitable arguments for permitting the individual claimants to regain their property.

2) In view of the possibility of claimants appearing before, during or after the sales, who might challenge the "unidentifiability" of the property, questions may arise regarding the validity of the "legal title" which will be passing to the purchasers and other ultimate recipients of these assets. From a procedural point of view, a claimant could raise the question by attaching the property in the hands, say, of a purchaser at one of the sales and argue that title had never passed to the purchaser because the property had all the time been "identifiable." This procedural possibility might also be open to members of the Hungarian Jewish Community today who could perhaps retain lawyers in this country to represent them.

Of course, the above are only possibilities and could not be stated with certainty unless some further legal research were done. At the same time, they should not be ruled out; and in any event, they may offer additional reasons, subject to the difficulties outlined below, for permitting claimants to examine the property, in order thereby to lessen the opportunity for arguing that the property is not in fact "unidentifiable."

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3) On the other hand, it is recognized that the problems of proof and evidence which would arise in connection with individual claimants examining the property are tremendous and virtually unsurmountable. Obviously, any claimant could come in and swear on a stack of bibles that this or that piece of property belongs to him, and obviously he could also bring in witnesses to support his claim. Even for a conscientious individual it would not involve very much moral stretching to convince himself that a particular piece of property which somewhat resembles a piece of property taken away by the Nazis, is in fact the property of the claimant; and if there is a doubt in the mind of the claimant he can always rationalise it to himself on the grounds that to receive a small amount of this property is little more than his due in view of all that he had lost at the hands of the Nazis. On the other hand, there will probably also be individuals who will be able to present lists, receipts, or other official documentary proof specifying and even describing certain items which were taken from them; in these cases it is conceivable that some of the items thus listed may be convincingly identified from among the ~~list~~ collection of property.

In this connection it is important to realise that there are not many Hungarian Jewish refugees who have settled in this country since the time that the assets contained in the non-monetary gold shipment were seized by the Nazis, so that a large number of individual claimants from this country need not be anticipated. On the other hand, it is possible that Hungarian Jewish emigrants in other countries or Hungarian Jewish residents of Hungary may designate agents or lawyers who will act in their behalf. While this may seem rather far-fetched, it should be remembered that many of the individual pieces are of high value and would easily justify the expense involved in retaining lawyers in this country.

4) It becomes clear in view of the above that the need for no publicity is greater than ever. On the other hand, Mr. Rolbein pointed out the virtual impossibility of preventing the news of this property and these sales from leaking out.

#### Role of JDC and Jewish Agency for Palestine

Most important from our point of view, it was tentatively suggested by Mr. Rolbein that he would like to have the assistance of the JDC and the Jewish Agency in meeting the above problems. I pointed out to him at once, as our position, that we simply could not become involved in this phase of the problem, that we considered ourselves merely as the recipients of the proceeds, and that we have no authority or right either to influence or to participate in any of the proceedings prior to finally receiving the net proceeds. On the other hand Mr. Rolbein pointed out that he was overwhelmed with the problems arising in connection with sales, waiver of customs, etc., and that the JDC and the Jewish Agency, as the recipients, had an interest in the above problems and therefore ought to help out.

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Actually Mr. Rolbein did not suggest specifically any course of action at the present time, but only requested that we and the Agency begin to give this matter some thought and attempt to figure out some device or techniques for meeting the above very serious difficulties as they arise. He fully appreciated the difficulties in the way of our becoming involved but at the same time emphasized the problems with which he was faced.

I might say that Mr. Rolbein has talked with Mr. Cramer about such problems as the need for avoiding publicity, but I don't think that there has as yet been any real discussion regarding the paramount problem of potential claimants.

I should like to discuss this whole problem with you and Mr. Joffe at an early date.

ER:AU

cc. BMJ

344512

THE AMERICAN JEWISH  
JOINT DISTRIBUTION COMMITTEE, INC.

270 MADISON AVENUE  
NEW YORK 16, N.Y.

MEMORANDUM

From Eli Rock

E.R.

To Files

New York, January 27th, 1948

Subject Visit to Washington on Wednesday, January 21st -- Various Reparations and Restitution Matters

a) Recognition of the Jewish Restitution Commission. This was discussed further with officials of the State Department, as a result of which the writer learned that the attitude of both the Army and the State Department is hardening considerably. It now appears more and more difficult to obtain the unqualified approval of the Jewish Restitution Commission as submitted in the request of the Commission to Secretary Marshall, and there is growing pressure in both the War and State Departments to urge a compromise which would give the operations in Germany some kind of a German character. (Apparently the unfavorable recommendation of the War Department has served as a leverage for those individuals in the State Department who were previously overruled when the State Department recommended favorably on the Commission's application, so that it is now entirely possible that the State Department will alter its recommendation and concur in the unfavorable recommendation of the Army--or at least, together with the Army, urge the aforementioned compromise.)

It is possible that within a few days a letter will be forthcoming from the State Department to Mr. Warburg, requesting that he come to Washington to discuss the application for recognition of the Jewish Restitution Commission. Should such an invitation come, in all likelihood the attempt will be made to persuade the Commission to accept the above described type of compromise.

b) Alien Property Custodian -- Proposal to Turn over Heirless Assets to Jewish organizations. The previously discussed proposal regarding a suggested amendment to the Trading with the Enemy Act which will permit the turning over to the Jewish Restitution Commission of heirless Jewish property vested in the APC was discussed further at a meeting in the APC's office, attended also by State Department representatives. The gist of the discussion was that the amendment prepared by Dr. Robinson should be considered further and worked on by the legislative branch of the APC's office. It was agreed by all concerned that the plan was still considered very desirable and that the APC's office would call Dr. Robinson and myself down to Washington for another conference as soon as their legislative branch had worked over his amendment.

In the course of the discussion techniques were considered for submitting the proposed amendment to Congress. On this point it was not clear whether the amendment will be submitted by the governmental departments or whether the Jewish organizations will be requested to submit it informally.

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In the above connection the possibility was discussed of carrying out this proposal through purely administrative techniques within the APC's of-fide. In this connection it was felt that if the Jewish Restitution Commission were recognized under the restitution law in Germany, they would then become heirs by operation of law to the heirless vested assets formerly belonging to residents of the American Zone of Germany, so that the APC would then be able to turn over such assets to the Jewish Restitution Commission automatically under present clauses in the Trading with the Enemy Act. Insofar as other zones of Germany were concerned, it was conceded that legislation would be needed, but it was felt that such legislation could be expedited if this administrative technique were first used for the American Zone. It was the opinion, however, of most of the people present at the meeting that this proposal was not feasible, particularly since the restitution law only provides that a successor organization can claim for purposes of restitution and does not set up any legal status of the Commission for other or general purposes.

The State Department representatives who were present at this meeting felt very strongly that in order to expedite this proposal, the New York incorporated Jewish Restitution Commission would have to be recognized under Military Government Law No. 59. After the meeting they stated emphatically to other individuals in the State Department that the aforementioned proposed compromise of a German subsidiary corporation would in no way be acceptable, insofar as their purposes were concerned.

c) Meeting with the French Ambassador. In the afternoon on January 21, the writer, together with Dr. Nachum Goldman of the Agency, Dr. Robinson of the Congress and Mr. Marcus Cohn of the American Jewish Committee, visited Ambassador Bonnet at the French Embassy. At that time Dr. Goldman presented briefly the feelings of the Jewish organizations regarding the French Zone restitution law and he submitted a letter and memorandum which had been prepared in this connection by the Jewish organizations. Ambassador Bonnet apparently was completely uninformed on the subject and all that he did was to promise to forward our letter and memorandum together with our comments to the appropriate authorities in Paris. It was the consensus of the delegation that the visit was, for all practical purposes, completely useless.

d) Other matters. In addition to the above mentioned, the writer took up with State Department officials the question of the five million Swiss Francs. He was informed that the State Department had several days earlier requested the embassies in France and Great Britain to inquire from the French and British governments why the necessary cables had not gone off to the Swiss. At the time of my visit, no answer had yet been received from the embassies, or at least none was disclosed.

In connection with the problem of customs waiver, insofar as the Gold Train is concerned, the writer was informed that this question is still in the hands of the Solicitor General (specifically, in the hands of Mr. George Washington of this department). Although the Solicitor General's office was informally of the opinion that customs could not be waived and that legislative action would be necessary, as of the time of my visit they had not as yet issued an official ruling. It was anticipated, however, that such a ruling might be forthcoming within several days.

File  
January 23, 1948 *restitution*

GEN & TURK

Memorandum Setting Forth Points to be  
Discussed with General Clay Regard-  
in Restitution

As of this writing, the following would appear to be the direction which the con-  
versation with General Clay should take.

1. Recognition of the Jewish Restitution Commission.

a) Initially there should be a reference to the long history of negotiations and to the clear acceptance at all times of the principle of an international Jewish successor organization. If the General raises any question as to the advisability of the latter point at the present time, it should be emphasized that the Jewish organizations have always in the past and still continue to consider the idea of an international Jewish successor organization as basic and indispensable to the effective execution of the whole restitution program in Germany.

b) Secondly, there should be a reference to the understanding held by the Jewish leaders, particularly as a result of the discussions with General Clay in November 1946 and October 1947, that the procedure of submitting the Commission's application through Washington was required merely in order that the State Department pass on the representative character of the Jewish Restitution Commission. It was our understanding that any possible objections on this score were met when Judge Levinthal arranged affiliation of the German Jewish Gemeinden with the Commission, and we are at a loss to understand the long delay which has taken place since submission of our application to Secretary of State Marshall on November 3rd, 1947.

c) We are gravely concerned that any further delay may, in view of the December 31, 1948 deadline date for filing, render ineffectual the Restitution Commission and nullify one of the main principles advanced in the enactment of the restitution law.

d) The General is therefore requested to take the necessary steps required for immediate recognition of the Jewish Restitution Commission.

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II. Supplementary Points which may arise out of the Conversation.

In the event that General Clay, prior to the telephone conversation with Judge Proskauer, has discussed the problem with individuals in the War and State Departments, he may advance the argument that the work of the Restitution Commission should be carried out by a separate, subsidiary German corporation. This is a point which could be discussed at great length, but it would appear sufficient for a telephone conversation to tell the General simply that the Jewish organizations have discussed this proposal and that they consider it unacceptable for a variety of reasons. Principally, they feel that this proposal is calculated to remove any effective contact by Jews outside of the Jews in Germany with the process of carrying out of the restitution program. Jews in Germany admittedly are in no position to see that the restitution program is fairly implemented. Furthermore, more than 90% of the original German Jews now live outside of Germany.

III. British and French Zone Restitution Laws.

Inasmuch as the crucial question at this stage is recognition of the Jewish Restitution Commission, the problem of the French and British Zones should not be raised if doing so might in any way detract from the impression left by Judge Proskauer with reference to the Restitution Commission. Should this not be the case, a reference might be made to the grave concern which the Jewish organizations feel regarding the ineffectual French Zone restitution law recently passed and regarding the failure of the British to pass any restitution law at all. The assistance and the influence of the General should be requested towards persuading the French to change their law and the British to issue a law which will follow the lines of the American one.

IV. Other Technical Points.

If propitious, a passing reference might also be made to the existence of other technical questions which will arise in connection with the operations of the Restitution Commission in Germany. In this connection, it need only be stated that the Jewish organizations will submit a memorandum on these points to General Clay in Berlin.

344516

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January 5, 1948.

Paris Letter No. 8580

To: AJDC NEW YORK, attention Mr. Eli Rock

From: AJDC PARIS, Office of General Counsel

Re: CCC/IND/2 - Individual Claims

Further to our letter No. 8130 dated December 11, 1947, we are enclosing copy of letter No. 263 dated December 29, 1947, which we have just received from Munich.

As soon as we get further information we shall pass it on to you.

Dr. George Weis  
Attorney

GW:hf

Enc.

56427 Q.

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COPY

GEN. & FIN.

Restitution

AMERICAN JOINT DISTRIBUTION COMMITTEE

MUNICH, December 29, 1947

ZDP Letter No. 263

To: AJDC PARIS, Office of General Counsel

Subject: OGC/IND/2 - Individual Claims  
Paris Letter No. 1164

We have contacted Mr. Landau, the Editor of the "Neue Welt" who has promised to let us have an exact outline of the intended business methods of the Vermoegenstreuhand- und Verwaltungs-GmbH "Fides". Meanwhile Mr. Landau informs us that the leading persons in that firm are: Mr. Jonas who is one of the members of the Praesidium of the Jewish Kultusgemeinde in Munich and owner of the Bank Seiler in Munich, and Mr. Leo Bernkopf who is one of the Department Heads at the Staatskommissariat fuer rassisches, religioes und politisch Verfolgte. The Bank referred to is the above mentioned Bank Seiler.

Mr. Landau further told us that the purpose of the Company is to put up such monies as may be required by Jews and other victims of the Nazi arianization process for the re-purchase of estates sold under duress in accordance with the Restitution Law.

We shall communicate with you again when we receive the detailed information Mr. Landau has promised us; in the meantime we wanted you to have this preliminary report.

SAMUEL L. HABER  
Zone Director  
AJDC

RW/jf

344518

JAN 3 1948

ER JMW January 2, 1948

To: Mr. Boukstein, Dr. Hevesi, Mr. Liverhant, Mr. Rock  
From: N. Robinson

According to the decision of our last meeting I wrote to London, and received to-day the attached answer.

You will see that the Council of Jews from Germany has not yet dealt with the matter we are interested in, namely the prosecution of claims in Germany.

JAN 28 1948 (BMT) ER

GEN. S. FINGER

File  
Restituted

344519

8, Fairfax Mansions  
London, N.W.3

December 24, 1947

Mr. Nehemiah Robinson  
World Jewish Congress  
1834 Broadway  
New York 23

Dear Mr. Robinson,

Thank you for your letter of December 18. This Office has been established by the Association of Jewish Refugees in Great Britain on the suggestion of, and has been officially recognised by, the Foreign Office (German Section) for the purpose of assisting victims of Nazi persecution and their successors in preparing and pursuing their claims to restitution and compensation.

We have been in close contact with the British authorities since our formation in March, 1947, with regard to case work and future legislation. In October, 1947, the Foreign Office asked us to combine our work with other organizations interested in restitution matters, and our United Restitution Office has been set up by

The Council for the Protection of the Rights and Interests of Jews  
from Germany,

The Association of Democratic Lawyers from Germany,

The Ex-Service (N.B.) Association,

The Parliamentary Committee on Refugees,

The Refugee Aliens Protection Committee, and

The Committee for Industrial Development from Overseas.

Our task is

to advise and inform on all laws, ordinances, decisions, etc., concerning restitution in any part of Germany,  
to assist in getting information from German banks, courts, or other authorities which might be necessary to prove or substantiate claims,  
to assist claimants who are not in a position to afford the services of a qualified legal adviser in preparing their applications for registration and, at a later stage, to give such assistance as may be necessary,  
to accept and pass on applications for registration of claims for the restitution of, or compensation for property lost, which may be made to the Zentralamt fuer Vermoegensverwaltung (British Zone), Bad Nenndorf, Land Niedersachsen, Germany, with particular reference to the British General Order No. 10 of October 20, 1947.

Close contact is maintained between the British Foreign Office (German Section) and our United Restitution Office, and while claims not passing through our Office will not be prejudiced in any way, all claimants and their legal advisers in this country are strongly advised to make use of our Office.

The British Foreign Office (German Section) has further asked us to establish similar Restitution Offices in other countries where there are

- 2 -

many claimants. Following this suggestion branch offices have been set up in Australia, Belgium, Chile, Palestine, and Uruguay. Our London Office is acting as the central co-ordinating body.

The question how arrangements could be made for the representation of the claimants in Germany, etc., is still under consideration. //

We are looking forward to a close co-operation with your Organization.

THE UNITED RESTITUTION OFFICE

S/ (Dr. F. Goldschmidt)  
Manager.

344521

P-94-51

Restitution

April 7th, 1948

Letter No. 325

To: AJDC PARIS - Attention Mr. Joel H. Fisher

From: AJDC NEW YORK

Re: I. Proposed Extension of deadline date under Section 32 of the Interim  
with the Enemy Act  
II. Status of the Jewish Restitution Commission application  
III. Heirless Property in the U.S.

I. In connection with the August 8th date for the filing of claims by persons persecuted with the Alien Property Custodian, you will note that in my memorandum to you of February 19th I indicated a possibility that the Office of the Alien Property Custodian was going to ask for an extension of this deadline date. I also indicated at that time, however, that this information was highly confidential and should not in any way be spread about.

I have now learned that through the efforts of the Alien Property Custodian a bill was submitted last Friday by Senator Wylie of Wisconsin, requesting the extension of the August 8th date to July of next year. The request was based on the plea that many of the potential claimants have not been apprised of their rights under the persecutor section of Section 32 and that this extension of time is required initially to protect the rights of these persecutors.

I don't know what the chances of passage are, but I would assume that they are pretty good. In any event, this is now public information and should be circulated in any way you see fit.

II. On the subject of the Jewish Restitution Commission, I assume that you have received from Moe Leavitt the information which we passed on to him yesterday by telephone. In brief, the State Department people indicated, in very sketchy form, that a decision had been reached to approve of the Jewish Restitution Commission as an appropriate successor organization, at the same time indicating that other types of successor organizations or successorship structure would be acceptable. This decision was being passed on to General Clay, and a letter to that effect was supposed to be going out to us last Thursday.

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However, to date we have not received the letter, and I am beginning to wonder whether this is not going to be another case of State Department reversal of position. In any event, I shall check up on this in Washington within a day or two, if the letter does not arrive, and I shall let you know the results.

Incidentally, in this connection, we have been concerned by the reports from Bavaria regarding the new difficulties which have been raised by the German Jewish Gemeinden. In my memorandum to Weiss of March 25th, which I assume you have seen, I emphasized strongly the importance of "sitting" on this question until recognition of the Jewish Restitution Commission had been achieved. (Obviously, we would be in a much better position vis-a-vis the communities once the Commission had been recognized.) On the other hand, I have just been told by Maurice Bouwstein that a cable has arrived from Adler-Sudlow (Jewish Agency) in Bavaria to the effect that the Gemeinden are threatening independent action unless certain minimum demands of theirs are met. They apparently are still insisting that they were never told that the JDC and the Jewish Agency were the operating agents. (I would not be surprised at all, incidentally, if Judge Levinthal had in fact failed to mention this to them.) In all of this, it seems to us here that a great deal of care must be exercised on all sides.

For example, it may very well be that when Clay gets the aforementioned wire from the State Department regarding recognition of the Restitution Commission, he will again look into the Gemeinden question to make sure that they still back the Commission; obviously, every effort should be made to prevent a situation from arising in which the Gemeinden are "invited" to re-state their views. Perhaps, the only answer is that full and open discussion should be held immediately with the Gemeinden representatives and a clear agreement worked out, and if this cannot wait until recognition of the Restitution Commission, then it should be done now. These, of course, are all things which will have to be straightened out by you folks in Europe, but I assume that you will have talked to Leavitt about them during his stay in Paris. Finally, it seems to us that in the negotiations with the Gemeinden we should emphasize to them at all times the important role played by the American Jewish communities in the passage of the Restitution Law, and hammer home the fact that without us they would probably never have had a Restitution Law, let alone provision for successorship.

(In my letters to Maason I have only dealt passingly with the question of the Gemeinde "uprising". I assume of course that you will be working much more closely with him on this question and, wherever necessary, will pass on to him the information contained in this letter.)

III. Discussions are still continuing with the Washington people regarding the problem of heirless property in this country. Some time back we enlisted the help of David Ginsburg on this question, and he is now working with us. We expect to be in Washington tomorrow for a meeting, at which the most recent draft of the Alien Property Custodian (copy attached) will be discussed, as well as the general question of strategy in getting the bill through Congress. On the latter angle, the Jewish Restitution Commission and the Jewish Agency will of course step out and leave the job of "ball carrying" to organizations like the American Jewish Committee and the Congress.

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On the amendment itself, the big question with regard to the AFC's draft is the business of requiring us to submit proof that the owner has died and has left no heirs. We argue that the bill should follow the same approach used in Mil. Gov. Law 59 or in the satellite peace treaties, wherein the procedure is used of automatically turning over the property to a successor organisation if the owner or a claimant has not appeared by a certain fixed deadline date. The answer which we get from the AFC on this is that our approach conflicts basically with their above mentioned attempts to get an extension of the August 3rd deadline date. In other words, it would be difficult for them on one hand to ask for a succession of extensions of the deadline date on the theory that clearly all potential claimants are not being apprised of their rights to claim, while on the other hand agreeing that a fixed deadline date should be used as the basis for presumption that the owners and potential claimants are dead. In any event, this question will be hammered out once and for all at the meeting in Washington.

In connection with the attached draft amendment to the Treaty with the Enemy Act, please note the language in section (h)(c)(1), wherein the phrase "relief and rehabilitation" is used. Abba Schwartz has called to my attention the discrepancy between this language and the language used in the preparatory conferences, and he suggests the possibility that the word "relief" might be a loophole for large numbers of individual refugees to come in and ask for direct help. I would appreciate having your point of view on whether the word "relief" should be stricken out and replaced by the word "resettlement", or whether we should just add the word "resettlement" so as to have the language "relief, rehabilitation and resettlement". It seems to me that while Abba Schwartz does have a point, there is an advantage in retaining the word "relief", because we would be given considerably more freedom of action in that way.

Eli Book

ER:AU  
Enc.

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March 17, 1948

Paris Letter No. 355

To: AJDC NEW YORK, Attention Mr. Ebi Rock  
from: AJDC PARIS, Office of General Counsel  
Re: OGC/GER/1202- Preparatory Commission

MAR 23 1948

When Mr. Fisher, Mr. Mason and the undersigned met at Frankfurt we surveyed the work done up till now by the Preparatory Office (Dr. Peiser and Mr. Grynblat) and saw that the following results had been achieved up till now.

(1) Communal property had been listed more or less completely for Hesse and Bavaria as far as immovable property of the Jewish communities themselves is concerned.

The property of associations and endowments has not yet been listed. The lists for Wuerttemberg-Baden are incomplete.

We have again asked the gentlemen concerned to check their lists against the "Fuehrer durch das juedische Gemeindewesen 1933" and to complete their lists in this way.

(2) As far as probable heirless property is concerned the Jewish property has only been listed fairly completely for Darmstadt and the surrounding rural districts and for Hesse. With regard to Hesse, our suggestion made to Dr. Peiser some months ago to ask Dr. Epstein to provide official lists of all Jewish property in Hesse has been very successful. A great many of these lists for the smaller places in Hesse have already come in and other lists can be expected. It can be assumed that this will enable us to compile a register of almost all Jewish property in Hesse, and there is no reason to doubt that the same procedure would not be successful in Bavaria and Wuerttemberg. An almost complete list of the Jewish property in Bremen had already been prepared whilst the undersigned was in the British Zone.

(3) This listing of property is, however, only the very first step in the work to be done, and nothing has been done up to now to proceed further. The lists contain only the name of the former owner, sometimes the official description of the property as inscribed in the land register, the nominal value in 1939 or before, and sometimes the name of the possessor. To file a claim we need of course far more information especially with regard to the act of confiscation. It will be the first task of the undersigned when arriving in Germany at the beginning of next month to prepare files containing all this information at least with regard to the communal property.

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(4) No new sources to obtain information have been used by the Preparatory Office apart from those suggested to them some months ago. By chance it was found that there exists in Frankfurt

- (a) a complete register of all Jewish business which existed in Frankfurt during the Hitler regime, and for each business exists a separate file giving apparently almost complete information with regard to the business and the act of confiscation;
- (b) a list containing the names of those auctioneers and sheriffs who sold Jewish confiscated property. This list contains the names of the officials concerned, of the person whose property was sold, and there are even files containing the minutes of the auctions;
- (c) a card index containing the names of all Jews whose property was confiscated. There are also files referring to these confiscations.

We are giving you the information of this very important discovery only according to a report we have just received from Dr. Peiser. As soon as the undersigned will arrive in Frankfurt he will closely examine the papers and start to sort them out. If they are as complete as the report seems to indicate, they contain all we want for Frankfurt.

It is also probable that if such papers exist in Frankfurt they also exist for other territories and we will search for them. The files under (a) probably refer to the registration of Jewish business as ordered by ordinance of June 14 1938, and such an index should certainly exist all over the country if it has not been destroyed.

(5) A further source of information are the files of the Devisenaemter which were affiliated to the Oberfinanzpraesidenten. There should be 8 in the U.S. Zone. We know that the files of the Devisenamt in Munich still exist but that the files of the Amt for Bremen have been destroyed. The undersigned will search for the files of the other Devisenaemter.

(6) We are sure that by one way or the other almost complete information with regard to the immovable property and a great mass of information with regard to the immovable property can be obtained. The problem is an administrative one, to examine the mass of information, to compile it into individual files which can be made the basis for the claim, and to prepare the claim itself. The undersigned will try to get as much of the preparatory work as possible done by the German authorities. The preparing of the claim, however, will have to be done by our personnel.

The undersigned has been authorised to hire 50 indigenous persons for the staff. He is, however, rather doubtful that he will find sufficient capable persons under the conditions of employment which can be offered to them.

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(7) The great administrative problem is, of course, the collecting of information for the heirless property claims. As the period for filing claims for heirless property really ends at the same time as the period for filing of claims (31st December 1948), we will have to prepare numerous claims which in the end will not be claims for heirless property and will, as far as the Successor Organisation is concerned, have to be withdrawn. We can only reduce unnecessary work as much as possible if we can get the lists of claims already filed by claimants with the Central Filing Agency. As long as we are not recognized it will be difficult to obtain this information. Even if we obtain it much superfluous work will have to be done, as most of the claimants will probably file their claims rather late.

(8) We are enclosing a specimen of the index card used by the Preparatory Office in Frankfurt. Unfortunately, however, on most of the cards only the first two lines have been completed.

  
Dr. George Weis  
Attorney

Gw/hf

Enc.

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