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RIGHTING THE ENDURING WRONGS OF THE HOLOCAUST: INSURANCE ACCOUNTABILITY AND RAIL JUSTICE

HEARING

BEFORE THE

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HOUSE OF REPRESENTATIVES

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RIGHTING THE ENDURING WRONGS OF THE HOLOCAUST: INSURANCE ACCOUNTABILITY AND RAIL JUSTICE

WEDNESDAY, NOVEMBER 16, 2011

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m., in room 2172, Rayburn House Office Building, Hon. Ileana Ros-Lehtinen (chairman of the committee) presiding.

Chairman ROS-LEHTINEN. The committee will come to order. I will recognize myself, and the ranking member, my good friend, Mr. Berman, for 7 minutes each for our opening statements. We will then hear from our members for 1-minute opening statements. Following opening statements, we will hear from our distinguished witnesses and I would ask that you summarize your prepared statements to 5 minutes each before we move to the question and answers with members under the 5-minute rule. Without objection, the witnesses' prepared statements will be made a part of the record. And members may have 5 days to insert statements and questions for the record subject to length limitation in the rules.

The Chair now recognizes herself for 7 minutes. Good morning and thank you for joining us for this morning's hearing: "Righting the Enduring Wrongs of the Holocaust: Insurance Accountability and Rail Justice." I want to recognize Mr. Herbert Karliner who was scheduled to testify at our hearing this morning but he was injured while attending last week's Kristallnacht ceremony. Mr. Karliner's testimony will be submitted for the record without objection and we wish him a speedy recovery.

It pains me to say that survivors of one of the greatest atrocities of the 20th century continue to feel the pain of the Nazis' brutality and oppression. These lingering injustices stem from those who sought to profit from the abuse of innocent victims and took advantage of circumstances to enrich themselves while others suffered.

This morning, we will be discussing two situations linked by a common theme, the rights of Holocaust survivors as American citizens to bring legal action in Federal court. The first is the issue of unpaid Holocaust-era insurance policies. In pre-war Europe hundreds of thousands of individuals who would eventually be victims of Nazis' crimes sought to protect their families' futures by purchasing insurance policies. However, when the Nazis raided their homes and deported them to ghettos and concentration camps, documentation of their insurance policies was lost. Those who survived

the war approached the insurance companies expecting the companies' records to validate their claims and allow them access to the funds they were owed. Instead, they were turned away for lacking proper documentation and barred from accessing the companies' records. The insurance companies refused to honor policies without documentation that they alone possessed and refused to disclose to claimants.

In other cases, survivors made claims on insurance policies belonging to relatives murdered by the Nazis, only to be told that their claim could not be honored without a death certificate. Can you imagine anything more outrageous than asking for a death certificate for someone murdered in Auschwitz? In 1998, the International Commission on Holocaust Era Insurance Claims (ICHEIC) was established to resolve these issues. However, ICHEIC suffered numerous flaws, including problems with accountability and oversight, stemming from the fact that the process was greatly controlled by the insurance companies. Eighty-four percent, 70,000 of the 90,000 claims made, were rejected. Eighty-four percent, 70,000 of the 90,000 claims made, were rejected. Thirty-four thousand were offered a token humanitarian award, cold comfort in the face of a broader dismissal by ICHEIC.

Worst of all, survivors were told this was the only forum in which they could make claims. So ICHEIC sought to limit the rights and access of Holocaust victims even though several States had passed laws enabling survivors to pursue legal action against these insurance companies since they had been summarily dismissed by ICHEIC. These survivors deserve the opportunity to have their day in court and present evidence against these companies who have failed to honor their business obligations.

Holocaust survivors came here looking for the freedom, tolerance, and opportunity that they were denied in their homelands. We cannot deny these individuals the justice they more than deserve after they have suffered through so much and waited for so long. We cannot allow these companies to continue to profit from the horrors of the Holocaust.

The other issue we will be addressing this morning is justice for those who were transported to concentration camps by the French rail company, SNCF. SNCF operated trains for profit that transported over 75,000 victims, primarily Jews, but also American POWs, to Nazi concentration camps. These trains were run as commercial transactions. SNCF was paid per passenger, per kilometer by the Nazis to move them to their deaths.

The conditions in the trains were horrible, passengers were forced to stand with virtually no food or water or sanitary facilities. And SNCF knew exactly how bad these conditions were because their employees cleaned the cars after they reached their destinations removing the corpses of innocent victims who died during the journey. SNCF has not denied its wartime activities, its officials claimed that they were forced to do the things they did. That sounds familiar. And yet SNCF has not contributed to post-war reparations to victims of the brutality of the Nazis.

And when Holocaust survivors in the United States brought a class action suit against this company, SNCF, the rail company, hid again. This time behind the Foreign Sovereign Immunity

Clause claiming that SNCF is an instrument of the French Government and should not be held liable. Notably, SNCF has used the opposite defense in French court, claiming to be performing private functions rather than government work. They can't have it both ways.

I now turn to the ranking member, my good friend, Mr. Berman, for his opening statement.

Mr. BERMAN. Well, thank you very much, Madam Chairman. My dear friend, Si Frumkin, the late Si Frumkin, an Auschwitz survivor and one of the most prominent national leaders in the Soviet Jewry movement once said that when it comes to the needs of survivors, those in power should do everything they can to assist. In spirit of Si's words, I believe these bills have merit as a means to draw strong attention to the plight of survivors. Time is of the essence for these Holocaust victims.

For that reason, last year I worked hard to negotiate an assistance fund for the neediest of survivors, including meeting directly with the head of the German Insurance Association. I did this based on my view that home care assistance to survivors is paramount among all other issues raised at Prague, a view that I know is shared by Ambassador Eizenstat and the others involved in this issue.

I work to get these companies to contribute voluntarily, but I was told that the insurance companies would not participate unless other German industries joined the effort and that other German companies view this as a problem for the insurance industry and not for them. Those efforts have not borne fruit, and as such, leave us with fewer options to address a dire situation.

I thus welcome any means to secure more money for the neediest members of this community. Madam Chair, both the proponents of this bill and the organizations opposed have one interest at heart, assistance for desperate and needy survivors. For too long, elderly survivors have been denied their basic needs and the problem is getting worse. A 2003 report by the United Jewish Communities indicated up to one-fourth of survivors live below the poverty line. That number recently climbed to as high as to 50 percent in the Los Angeles County according to the L.A. Federation. Seventy-five percent of survivors are female and most live alone. I am aware of the story of individuals like Bernhard Eckert, an 85-year-old survivor who was below the poverty line until through the good work of Bet Tzedek Legal Services last year, he has secured a pension and reparations from Germany. Survivors like Mr. Eckert should not fear where their next meal is coming from.

The proponents of the insurance bill believe that allowing policy claimants to sue insurance companies who ultimately secure additional assistance, not just for the claimants, but for the survivors generally. The detractors have made clear their concerns that the bill could harm future assistance from Germany, append legal agreements with European allies and give false hope to plaintiffs. Again notwithstanding these concerns for me, my friend Si's views went out, do what we can for survivors.

I also think H.R. 890 highlights fundamental separation of power issues. The Supreme Court decision giving rise to this legislation, colloquially known as Garamendi, stems from the strong efforts of

our esteemed witness and colleague Mr. Garamendi to advance this clause. That decision reflects a traditional trend with which I take issue. That in the absence of an affirmative congressional action, courts today have given excessively broad deference to the President's claim settlement authority.

As a member of this body for nearly 30 years, who has fought for Congress' prerogative on issues ranging from war powers to imposition of sanctions on Iran, I am acutely sensitive to the weight given to courts by executive agreements which are no treaties and should not be viewed at such. At a very minimum, courts should be required to balance all the relevant equities, including the needs of survivors, the interest of the executive, and the feasibility of alternative claims for it, not simply back away and the assertion by the executive branch of its interest.

I am well aware of the challenges to this bill including opposition from some mainstream Jewish groups, and our European partners. But unless provided evidence this bill would hurt more than help, these legitimate concerns are outweighed by the very real and immediate need to help survivors. It is precisely because of the issues that the Garamendi case raises that it would be helpful had there been a third panel for this hearing, one in which the lawyers for the plaintiffs and groups opposed to this legislation, along with the administration, could have aired their views.

These are not simple issues, especially given the two bills under consideration are quite different and a full airing of the perspectives in this legislation would be helpful. I also regret that I will need to leave shortly for a hearing in Judiciary. While I will try to return, I may miss Leo Bretholz's testimony.

Mr. Bretholz, I received your gripping book on jumping from a deportation train and view you along with the other survivors here as a profile in courage. Thank you, Madam Chair.

Chairman ROS-LEHTINEN. Thank you, Mr. Berman, for that opening statement. I am pleased to yield time for an opening statement to Mr. Deutch, my colleague from Florida,

Mr. DEUTCH. Madam Chairman, first let me extend my deepest thanks to you for holding today's hearing. For the Holocaust survivors in south Florida and throughout this country, time is of the essence. The survivor community one of the most vulnerable and the needs of survivor are one of our most vulnerable and the needs of survivors are unique. A study by United Jewish Communities found that a quarter of survivors were living below the poverty level. Frankly, it is unconscionable that so many survivors are being denied the opportunity to live out their lives with the dignity they deserve.

Every spring I attend Yom HaShoah Remembrances across south Florida. Six years ago when I was first elected, the synagogues were filled with survivors, not an empty seat. But every year since I have watched as the crowd has gotten smaller and smaller. These bills are not about protecting foreign governments or giving peace to insurers. They are about fulfilling our promise to survivors by providing even a modicum of security and peace so they may live out their lives in dignity. This is not a choice between going to court or pursuing opportunities for future reparations. Opportunities which had they been in place today would be providing needed

care for the 75 percent of survivors who are in their 80s and 90s. These bills are about justice and giving survivors the opportunity to pursue it.

Madam Chair, I would like to recognize the survivors who are sharing their stories today. I would like to recognize Donald Shearer who, as a U.S. pilot, was shot down over France, held as a POW and subsequently transported on a SNCF train to Buchenwald, ultimately survived the death march.

Finally, I would like to recognize the tireless work of the survivors in south Florida, like Jack Rubin and Alex Moscovic, both of whom testified before this body. I admire their courage, and I stand with them and I stand with the entire survivor community in your continued quest for peace, for security, and for justice.

Chairman ROS-LEHTINEN. Thank you so much, Mr. Deutch for that opening statement. If the Chair will recognize herself I have been asked by the State Department and interested groups to submit their views on the bill into the record, and I ask unanimous consent to do so. Thank you, without objection.

Ms. Wilson of Florida.

Ms. WILSON OF FLORIDA. Thank you, Madam Chair. I came to attend this hearing this morning, first of all, because Carolyn Maloney is my housemate and I wanted to hear her testimony. And I represent Miami Dade county Florida, a lot of Holocaust survivors and a lot of Jewish constituents. So I am very interested to find out what the pressing needs are in terms of survivor care today, what are we doing, and how are they managing to claim their policies? And what are we doing to make good on the promises and the justice for these survivors. So thank you, Madam Chair, for holding this hearing.

Chairman ROS-LEHTINEN. Thank you so much, Ms. Wilson. Mr. Cicilline who got a great award last night from the Close Up Foundation.

Mr. CICILLINE. Thank you, Madam Chair. I want to thank you first for convening this hearing and thank Ranking Member Berman as well. It is a real honor to be in the presence of such courageous, extraordinary people, and I look forward to the testimony, and particularly Holocaust survivors, and Mr. Garamendi and Ms. Maloney. And look forward to working very hard on this committee and in this Congress to right the terrible injustices that continue to be visited upon survivors of this hideous period in our history, thank you.

Chairman ROS-LEHTINEN. Thank you so much, Mr. Cicilline. Mr. Sires is recognized.

Mr. SIRES. Thank you, Madam Chair for holding this meeting. Obviously I am not Mr. Berman, he had to step away, but I am a proud cosponsor and I am here to listen and to work with you. It is amazing to me that all this time that has transpired and no resolution has come to this issue. I have been married to my wife, Adrienne Sires, for 25 years. I know the issue well, and I look forward to the people's comments on this issue.

Chairman ROS-LEHTINEN. Thank you so much, Mr. Sires. And now the Chair is pleased to welcome our two distinguished panelists. I am pleased to introduce Congressman John Garamendi of California. He has been a member of the U.S. House of Representa-

tives since 2009 and brings nearly 4 decades of public service to the House Armed Services and Natural Resources Committees. He previously served 2 terms as California's State Insurance Commissioner so he knows a lot about this issue.

And next the committee would like to welcome Ms. Wilson's housemate, Congresswoman Carolyn Maloney of New York, who has been a member of the U.S. House of Representatives since 1992. She is a senior member of the both the House Financial Services Committee and House Oversight and Government Reform Committee. Welcome to you both, thank you. We will begin with Mr. Garamendi.

STATEMENT OF THE HONORABLE JOHN GARAMENDI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. GARAMENDI. Madam Chair and members, thank you very much for the opportunity to be here. I will submit written testimony and summarize that testimony.

I come before this committee today in support of H.R. 890, the Holocaust Insurance Accountability Act of 2011 with a long experience of having served as an insurance commissioner and dealing with this issue. For decades Holocaust survivors and their heirs have sought to locate insurance policies their families may have purchased during the days preceding and during World War II from European insurance companies.

H.R. 890 will allow those individuals to bring civil action in Federal district court against the insurer or related companies of the insurers to recover proceeds or enforce any rights under those policies. This bill would also allow States like California to require insurance companies to disclose information on policies that they sold during that period of time.

In the aftermath of the war as survivors sought to rebuild their lives, they were again victimized, not by hostile military forces, but by the very insurance companies that they and their families relied upon for financial security. In the concentration camps they lost their human right to physical security and now insurance companies continue to rob them of their financial security needed to help them rebuild their lives and to continue in a good state of health.

In a cruel twist of fate, survivors of the Holocaust, their insurance claims are rejected because they lacked the necessary paperwork. As we all know, the Nazis did not issue death certificates. Documents that insurance companies knew or should have known were either confiscated by the Nazis, lost or hidden in some file somewhere in Europe.

The International Commission on Holocaust and Era Insurance Claims, ICHEIC established in 1998, decades after the end of World War II, tried to remedy some of the injustice perpetrated by the insurance companies by examining claims put forward by the survivors. Unfortunately, ICHEIC did not require the insurance industry in Europe to divulge their records so that survivors and their families could go through those records to determine if there was a policy. Keep in mind that the records were lost, or in many cases, not known by the survivors. That was a major flaw.

To remedy that flaw, California passed legislation to require insurance companies doing business in California to submit all the records so that individuals, families and survivors could go through those records to determine if there may be a policy that existed. Unfortunately, the U.S. Supreme Court disagreed with the California law, and in a 5–4 decision, the American Insurance Association, et al., versus John Garamendi, insurance commissioner, State of California required in that decision that the California law was unconstitutional, and that it interfered with the executive branch to conduct foreign policy.

There is strong exception to that by me and by many others that the court erred. The legislation put forth by the chairwoman would right that wrong, and allow the State of California to proceed to require insurance companies doing business in California to disclose all their records so that survivors and their families and heirs could go through those records to determine if there was a policy.

In addition, H.R. 890 allows civil action so that individuals could bring suit. All of these are extraordinarily important remedies for a horrible misjustice that was carried out during the Holocaust. It is time for the European insurance companies to step up, to honor their claims. They have held that money for decades. That money may very well not belong to them, it may belong to survivors and children and relatives of the survivors.

I really want to thank the chairwoman for bringing this bill back for a second, maybe even a third time and never give up, never give up. This is an issue of simple justice, and it is also an issue of contract. The insurance companies entered into a contract. They must honor that contract by divulging information, and I would hope this bill becomes law. Thank you for the opportunity to appear and I would be happy to answer any questions you may have.

Chairman ROS-LEHTINEN. Thank you so much Mr. Garamendi, we appreciate your opening statement.

[The prepared statement of Mr. Garamendi follows:]

Congressman John Garamendi's Testimony Before the House Foreign Affairs Committee Hearing on H.R. 890, the "Holocaust Insurance Accountability Act of 2011," November 16, 2011

Chairman Ros-Lehtinen and Ranking Member Berman, thank you for allowing me the opportunity to testify before your committee on an issue of great importance – that of allowing states to enforce disclosure laws and access to courts for Holocaust-era insurance policy claims.

I come before this committee today in support of H.R. 890, the Holocaust Insurance Accountability Act of 2011, with the experience of having served as Insurance Commissioner for the State of California, where I spent much time working on this issue.

For decades Holocaust survivors and their heirs have sought to locate insurance policies their families may have purchased during the days preceding and during World War II from European insurance companies. H.R. 890 would allow individuals to bring a civil action in federal district court against the insurer, or a related company of the insurer, to recover proceeds due or enforce any rights under the policy. The bill would also allow states like California to require insurance companies to disclose information on policies that they sold during the same period. Once signed into law, this bill would rightfully give Holocaust victims and their heirs, now living in the U.S., the legal authority needed to fight this injustice, allowing them to go after the foreign insurance companies who have denied them the remuneration they are owed for more than half a century.

As this committee, those assembled in this chamber, and all those listening to these proceedings know, the Holocaust was a tragedy of unimaginable proportions, an act of pure evil, that marks one of the darkest periods in human history. Six million Jews were murdered as the Nazi war machine roared across Europe, decimating the Jewish people and their communities, forcing the survivors into concentration camps or forced immigration abroad.

It is a testament to the human spirit that some survived the Nazi's program of systematic genocide. Many emerged with just the clothes on their backs, as Nazi soldiers had been ordered to strip them of their material wealth, documents, and, in many cases, went so far as to rip gold fillings out of the mouths of the dead and dying. These men, women and children survived unspeakable atrocities, and were robbed of their physical security by Nazi soldiers whose cruelty has been so well documented by the survivors themselves, such as Eli Weasel in his book *Night*.

Before, in peaceful times, and even during the war, members of the Jewish community throughout Europe sought to protect their families by purchasing insurance policies to safeguard family assets, plan for retirement, provide for their children and save for their education.

In the aftermath of the war, as survivors sought to rebuild their lives, they were again victimized, not by hostile military forces, but by the very insurance companies they and their families relied upon for financial security. In the concentration camps they had lost their human right to physical security, and now insurance companies sought to rob them of the financial security needed to help them rebuild their lives after the ravages of war. In a cruel twist of fate, survivors of the Holocaust insurance claims were rejected because they lacked the necessary paperwork and as we all know, the Nazis did not issue death certificates. Documents that the insurance companies knew, or should have known, were either confiscated by the Nazis or lost in the ashes of a global war that decimated Europe.

The International Commission on Holocaust Era Insurance Claims (ICHEIC), established in 1998, decades after the end of WWII, tried to remedy some of the injustice perpetrated by the insurance companies by examining the claims of Holocaust survivors and their heirs. An important fact about the ICHEIC was that the U.S. government was not part of the organization, or the agreement that created it; rather it was between private individuals and private insurance companies outside the reach of American law. Some were

helped by the ICHEIC but others were sadly denied the justice they sought for decades.

During and after the war, many Holocaust survivors immigrated to the United States, where some tried to put the horrors they experienced behind them, building a new life in a country founded on the promise of justice for all and religious tolerance. However, some never forgot the insurance companies that had denied them the financial security they so desperately needed and were owed to rebuild their lives after the war.

As Americans, we can all be proud that their cries for justice did not go unheard. In my home state of California, the state passed a law called the Holocaust Victims Insurance Relief Act of 1999 (HVIRA). HVIRA required insurance companies doing business in California to disclose a list of all policies issued by the companies themselves or any other "related" policy. This was an effort by the state to help its citizens; this law did not interfere with any existing agreements the U.S. had at the time with any foreign entities and/or nation states. Nor did it intrude into exclusive territory of the Executive Branch to make such agreements.

Unfortunately, the U.S. Supreme Court disagreed with California's decision to empower its citizenry. In a 5-4 decision in *American Insurance Association, et. al. v. John Garamendi, Insurance Commissioner, State of California*, Justice Souter's majority opinion held that the state law was preempted by the Executive Branch's ability to negotiate with foreign powers. This ruling invalidated the state's law whose sole purpose was to help Holocaust survivors and their heirs claim insurance policies that were rightfully theirs.

The Court majority found that California's law was unconstitutional under the Preemption Doctrine. This doctrine derives from the Supremacy Clause of the Constitution dealing with the federal government's power in relation to the states. Under the Supremacy Clause when federal and state law conflict, federal law is superior and a federal court-in this case the Supreme Court- can

prohibit a state's behavior that conflicts with the federal government's authority. This was the basis for the Court's erroneous decision.

The Court ignored the fact that California sought to make private entities disclose information to its citizens, which in no way interfered with the power of the Executive Branch to enter into agreements with foreign powers or any other diplomatic rights afforded it under the Constitution. Nevertheless, the Court found that "California seeks to use an iron fist where the President has consistently chosen kid gloves."

Thankfully, this Congress and this committee will now act to rectify the Supreme Court's decision. H.R. 890, offered by Chairman Ros-Lehtinen, would remedy the Supreme Court's decision. This bill recognizes that this matter is between private citizens in this country and foreign insurance companies, and allows Holocaust survivors and their descendants to finally receive a small measure of justice and the financial security denied them for too long. This bill is a fine example of American justice, seeking to right the wrongs of the past, providing a resolution to the survivors and families of one of humanity's darkest chapters.

Chairman Ros-Lehtinen and Ranking Member Berman, I thank you for allowing me to testify before this subcommittee and hope to serve as a resource as Congress works on this important matter.

Chairman ROS-LEHTINEN. And Ms. Maloney is now recognized for her statement.

STATEMENT OF THE HONORABLE CAROLYN MALONEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mrs. MALONEY. Thank you very much, Madam Chairwoman, and Ranking Member Berman, and members of the committee, including my housemate and good friend. It is an honor for me to be here today to discuss H.R. 1193 and the Holocaust Rail Justice Act.

We have worked tirelessly for SNCF victims to move this legislation forward. I am pleased to report that we now have broad bipartisan support with over 40 cosponsors. And with today's important hearing as the first step, I am optimistic that this legislation will continue to move through the House, and that Congress will provide victims with their long awaited and much-deserved day in court.

I first introduced this legislation in 2003 after meeting with survivors, including one who is with us today, Leo Bretholz. Their stories were haunting. I could not ignore the injustice they have endured in an effort to educate and pay tribute to never forgot.

I have also introduced legislation, H.R. 1753, the Simon Wiesenthal Education Assistance Act, which provides grants to organizations to teach about the horrors of the Holocaust so that they are never repeated.

During World War II, more than 76,000 Jews and other undesirables were transported from France to Nazi death camps aboard trains operated by the SNCF. Among those transported to death camps on these trains were American airmen, one of whom is with us today, shot down over France. SNCF operated the trains as a commercial venture and were paid per head to deliver thousands to their death.

In the 66 years since the end of World War II, SNCF has never made restitution or reparations to any of the victims. Hundreds of known survivors and family members of those who have perished live in the United States today, although the number is dwindling. Yet SNCF has never been accountable for its actions during World War II. And this court action has been in place over 10 years.

SNCF has unfortunately succeeded in cloaking itself in the veil of so-called foreign sovereign immunity and thus evading jurisdiction in the United States courts. SNCF has avoided all accountability, and now the Holocaust Rail Justice Act is the only remaining opportunity for the survivors to pursue justice. This legislation would simply permit private individuals to have their day finally in U.S. court against a company ranked number 209 on this year's Fortune 500 list.

This bill would preclude in this one limited instance the defense of foreign sovereign immunity from being raised. As the facts make clear, this is not the type of situation foreign sovereign immunity was ever intended to cover.

I would like to recognize two of the survivors who we are honored to have with us today and ask them to stand.

Leo Bretholz, whose chilling testimony we will hear shortly, leapt from one of the trains bound for Auschwitz when he was only 21

years old, managed by the grace of God to survive. Thank you, Leo, for your courage and pursuing with this legislation. We look forward to your story.

I would like also to recognize another SNCF victim sitting behind me, Donald Shearer, and ask him and Leo to stand. And he is a former technical sergeant in the U.S. Air Force was shot down over France on July 5th, 1944 after being turned over to the Gestapo. He and 167 other allied airmen were transported not to a POW camp, but to Buchenwald on SNCF trains.

Mr. Shearer, especially we sit here and honor you because of Veteran's Day and we want to thank you for your service to our country and your continued heroism, both during World War II and today. I would ask that the committee enter into the record Mr. Shearer's oral history interview provided to the U.S. Air Force on June 29th.

Chairman ROS-LEHTINEN. Without objection, subject to limitations in the rules.

Mrs. MALONEY. SNCF claims that it was wholly coerced into participating in the Holocaust, and that it should not bear the responsibility for deporting tens of thousands of innocents, including over 11,000 children toward their deaths. But these are negated by historical facts. As we all know, and as SNCF should know, the "following orders" defense was dispensed with at Nuremberg. Independent studies and tribunals have determined that SNCF actively collaborated with the Nazis.

A report commissioned by SNCF itself found that in its first meeting with the Nazis, it was agreed SNCF would retain control and responsibility for the trains, including the technical conditions of the deportations. SNCF alone decided to utilize——

Chairman ROS-LEHTINEN. Ms. Maloney, if you could wrap up your statement. I am sorry.

Mrs. MALONEY. It is a brutal statement of how they transported thousands, would not even let the Red Cross help with water and any type of help. And this is really their last chance. SNCF has never paid a cent to any of the victims and this legislation is necessary because there is absolutely no other recourse for these survivors and no other way for them to pursue justice. These survivors have simply fallen through the cracks, this is their last hope.

Madam Chair, ranking members, all members of the committee, we thank you for this hearing. We thank you for your support and we hope that you will be part of the team moving this through the Congress of the United States so that these victims can finally have their day in court. I thank you, I submit my——

Chairman ROS-LEHTINEN. Without objection. Thank you so much, Congresswoman Maloney. Thank you very much Representative Garamendi for a powerful statement that will be made a part of the record and we thank you for being here with us.

[The prepared statement of Mrs. Maloney follows:]

CAROLYN B. MALONEY
14TH DISTRICT, NEW YORK

2332 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3214
(202) 225-7944

COMMITTEES:
FINANCIAL SERVICES

OVERSIGHT AND
GOVERNMENT REFORM

JOINT ECONOMIC COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515–3214

DISTRICT OFFICES:
1651 THIRD AVENUE
SUITE 311
NEW YORK, NY 10128
(212) 860-0606

21-77 31ST STREET
ASTORIA, NY 11105
(718) 932-1804

Website: http://maloney.house.gov

STATEMENT OF THE HONORABLE CAROLYN B. MALONEY
MEMBER OF CONGRESS
HOUSE FOREIGN AFFAIRS COMMITTEE
HEARING ON HOLOCAUST RAIL VICTIMS
NOVEMBER 16, 2011

Chairman Ros-Lehtinen, Ranking Member Berman, and members of the Committee, I want to thank you for the opportunity and honor to be here today to discuss H.R. 1193, the Holocaust Rail Justice Act. Alongside Chairman Ros-Lehtinen, Ranking Member Berman, and so many others in the House and Senate, we have worked tirelessly for SNCF's victims to move this legislation forward since it was first introduced. I am pleased to report that this legislation now has broad and bipartisan support in the House, and with today's important hearing as the first step, I am very optimistic that this legislation will continue to move through the House and that Congress will provide SNCF's victims with their long awaited and much deserved day in court. I first introduced this legislation in 2003 after meeting with survivors of the Holocaust and the inhumane deportation on SNCF trains including Leo Bretholz and Mathilde Freund. Their stories were haunting and I could not ignore the injustice they have endured. In an effort to educate and pay true to "never forget, " I have also introduced legislation, HR 1753, the Simon Wiesenthal Holocaust Education Assistance Act which provides grants to organizations to teach about the horrors of the Holocaust so they are never repeated

During World War II, more than 76,000 Jews and other "undesirables" were transported from France to Nazi death camps aboard trains operated by the ("SNCF"). Among those transported to death camps on SNCF trains were American airmen shot down over France. SNCF operated the trains as a commercial venture and were paid per head, per kilometer to deliver thousands to their ultimate deaths.

In the 66 years since the end of World War II, SNCF has never made restitution or reparations to its victims. Hundreds of known survivors and family members of those who have perished live in the United States today—although the number of living survivors is rapidly growing smaller—and litigation seeking to hold SNCF accountable for its actions during World War II went on for over ten years. SNCF has unfortunately succeeded in cloaking itself in the veil of foreign sovereign immunity and thus evaded jurisdiction in United States courts.

At the very same time as SNCF argued in United States courts that it was entitled to foreign sovereign immunity, the company was advancing the opposite argument in French administrative court in an effort to have a case dismissed. It is unconscionable that SNCF has successfully evaded accountability by arguing in the US that it is an instrumentality of the French government and thus entitled to sovereign immunity while at the same time arguing in France it was performing a private function (and not a government function). SNCF has avoided all accountability and now the Holocaust Rail Justice Act is the only remaining opportunity for the survivors to pursue justice.

HR 1193 would simply preclude, in this one limited instance, the defense of foreign sovereign immunity from being raised. As the facts make clear, this is not the type of situation foreign sovereign immunity was intended to cover.

In the 66 years since the end of World War II, SNCF has never provided any reparations or restitution to its victims and still, to this day, steadfastly refuses to do so. SNCF has never once denied its actions, but has simply contended that it can't be held responsible or accountable. As the members of this Committee know, many of these survivors don't have much time left. Regrettably, it appears SNCF's deliberate strategy is to run out the clock on these survivors.

Beginning in 2000, Holocaust survivors attempted to hold SNCF accountable for transporting them and their families toward the death camps on SNCF trains. However, SNCF has avoided accountability for war

crimes and crimes against humanity by arguing it is entitled to foreign sovereign immunity – based upon a law passed by Congress more than 30 years after the Holocaust – and has escaped jurisdiction in U.S. courts. Just last month, the U.S. Supreme Court declined to hear the only pending action against SNCF. What this means is that all cases against SNCF have been dismissed on jurisdictional grounds and SNCF's victims have never had their day in court. Now, more than ever, HR 1193, the Holocaust Rail Justice Act represents the only recourse for these survivors.

I'd like to recognize two of the survivors we are honored to have with us today. Leo Bretholz, whose chilling testimony we will hear shortly, leapt from an SNCF train bound for Auschwitz when he was only 21 years old and managed, by the grace of God, to survive. Thank you, Leo, for your courage and for being here to tell your story. I'd also like to recognize another SNCF victim sitting behind me, Donald Shearer, and ask him to stand. Mr. Shearer, a former Technical Sergeant in the U.S. Air Force, was shot down over France on July 5, 1944. After being turned over to the Gestapo, he and 167 other Allied Airmen were transported not to a POW camp, but to Buchenwald, on SNCF trains. Mr. Shearer, especially as we sit here just after Veterans Day, I want to thank you for your service to our country and for your continued heroism, both during World War II and today. I would ask that the Committee enter into the record Mr. Shearer's Oral History Interview provided to the U.S. Air Force on June 29, 2007.

SNCF's claims that it was wholly coerced into participating in the Holocaust, and that it should not bear the responsibility for deporting tens of thousands of innocents, including over 11,000 children, toward their deaths, are negated by historical facts. SNCF tells a tortured and revisionist version of history. As we all know, and as SNCF should know, the "following orders" defense was dispensed with at Nuremberg. Independent studies and tribunals have determined that SNCF actively collaborated with the Nazis. The Bachelier Report commissioned by SNCF itself found that in the first meeting with the Nazis, it was agreed SNCF would retain control and responsibility for the trains, including the technical conditions of the deportations. SNCF alone decided to utilize cattle cars to transport victims and refused to provide provisions like food and water. In fact,

when Red Cross workers tried to give water to the victims, SNCF complained because it interfered with transport schedules. SNCF had a margin to maneuver and chose not to use that margin to reduce suffering and save lives.

SNCF billed quarterly for the deportations and even pursued payment for the deportations after the liberation of Paris and after any conceivable coercion "defense" would have been nullified. SNCF has never disgorged this blood money and now, some 66 years after the Holocaust ended, SNCF still refuses to fully admit its own past or accept responsibility for its actions. And that is why we are here today.

In the 66 years since the end of World War II, SNCF has never been held accountable, it has never paid any reparations to the thousands of men, women, and children who suffered or died aboard their trains, and its victims have never had their day in court. While many companies that participated in the Holocaust have taken responsibility for their actions, SNCF has failed to follow these examples and steadfastly refuses to provide reparations to its many victims. In fact, an SNCF representative recently went so far as to tell California Assemblyman Bob Blumenfield, who has been a champion for SNCF's victims on the California state level, that "SNCF will never pay the survivors anything" and that SNCF would rather not do business in California than take any such actions.[1] SNCF's victims deserve better.

As France was an ally, there are no post-war treaties with France pertaining to reparations and no general funds involving the payment of reparations from France, as there are with other countries like Germany and Austria. Numerous German companies have accepted responsibility for their actions during the Holocaust and paid into a German fund. Austrian companies have also paid reparations. Following a law suit in the U.S., French banks have made restitution. A number of rail companies have either contributed directly to reparations funds established by their governments, or were themselves part of the governments and as such contributed to the government reparations programs that were established after the War in accordance with post-war treaties.

[1] See http://holocaustrailvictims.org/wp-content/uploads/2011/02/Blumenfield-Letter-2-2-11.pdf.

Although SNCF now argues that it is "covered" by existing French reparations or restitution programs, this is false. SNCF began claiming that existing French reparations or restitution programs should "cover" SNCF's victims only after it became interested in the multi-billion dollar U.S. high-speed rail market. In fact, in more than ten years of litigation in the United States and throughout extended litigation in French courts, SNCF never once suggested that existing French programs were applicable.

Because SNCF is a separate corporation under both French and U.S. law, it is inappropriate and misleading for SNCF to claim that it should be credited for any compensation that such French government programs might provide. Further, even if existing French government programs were relevant (which they are not), none specifically provides reparations for SNCF's horrific actions in the deportations. These French programs do not provide reparations to the overwhelming majority of the SNCF's victims, and SNCF has no connection with these programs.

To be clear, SNCF has never paid a cent in reparations to its victims and has never paid a cent into any existing French reparations programs. As Bet Tzedek, a leader in Holocaust reparations work, has made clear, "France has never provided restitution to the victims of the SNCF deportations."[2] SNCF's recent statements to the contrary are disingenuous and false. This legislation is necessary because there is absolutely no other recourse for these survivors and no other way for them to pursue justice; these survivors have simply fallen through the cracks.

It is not just SNCF's actions during the Holocaust that are so reprehensible, it is SNCF's continued refusal today, in 2011, to accept full responsibility that is most alarming. We are no longer simply talking about the sins of SNCF's fathers. Today's leaders of SNCF have made a conscious decision to spend millions of dollars to fight the survivors of the Holocaust, rather than to provide the reparations relief these victims so much deserve.

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[2] See http://holocaustrailvictims.org/wp-content/uploads/2010/10/Kamin-Letter-to-Kelly.pdf.

In 2004, the Second Circuit noted that "the evil actions of the French national railroad's former private masters in knowingly transporting thousands to death camps during World War II are not susceptible to legal redress in federal court today."[3] The Court was referring to the fact that the Foreign Sovereign Immunities Act deprived it from exercising jurisdiction over this suit. And that is why this legislation was introduced and why it must be passed.

This is simply not the type of situation foreign sovereign immunity was ever intended to cover, nor should it be. Although owned by France, SNCF is and was a separate, legally constituted corporation under both French and U.S. law. Further, SNCF has no immunity in France and had routinely been sued in U.S. courts before foreign sovereign immunity was determined by the Supreme Court – in an unrelated case – to be retroactive. SNCF earns millions of dollars from its commercial activities in the United States and is seeking to earn billions more in high-speed rail contracts in this country – funded through taxpayer dollars from some of the very same victims SNCF transported toward the death camps. SNCF cannot benefit from the commercial opportunities in this country while shielding itself from any accountability for its actions. This legislation would simply permit private individuals to have their day in U.S. court against a company ranked number 209 on this year's Fortune 500 list.

SNCF has even undercut its own assertion that it should be entitled to immunity – while SNCF argues in U.S. courts that it is an arm of the French government to avoid jurisdiction, in French Administrative court SNCF was actually successful in having a case dismissed based on the opposite argument, that it was a private entity. It is unconscionable that SNCF has successfully escaped all accountability by advancing these contrary arguments. SNCF cannot have it both ways.

The Holocaust Rail Justice Act does not assign blame, does not find parties culpable, and does not mandate the payment of any reparations. It will not change any existing restitution or reparations agreements. The legislation simply provides victims the right to be heard and the opportunity to hold SNCF accountable in a

[3] Abrams v. Societe Nationale des Chemins de Fer Francais, 389 F.3d 61, 64-65 (2d Cir. 2004).

court of law for the first time. We owe at least that to Mr. Bretholz, to Mr. Shearer, and to the countless other SNCF victims.

SNCF's role in the death and suffering of tens of thousands of innocent victims is an immeasurable failure of humanity. SNCF's refusal to fully acknowledge their culpability or take steps to make amends to their victims is a failure of morality. And SNCF's ability to evade legal accountability in U.S. courts is a failure of justice. By finally forcing SNCF out of the shadows, and by precluding SNCF from hiding behind foreign sovereign immunity, the Holocaust Rail Justice Act will finally provide some measure of justice.

While, with the help of Mr. Bretholz, Mr. Shearer, and the other survivors here today, we are upholding the solemn lesson of the Holocaust to never forget, we must go one step further and provide justice for SNCF's victims. I thank Chairman Ros-Lehtinen, Ranking Member Berman, and the rest of the Committee for holding this important hearing today and for bringing SNCF's victims one step closer to justice. I applaud the lawmakers who are joining me in this fight by supporting this critical legislation and I urge all of my colleagues to help us pass this legislation before it is too late for the survivors.

Chairman ROS-LEHTINEN. And now it's a true honor to present our second panel. Some of them had been discussed in previous statements in their opening remarks. We have Leo Bretholz, who was raised in Vienna, Austria where he lived until the Germans annexed Austria in 1938. He then fled to Luxembourg, and spent the next 7 years running from the Nazis. Mr. Bretholz escaped from the Nazis and Nazi sympathizers seven times. In 1947, Mr. Bretholz arrived in the United States and settled in Baltimore, where he married and raised a family. Mr. Bretholz has worked as a salesman for a textile firm and has opened a number of bookstores. He frequently gives lectures about the Holocaust and has written a book chronicling his experiences. We welcome you here to our committee. Thank you, Leo.

Our next witness will be Renee Firestone, she was born in Czechoslovakia and spent 13 months in prison in Auschwitz Birkenau. Following liberation in 1945, she completed her education in the arts an immigrated to Los Angeles with her husband and infant daughter where she made a career as a designer.

Ms. Firestone is the founding lecturer for the Simon Wiesenthal Center's educational outreach program, and has conducted workshops for the United States military and NASA, as well California teachers and law enforcement. She has been the subject of numerous documentaries, including The Last Days, which received the 1994 Academy Award for best feature length documentary.

Our last witness is my dear friend, David Schaecter, who was born in Slovakia and was the only member of his family to survive the Holocaust. He arrived in the United States in 1950, and has lived in south Florida since 1956. Mr. Schaecter is one of the founders of the Holocaust Memorial in Miami. He is a docent at the Memorial and frequently speaks to grade school, high school and University students in that capacity. He is president of the Holocaust Survivors Foundation, USA. I cannot tell you how honored we are to have all three of you making your presentations today. Without objection, your statements will be made part of the record, the full statements, and I kindly ask that you summarize your remarks to 5 minutes, and without objection, the witnesses' written statements will be inserted into the record.

Mr. Bretholz, we will begin with you, sir.

STATEMENT OF MR. LEO BRETHOLZ, HOLOCAUST SURVIVOR, AUTHOR, "LEAP INTO DARKNESS"

Mr. BRETHOLZ. Chairwoman Ros-Lehtinen, Ranking Member Berman, and members of the committee, my name is Leo Bretholz and I am a Holocaust survivor. After World War II, I immigrated to the United States and settled in Baltimore. I am 90 years of age and speak regularly about my experiences during the Holocaust.

Thank you for the opportunity to testify about the atrocities that I experienced at the hands of the French rail company, SNCF. I would also like to thank Congresswoman Maloney, Senator Schumer, the congressional delegation from my home State of Maryland, and many legislators who have made certain that SNCF's victims are not forgotten.

I am also deeply honored to be here with Donald Shearer. Mr. Shearer was U.S. Prisoner of war deported by SNCF to Buchen-

wald. He experienced the same horrors I did and more. Because of his courage and that of his fellow service members, many of whom did not return, I am here today.

November 6th marked the 69th anniversary of the night I jumped from an SNCF train bound for Auschwitz carrying 1,000 innocent victims, yet I still remember that haunting night as if it were yesterday. In October 1942, at the age of 21, I ended up near Paris in the internment camp of Drancy, the antechamber of Auschwitz. The train to Auschwitz was owned and operated by SNCF. They were paid by the Nazis per head and per kilometer to transport innocent victims across France and ultimately to the death camps. They collaborated willingly with the Nazis. Here I have a copy of an invoice which I would like to submit for the record.

Chairman ROS-LEHTINEN. Without objection, we will do our best to try to submit it for the record subject to the length limitation in the rules.

Mr. BRETHOLZ. This is the copy. I would like to submit it now, sent by SNCF seeking to be paid for the services they provided. SNCF pursued payment on this bill after the liberation of Paris, after the Nazis were gone. This was not coercion, this was business. SNCF deported 76,000 Jews on those trains, including over 11,000 children. They would count us off, 50 into each cattle car. In the car in front of me, a family was counted off and the 51st person was a young son. The boy began to scream and the father pleaded to allow them to stay together, but with cold precision, the boy was shoved into one car, his family into another. I believe that was the last time they saw each other.

For the entire journey, SNCF provided what was one piece of triangle cheese, one stale piece of bread and water. There was hardly room to stand or sit or squat in the cattle car. There was one bucket for us to relieve ourselves. Within that cattle car, people were sitting, and standing, and praying, and weeping, fighting, the whole gamut of human emotions.

My friend Manfred and I began to try to escape. Many in the cattle car, fearing the guards would punish everyone if we were found out, urged us not to even try. I also was beginning to doubt our plan when an elderly woman on crutches spoke out. She wielded that crutch like a weapon, pointed it at me and said, you must do it. If you get out, she said, maybe you can tell the story. Who else will tell the story? I can still see her face and hear her voice today.

Manfred and I set out to pry apart of the bars on the windows. First we tried belts, they slipped off. Then someone suggested we dip our sweaters into the human waste on the bottom of the car. We keep twisting the wet sweaters tighter and tighter like a tourniquet. The human waste dripped down our arms. We kept going for hours until finally there was just enough room for us to squeeze through.

It was night. I went first, and Manfred helped me climb out a tiny window and stand on the small ledge on the outside of the car, he followed me and we held on tight so as not to slip and fall beneath the train and waited for it to take a curve and slow down. Then we jumped to our freedom. Of the 1,000 people with me on the SNCF convoy number 42, only five survived the war.

If I had not jumped from that train, I wouldn't be here today. It is my duty to speak for those who did not survive, such as the old woman who emboldened us to escape, and for my family that did not survive. SNCF willingly collaborated with the Nazis, had the company resisted even to a small degree, or had they not imposed those horrific conditions, many lives would have been saved.

And in the almost 70 years since the end of the war, SNCF has paid no reparations nor been held accountable. The company didn't even apologize until last year when it was criticized for pursuing high speed rail in the United States without fully accounting for its role in the Holocaust. As it was during the Holocaust for SNCF, so it is now, it is all about money. The Holocaust Rail Justice Act is the last opportunity we will have to seek justice within our lifetimes. The survivors seek to have only our day in court for the first time. Seventy years is far too long to wait for a company to accept responsibility for the death and suffering it caused. I urge you, please, pass the Holocaust Rail Justice Act this Congress before it is too late.

Chairman ROS-LEHTINEN. Thank you so much, Mr. Bretholz, thank you for that powerful testimony.

[The prepared statement of Mr. Bretholz follows:]

Testimony of Leo Bretholz
Holocaust Survivor and SNCF Victim
On Behalf of the Coalition for Holocaust Rail Justice

Before the House Committee on Foreign Affairs

November 16, 2011

Chairman Ros-Lehtinen, Ranking Member Berman, and members of the Committee, my name is Leo Bretholz, and I am a Holocaust survivor. After World War II, I immigrated to the United States and settled in Baltimore where I still reside. I am 90 years old and retired, but I still speak regularly to school groups and organizations about my experiences during the Holocaust, the darkest chapter of our history.

I first would like to thank the Committee for providing me with the opportunity to be here today to testify about the atrocities that I experienced personally at the hands of the French rail company, SNCF. I would also like to thank Congresswoman Carolyn Maloney, Senator Schumer, the Congressional delegation from my home state of Maryland, and the many legislators who have made certain that I, and SNCF's other victims, are not forgotten. I am also deeply honored to be here with Donald Shearer. Mr. Shearer is not Jewish, but found himself as a U.S. Prisoner of War on an SNCF train bound for Buchenwald. He experienced the same horrors that I did, and more. It is because of the courage of Mr. Shearer and the members of our military, many of whom didn't return from the War, that I am sitting here today. I will never forget this courage and sacrifice, and for this I am grateful every day.

Ten days ago, November 6, 2011, marked the 69th anniversary of the night I jumped from an SNCF train bound for Auschwitz carrying 1,000 innocent victims, yet I still remember that haunting night as if it was yesterday.

I grew up in Vienna, Austria. In 1938, when Germany annexed Austria and my mother's worry that they would come for me became too great, she forced me to leave her and my sisters behind and flee into Luxembourg. Across a river, and under cover of night, I started to run. And I would continue to run for my life for the next seven years.

In October 1942, I ended up in the internment camp Drancy, outside of Paris. Drancy was the waiting room for trains bound for Auschwitz, later referred to as the antechamber of Auschwitz. I was there for only two weeks before the order came to gather our belongings for our deportation. The deportation train to Auschwitz was owned and operated by SNCF. They were paid by the Nazis per head and per kilometer to transport innocent victims across France and ultimately to deaths camps like Auschwitz and Buchenwald. They collaborated willingly with the Nazis. In the end, they transported 76,000 Jews, and thousands of others as well, with no regard for age, gender, or physical condition. Of the 76,000 Jews deported, only 2,000 would survive. Here I have, in my hand, a copy of an invoice sent by SNCF seeking to be paid for the services they provided. They pursued payment on this bill after the liberation of Paris, after the Nazis were gone. This was not coercion, this was business.

Famous Nazi hunter Serge Klarsfeld made a log of all the SNCF transports which contains the names of all 76,000 Jews on those trains, including over 11,000 children. The oldest person in the convoys was 94 and the youngest was not even a day old. The elderly were herded on like cattle and infants were thrown in the cars in crates, often

without their mothers. And in this book appears my name, Leo Bretholz, on SNCF convoy number 42, containing 1,000 people, fifty to a cattle car, twenty cars.

SNCF carried out the transports with precision, efficiency, and deception. We were marched into the station where they would count us off – one, two, three … forty-eight, forty-nine, fifty – into a cattle car. There was no flexibility and no compromise. In the car in front of me, a family counted off and the fifty-first person was the young son. The boy began to scream and the father pleaded to allow them to stay together, but with cold precision the boy was shoved into one car, his family into another. I believe that was the last time they saw each other.

Our belongings were taken from us in Drancy, and we were given a voucher. This is the deception – we were told to hold on to our vouchers, so we could get our belongings when we arrived where we were going. They knew we would not be getting our belongings back but created the deception of resettlement. We knew that no one returned from where we were headed.

For the entire trip of many days' duration we were provided only one piece of triangle cheese, one stale piece of bread, and no water. There was hardly room to stand or sit or squat in the cattle car. And in that car there was one bucket for us to relieve ourselves in. I'll leave it to your imagination as to how long that bucket actually served its purpose. Within that cattle car people were sitting and standing and praying and weeping and fighting – the whole gamut of human emotions. And this was the situation in the cattle cars where buckets overflowed with human waste.

We sat the entire first night in that putrid cattle car. Finally, in the morning the train began to move, and we were provided with some relief as fresh air finally began to

flow through the two barred windows at either end of the car. My friend Manfred said that if they could do this to us in France, the land of Victor Hugo and Voltaire, then we definitely didn't want to test it where they were sending us. So, we immediately began to try to figure out a way to escape.

We figured that if we could just pry the bars on the windows apart a couple inches more, we could slip through. Many in the cattle car, fearing the guards would punish everyone if we were found out, urged us not even to try. I also was beginning to doubt our plan when an elderly woman on crutches spoke out. She wielded that crutch like a weapon and pointed it at me and said "You must do it." "If you get out," she said, "maybe you can tell the story. Who else will tell the story?" I can still see her face and hear her voice today.

So Manfred and I set out to pry apart the bars on the windows. First, we tried belts, but they slipped off. We needed rope. Then someone suggested, take your sweaters off and dip them into that human waste on the bottom of the car, so we did and then we could twist the sweaters – like when you wring a wet towel, it gets tighter and tighter. We kept twisting and twisting like a tourniquet. The human waste from the sweaters dripped down on our arms and our rolled up shirt sleeves. We kept going for hours, alternating pulling on the bars.

We were about to give up when we noticed tiny red flakes starting to appear on our arms. It was the rust from the bars of the cattle car window. We were moving the bars. We kept alternating pulling the top bar up and the bottom bar down until finally there was enough room for us just to squeeze through.

It was night and time for us to attempt our escape. I went first and Manfred helped me climb out the tiny window and stand on the small ledge on the outside of the car. He followed me and I made room for him as he came out, moving around towards the coupling. We held on tight, so as not to slip and fall beneath the train, and waited for the train to take a curve and slow down, which would also provide more protection from the spotlights the guards used to make sure no one escaped. We finally felt the train slow and head into a curve, and then Manfred and I jumped to our freedom. That night, Manfred and I were sheltered by a Righteous Gentile, a priest who fed us and hid us.

Of the 1,000 people with me on SNCF convoy number 42, only five survived the War. If I had not jumped from that train, I am certain I wouldn't be here today before you. As a survivor, it is my duty and responsibility to speak out on behalf of those who did not survive, such as the old woman on the train who pushed us to escape. And for my family that did not survive. Today I am here before you, seeking justice for those who were not as fortunate.

SNCF willingly collaborated with the Nazis. Had the company resisted, even to a small degree, the number of those killed from France would have been greatly reduced. Had SNCF not imposed those horrific conditions, many lives could have been saved. In the almost 70 years since the end of the War, SNCF has paid no reparations nor been held accountable. The company did not even publicly apologize for its role until last year, when SNCF was criticized for pursuing high-speed rail in the United States without fully accounting for its role in the Holocaust. As it was during the Holocaust for SNCF, so it is now – all about money.

SNCF has been using every available legal and PR tactic to suppress the truth and avoid its responsibility to the victims of the deportations. For SNCF, this is an inexpensive price to pay if it means it can continue to escape accountability. While SNCF works to whitewash its image, and while SNCF pursues its public relations spin campaign, my fellow survivors and I will continue to tell the story and to fight for justice. The Holocaust Rail Justice Act is the last opportunity many of us will have to see justice within our lifetimes. The survivors seek only to have an opportunity to have our day in court for the first time, to publicly hold SNCF accountable for its actions, and to finally allow justice to be done.

As my 91st birthday approaches in the coming year, I can only hope that the many dedicated lawmakers who have worked so diligently to move this legislation forward will redouble their efforts to pass this legislation during this Congress. Seventy years is far too long to wait for a company to accept responsibility for the death and suffering they caused.

Sitting here before you today I am as proud as I was the day I first set foot in this great country. I have the utmost faith in our country, in our legislators, and in you. I am greatly encouraged by the actions of this Committee, but I urge you, please pass the Holocaust Rail Justice Act this Congress – before it is too late.

Thank you very much for inviting me to share my story with you today. I would be happy to answer any questions you may have.

Chairman ROS-LEHTINEN. Mrs. Firestone is now recognized for 5 minutes.

STATEMENT OF MS. RENEE FIRESTONE, HOLOCAUST SURVIVOR

Ms. FIRESTONE. Dear Madam Chairwoman and members of the committee, thank you for inviting me to present an additional voice in support of H.R. 890. I came before you as an individual, but I speak for all survivors whose voice will never be heard.

My name is Renee Firestone, I am a Holocaust survivor and a member of the Holocaust Survivors Foundation USA. I would like to bring to the attention of the committee a serious issue still plaguing the survivors. For years, we have been trying in vain to collect on insurance policies written to our families prior to World War II, which remain to date largely unpaid. When we tried to make our claims to the insurance companies they had the audacity to tell us we need birth information or they would ask for death certificates of the people to whom the policies were issued. Were they really insane?

It was bad enough that the Nazis stripped us of our families, of our rights, of our possessions, our dignity, down to the last hair on our heads. There was no one in the gas chambers where they murdered my mother, or at the mass graves handing out death certificates proving their crimes.

If this was not bad enough, we survivors, now American citizens, are being deprived by our own Government of our constitutional right to seek redress from court and claim what is rightfully ours. You can never know, Madam Chairman, just how painful and retraumatized that is to the survivors. Although ordered to do so by the court, insurance companies, such as Allianz SE and Assicurazioni Generali who are the sole depositories of the proof of these policies, never released the full list of the insured.

In my case, I was told that my father's name was not found. However, my first cousin, Fred Jackson Jakobovitz, was the first survivor who sued and collected from Generali, because he was lucky enough to find some papers in his house on his return from the death camp.

Fred's mother was my aunt, my father's sister. We lived in the same town as them, where my father built our beautiful villa, which is still there, and had a textile and tailoring business in a very fashionable facade in the main center of our town. My father had a very close relationship with his sister. There is no way that my aunt has insurance and my father did not. My father was the advisor to the whole family. Why would he advise others to get the insurance and not get the same for himself and for his family?

All we are asking for is to have our rights restored through H.R. 890, to seek aid of our court system, to enforce our claims under these insurance policies. We are not beggars. Our families paid for these policies with the sweat of their brows, and now we only want what is rightfully ours.

The second shameful, embarrassing and painful issue is that of the Conference on Jewish Material Claims Against Germany Incorporated, better known as the Claims Conference, which is comprised of 23 Jewish institutions, only two of which are Holocaust

survivor-related. The Claims Conference stands in firm opposition to the will of the survivors and the passage of H.R. 890.

How obscene and repugnant that our own people would deny the right of the survivors. Where were these same organizations and individuals when our parents, our brothers, sisters and friends were being murdered? Did they come to our rescue? And who gave them the right in the first place to negotiate with Germany in our behalf? Did anybody ask permission, or even ask if we want to let them do this?

Germany give them billions and they give us a pittance, by holding the rest for supposed future claims, while really they are waiting for us to die so that they can distribute the remainder of funds among themselves, who no one will be left to account to.

The truth is that when the last survivor is gone and money is remaining, it belongs to our children. It is their heritage. Again, I am here today to ask this honorable committee to support House Resolution 890 and ensure its swift implementation while the survivors are still alive. Madam Chairwoman, time is of the essence. I order to serve justice and to preserve with dignity of the remaining survivors in their final hours. I thank you again for allowing me to speak.

I would just like to make another remark. I see that Mr. Berman is not here anymore, but he has been trying—we have been trying to get him to tell us his position on this bill. From his remarks today, it sounds like he supports H.R. 890, which I guess he changed his mind because I recently asked him in a letter, which he never acknowledged or replied.

Chairman ROS-LEHTINEN. Thank you so much for your testimony, Ms. Firestone. Thank you.

[The prepared statement of Ms. Firestone follows:]

STATEMENT OF RENEE FIRESTONE

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FOREIGN AFFAIRS

Righting the Enduring Wrongs of the Holocaust: Insurance Accountability and Rail Justice

November 16, 2011

My name is Renee Firestone. I was born in Uzhorod, Czechoslovakia. At the tender age of 20, I was imprisoned for 13 months in the infamous death camp known as Auschwitz/Birkenau during the last years of World War II. My entire family was murdered, except for my father Morris, who died of tuberculosis shortly after liberation, and my brother Frank, who was a partisan.

Following liberation in 1945, I was reunited with my brother and my soon-to-be husband Bernard. I settled in Prague, Czechoslovakia, where I was able to complete my education in the Prague School of Commercial Arts. In 1948, I emigrated to the United States with Bernard and my infant daughter, Klara. I settled in Los Angeles, where I pursued my love of fashion, and was fortunate to work hard and enjoy a fulfilling career as a fashion designer.

Of course, the devastating losses I experienced are with me every single day of my life. Because of what we experienced, I have devoted thousands and thousands of hours of my personal time to educating adults and students of all ages and all walks of life, throughout the U.S. and Europe, about my experiences as a Holocaust survivor. I have spoken at workshops and conferences, and have been interviewed in the media countless times regarding the Holocaust and its contemporary implications.

Because of the trauma I experienced, in the 1990s when everyone started talking about restitution of looted assets, I was naturally anxious to locate any remnant possible that would allow me to have a record of what my parents had been able to create and build before the onslaught of the Nazis. Unfortunately, the promises fell criminally short of what I and other survivors hoped for, and deserved.

My father was a very responsible man, with a business and real property in order to provide our family with an upper middle class standard of living in pre-war Czechoslovakia (annexed by Hungary in 1938). I am certain he had insurance. But when I filed my claim, after all the fanfare, the Commission (ICHEIC) informed me that his name was not on any of the lists. This is difficult for me to accept, but since it is well-known that the lists produced by Generali and the other insurance companies were incomplete, I wonder why the U.S. government has neither demanded a full accounting, nor allowed the states to require it.

My experience is similar to that of my late friend Si Frumkin, a survivor and giant in the history of human rights. Si was speaking for all survivors when he exposed the hypocrisy and disrespect that Congress, arrogant Jewish groups, and the Executive Branch of our government has shown in allowing the insurers to inherit the funds that should have been paid to victims' families decades ago. He wrote:

> I am angry. Angry with the SOBs in Germany. With our own SOBs in Washington. With the SOBs running the Jewish organizations that presume to speak and negotiate for me and others like me. With the criminals who run European insurance companies that stole hundreds of millions of dollars from people who died prematurely in gas chambers, and then hired stooges to make sure it's not given back.
>
> I am a law-abiding American citizen. I pay my taxes and my traffic tickets. I vote. I have served on a jury. I fly my flag on national holidays. In return, I expect my government to fulfill its constitutional obligations to me. One of them is my right to a trial by a jury of my peers. This has been denied me because, apparently, my government prefers to defend and uphold the rights of giant German corporations.
>
> * * *
>
> So far, Generali has been able to keep the money it stole. It, too, has the cooperation of the U.S. government and its judiciary in acknowledging ICHEIC—created, financed, and controlled by the insurance SOBs—as the only legitimate body to rule, decide, and control Holocaust-era insurance claims.
>
> Still, I want to see those lists. I am sure that my father's name appears on one of them. I am also sure that tens of thousands of other Jews whose parents or grandparents perished will find the names of their relatives.
>
> Hitler took away my father's name and gave him a number. The insurance companies took it away again by pretending that he never existed. I want them to acknowledge that he lived, that he died, and that the way he died matters to his son and to the grandchildren he never knew.

I am also including Si's article as an exhibit to my full testimony.

Here are some facts that this Committee and Congress should know about when they come to evaluate the insurance companies' and anyone else's claim that Holocaust survivors, and the children and grandchildren of Holocaust victims, should be satisfied with ICHEIC, rather than have our rights enforced.

ICHEIC was chartered under Swiss law and headquartered in London to avoid American public record laws and court subpoenas. It was funded by the insurance

companies themselves, its meetings were conducted in secret, and minutes were not even published of the secret meetings.

Almost all survivors were frustrated and insulted by their ICHEIC experiences. This was conveyed to Congress in a series of hearings between 2000 and 2003. The survivors regaled experiences such as multi-year waits for responses, denials without any explanation, demands for information that no claimant could be expected to know (such as the birthdates or death certificates of relatives who perished in the Holocaust), and denials of claims even where policies were proven to have existed (Generali's "Negative Evidence Rule").

In its first five years, **ICHEIC spent more money on administrative expenses than it paid in claims**. Chairman Lawrence Eagleburger told a Congressional Committee that ICHEIC's internal processes were "none of its [Congress's] business."

In 2002, Congressman Henry Waxman wrote: "Holocaust survivors have been waiting decades to reclaim Holocaust-era insurance policies. Unfortunately, the . . . majority of the companies that have agreed to the ICHEIC process have not lived up to their obligation to disclose policyholder lists. The ICHEIC member companies also appear to have wrongfully rejected, undervalued or left unanswered the claims of many survivors."

In 2003, Congress even passed a law -- the Foreign Affairs Authorization Act -- that required the State Department to collect information on ICHEIC companies' claims, practices, and results. However, **ICHEIC refused to comply with this requirement** as the State Department reported in its annual reports each year.

When ICHEIC ended in 2007, it had paid fewer than 14,000 of the 800,000 life/annuity/endowment polices estimated to be owned by European Jews in 1938. The total paid on policies was $250 million, less than three percent (3%) of the $18 billion in outstanding values at the time, according to the estimate of economist Zabludoff, using what he regards as very conservative numbers. Today the unpaid amount of Holocaust era insurance policies exceeds $20 billion.

ICHEIC also issued 34,000 checks for $1000 each which it termed "humanitarian" in nature, but which survivors considered insulting rejections. Yet ICHEIC and its supporters today take credit for having "paid 48,000 claims," an obvious attempt to inflate its results and give the appearance of success to a process that badly failed.

You can also imagine our shock when, after ICHEIC ended, its Chief Executive Officer, Mara Rudman, became a paid lobbyist for the American Insurance Association – the umbrella U.S. group lobbying against the original version of HR 890 that was introduced by the late Congressman Tom Lantos in 2007. Mr. Lantos, the only Holocaust survivor to ever serve in Congress, was a dear friend of mine. His widow,

Annette Lantos, as well as his daughter Katrina, have remained committed advocates for the rights of Holocaust survivors.

As a Californian, I am also proud to say that our Insurance Commissioners, **especially former Commissioner, and now Congressman, John Garamendi**, were among the very few who stood toe to toe with the insurance companies and even the Jewish groups on ICHEIC who were so ready to cave into the insurance companies and short-change the survivors. Mr. Garamendi fought passionately for our interests.

Unfortunately, despite Mr. Garamendi's tireless efforts to make ICHEIC work to benefit claimants, the insurance companies won big by paying so few policies, by paying such small settlements, and by convincing the Supreme Court that the states did not have the right to allow us Holocaust survivors to hold the insurers accountable for their actions. This loss was devastating, and shocked survivors throughout the State and the country.

Not only are we distraught over the way the courts have disrespected Holocaust survivors, but the records that the Holocaust Survivors Foundation USA has found under the Freedom of Information Act show that the State and Justice Departments acted terribly in their court papers and Congressional testimony. We cannot understand how our own government became the adversary of Holocaust survivors in the 21st Century.

Despite the claim that the United States and Europe have been "successful in Holocaust restitution," that is far from the truth. Specific property restitution for individuals has been largely unfulfilled. Only a fraction of the properties actually looted during the Holocaust were "recovered" or restituted in any general sense, and of those funds, only a small portion recovered and deemed "heirless" or for "humanitarian purposes" has trickled down to meet the pressing social service needs of the remaining Holocaust survivors.

Tragically, tens of thousands of survivors, including many thousands in the US, are facing dire problems. They cannot meet basic home and health care needs, or pay for medicines, dentures, eyeglasses, hearing aids, or walkers, or receive transportation to the doctor. This may shock most leaders and public officials, but it has been documented with increasing frequency in the Jewish and mainstream media.

In the United States, half of all survivors – more than 50,000 – either live below the poverty line (25%) or have incomes so low they are considered "poor" given the cost of living in their communities. In my hometown of Los Angeles, 39% of all Holocaust survivors live below the poverty line. This is a moral and human tragedy that should never have been accepted, but it was, and it continues today. Yet we survivors, and our children, are dealing with these tragedies day in and day out, and the governmental and philanthropic establishments have been sadly protective of status quo organizations and corporations, rather than protective of survivors' rights, interests, and needs.

How did this state of affairs come to pass? The role of the Conference on Jewish Material Claims Against Germany, Inc. ("Claims Conference") in the restitution failures is a common thread that cannot be ignored. One of the reasons victims have done so badly in the property and insurance negotiations is that the organizations primarily doing the negotiating (the Claims Conference, the World Jewish Congress, the World Jewish Restitution Organization—WJRO) are less interested in individual claims being honored than in "global settlements" which result in funds *they* can control. Even Stuart Eizenstat, no champion of survivors' rights, recognized this in his book *Imperfect Justice*.

As reported in the media and testified in Congressional committees, the Claims Conference has drawn the ire of Holocaust survivors throughout the world for its lack of survivor representation in policy making, for policies that cause grave harm to thousands of impoverished survivors, for its lack of transparency in the handling of restituted assets, and worst of all, for its use of restitution funds for pet projects including grants to board members and cronies of organization officials, and other serious concerns.

The Claims Conference is a creation of the early 1950's. It reflects a political decision made by leaders of the Jewish community and the German government, in the aftermath of the Holocaust, to have a mechanism to channel German reparations to Holocaust survivors. For over 40 years, there were no official survivor organizations on the Claims Conference board of directors. In the 1990's two "survivor groups" were added to the board, but today only 2 of the 24 voting board members are survivor organizations. So, the Claims Conference's board members and officers were neither elected by survivors, nor does it morally represent the Nazi victims in whose names the organization obtains its funds.

After German reunification in the early 90s, Germany passed a law making the Claims Conference the legal heir ("successor organization") to East German properties not claimed by direct heirs within the outrageously short time limit set by the Germans. However, the Conference did not publish information about the names of the Jewish owners of these properties, and then claimed them as their own! To make matters worse, the courts have supported the Claims Conference's claim to ownership of such properties – even against the legitimate heirs of Holocaust victims who had no idea about the two year deadline – including many who understandably had no idea about family assets before the devastation of the Holocaust.

Moreover, the Claims Conference has never fully accounted for nor disclosed information about properties it obtained after German reunification that were owned by Jews before World War II. Nor has there ever been an audit of the organization's asset base by an independent **outside** authority that is accountable to the public or the government.

The shell game taking place was that the Claims Conference ousted thousands of German property heirs of their rights, and then turned around and used the properties for various "research, documentation, and education" projects which were only authorized

for the Claims Conference after it amended its by-laws in 1994 – not coincidentally after becoming the "owner" of the "heirless" Jewish German properties.

Yet, without a mandate to use all of the funds at its disposal for the needs of survivors, it has spent far in excess of $250 million in the last 15 years on projects unrelated to survivors and their welfare. Many of these "research, documentation, and education grants are made to organizations that sit on the Claims Conference Board of Directors. Survivors question the legitimacy of these grants, and have for over a decade, yet we hear silence from most public officials and private community leaders.

Let me repeat – despite tens of thousands of impoverished Holocaust survivors suffering from inadequate nutrition, housing, medical care, home care, and other vital services, the Claims Conference has seen fit to squander $250 million for non-survivor "research, education and documentation" projects, including many insider grants – a quarter of a billion dollars worth of guaranteed Holocaust survivor suffering intentionally imposed by the Claims Conference. How can Congress and other leaders be silent in the face of such cruelty?

There has never been a full, public accounting of the actual value of the assets, including real estate, art, and other properties in the Claims Conference's inventory of assets. This lack of information is not only inconsistent with all modern notions of necessary transparency of organizations dealing with the public trust, but it makes a mockery of the constant refrain of the past decade -- that it "does not have enough funds" to meet the current needs of survivors around the world.

Among the many terrible, painful, and disgraceful indignities we have been made to suffer occurred in 2002 when Israel Singer, then-President of the Claims Conference (and simultaneously Secretary General of the World Jewish Congress) wrote an article in a prominent Jewish journal giving elaborate details about all of the education and building projects that the Claims Conference was going to create "**with Holocaust restitution funds after the survivors are gone."** This column outraged survivors throughout the country, as Holocaust Survivors Foundation USA President David Schaecter wrote in response:

> How can plans for a "Jewish People's Fund" go forward while survivors languish on waiting lists for the health care they deserve, especially after all they have endured? How dare these institutions presume to spend "restituted" funds for their favored "philanthropic" projects into the next century, using money claimed from the most terrorized victims of the past century? Who will take responsibility for ensuring that the individuals around whom much of our modern Jewish existence is centered - Holocaust victims - are not abandoned a second time?

Despite an outpouring of survivor anger, and limited media coverage of this startling admission by Rabbi Singer that what the survivors had feared all along was really being planned, very little changed. Pressure from some communities has caused the Claims

Conference to increase allocations here, and there, as if they were applying grease to a squeaky wheel. But how can survivors' rights be toyed with so shamelessly?

You might recognize Mr. Singer's name. He was dismissed in early 2007 from his position as Secretary General of the World Jewish Congress for a variety of financial improprieties, including taking over a million dollars from one of the Claims Conference organizations (the Jewish Agency) and placing it in a secret Swiss Bank account. Yet for a long period, he retained his position as President of the Claims Conference, while the Chairman, Julius Berman (who remains Chairman today), saw "no reason to take action" and remove him because Rabbi Singer allegedly "has never been involved in the financial decisions of the Claims Conference." Ultimately, public pressure caused the Claims Conference to dismiss Rabbi Singer.

However, for purposes of HR 890, it is important for this Committee to understand that during the entire ICHEIC period, when it opened in 1998 until it closed in March 2007, Israel Singer was the "leading" voice of the "Jewish" side. As noted, this was a body where the insurance companies were fully represented, **but not claimants**. ICHEIC documents show that Rabbi Singer himself represented three different "Jewish groups" on ICHEIC – the Claims Conference, the World Jewish Congress, and the World Jewish Restitution Organization (WJRO). So, when these groups stand before Congress to oppose my constitutional right as an American citizen to go to court against these insurers, based on ICHEIC, they are really defending outcomes engineered or approved by an insular group of non-elected and non-representative big-shots with no legal or moral right to speak or act for us, the victims, or our families.

The Claims Conference has continued to act as if it owns these survivor funds, and the sincere outcry of decent people has been overwhelmed by the institutional power of the Claims Conference's funding practices. These practices include silencing opposition by funding a myriad of non-survivor programs around the world, and by creating the fear in communities that it might reduce the minimal funding it provides to Jewish family service organizations for survivors' needs.

In the last eighteen (18) months, the evidence has grown worse. You undoubtedly read about the recent indictment of Claims Conference employees who orchestrated an approximately $50 million fraud that went undetected for 16 years, while we and others have been clamoring for serious accountability and transparency from the Claims Conference. Earlier this year, the Board of Deputies of British Jews filed a report squarely acknowledging and criticizing one of the Claims Conference's long-hidden scandals – that its multi-billion empire was accumulated by claiming and seizing Holocaust survivors' and heirs' Eastern German properties under German law and concealing the information from the rightful heirs in order to create a powerful "philanthropic" organization with victims' money. These stories have been widely reported in most of the daily newspapers around the United States and worldwide, and in the Jewish and Israeli press as well.

We notice of late that the Claims Conference has been trying to polish its image with reports of greater funding from Germany to assist Holocaust survivors with home care. Their public relations campaign is understandable given the scandals that have defined the operation for the past decade, up to and including the horrible Federal indictments in New York City in November, or the news that the Claims Conference "donated" $50,000 for a Kennedy Center concert, while so many Holocaust survivors were suffering without food, medicine, home care, dental care, eyeglasses, and other basic needs. When you compare the $50,000 concert expenditure with the $2,500 annual limit imposed by the Claims Conference for an individual Holocaust survivor's emergency needs, perhaps you can begin to appreciate the level of our anger and the depths of our pain.

For over a decade, the Claims Conference buried its head in the sand and defended its indefensible business practices while inflicting tremendous damage to tens of thousands of survivors who died in misery without the funds they needed for basic health and dignity. All the while, the Claims Conference was working hard to deny individual Holocaust survivors' basic restitution rights in order to create pools of money it could control – pools of other people's money, obtained at a steep, steep discount in morality and in monetary terms at Holocaust survivors' expense.

So, not surprisingly, the Claims Conference is opposing HR 890, opposing Holocaust survivors' basic Constitutional rights as American citizens. They argue that they know better than we do what is best for us. They argue that we should be satisfied with ICHEIC, or other miniscule, extra-legal, unaccountable "commitments" by these same avaricious insurers who robbed our families and collaborated with our loved ones' killers. Sadly, they are joined by certain non-survivor Jewish groups in these arguments, i.e., the Anti-Defamation League, the American Jewish Committee, B'nai B'rith, and the World Jewish Congress, groups who are either board members or grant recipients of the Claims Conference (or both).

These groups should be ashamed of themselves for arrogantly interfering with our rights, which has nothing to do with them in the first place. It is disgraceful and a moral outrage! Moreover, with the ADL having taken money from Generali and the AJC taking money today from Allianz, their conflicts of interest are glaringly evident.

These officious groups use two false arguments which Congress must reject. First, they argue that the United States government promised "legal immunity" for insurance companies, but we have known for years this isn't true, and documents produced by the Justice Department under the Freedom of Information Act recently admit it in so many words, i.e., that previous agreements "do not provide an independent basis" to dismiss individual lawsuits or provide immunity to insurance companies.

Second, they argue that Germany will cut benefits for survivors in need if legislation like HR 890 passes. This, again, is scandalous. First, the German ambassador denied any such linkage. More importantly, how can any member of Congress abide an argument that says Holocaust survivors should be stripped of their

legal rights to hold insurance companies accountable for private contracts in order to induce Germany to provide adequate financial assistance for elderly, indigent Holocaust survivors – whose lives Germany destroyed in the first place?

The Claims Conference's stance vis-à-vis Germany and global corporations, while opposing Holocaust survivors' legal right to hold these insurance companies doing business in the United States legally accountable in U.S. courts, has resulted in the Claims Conference's unjust enrichment of billions of dollars that rightfully belongs to the survivors and their heirs, and forced us survivors -- American citizens, including many U.S. veterans and combat veterans – into the unenviable position of second class citizens under U.S. law. Tens of thousands of our brothers and sisters have died in poverty while waiting in vain for these rights to be confirmed. This mind-set should not be acceptable to the U.S. Congress. It is certainly not acceptable to the Holocaust survivor community.

We Holocaust survivors universally support the legislation by Congresswoman Ros-Lehtinen of Florida and so many other distinguished members of Congress including Congressmen Brad Sherman, Adam Schiff, John Garamendi, Bob Fillner, Janice Hahn, Laura Richardson, and Karen Bass. I am also very proud to state that both of California's Senators, Diane Feinstein and Barbara Boxer, are co-sponsors of the Senate counterpart, S. 466. They are listening to their constituents, to the survivors and their families, and this is what we believe the U.S. Congress should be about – doing what is just and right for the people. In our case, we have earned the right to speak and act for ourselves, when it comes to the legacies and properties of our families who lost everything in the Holocaust. Please do not allow our own Government to disrespect us any longer. Please, pass HR 890 without any further delay.

Madame Chairman, thank you for allowing me to testify, and to include the attached exhibits in the Hearing Record.

Chairman ROS-LEHTINEN. Mr. Schaecter is recognized at this time for 5 minutes.

STATEMENT OF MR. DAVID SCHAECTER, HOLOCAUST SURVIVOR, PRESIDENT, HOLOCAUST SURVIVORS FOUNDATION

Mr. SCHAECTER. Thank you, thank you, Madam Chairman.

Chairman ROS-LEHTINEN. Put the microphone a little bit closer to you.

Mr. SCHAECTER. I also would like to thank the committee, the members of the committee. My name is David Schaecter, and I am the President of the Holocaust Survivors Foundation USA. It is a national coalition of survivor leaders and survivor groups. Thank you for providing Holocaust survivors the opportunity to address this Congress. It is an unbelievably great, great honor, Madam Chair.

Today I am addressing you not only on behalf of the Foundation, but for Herbert Karliner, my dear friend and fellow survivor who was scheduled to testify here before you, he had a harsh fall and suffered several injuries a few days ago. We believe he will be okay, but at the age of 85, he would not take any chances to undergo the travel and pressure of speaking before the Congress. So it falls on me, his close friend and as president of the Foundation to read to you his spoken testimony to this committee. I will conclude with a couple of personal remarks.

This is Herbert Karliner's story. Herbert Karliner now lives in Miami Beach, Florida, but he remembers Kristallnacht as if it were yesterday. He was a small child at the time, when he woke up in the morning to the news that his father's and other Jewish-owned businesses were burned to the ground. Within hours, the Gestapo arrived at his house and took his father, Joseph Karliner to Buchenwald. Though his father returned, his family was fated to sail on the SS St. Louis that was turned away from the shores of Miami Beach in 1939.

After the St. Louis returned to Europe, Herbie's father, mother, and two sisters were doomed to death at the hands of the Nazis. Only Herbert and his brother Walter survived.

Before Joseph Karliner died, he had told his sons about the life insurance policy. He bought those policies from Allianz. In case something happened you need to know. When Herbert and Walter approached Allianz after World War II, the company said his policies had been paid out to an unknown person. When Herb Karliner applied to ICHEIC in 2000, Allianz said the policy had been paid to the beneficiary, meaning Herbert's father. This closed the case under the ICHEIC rules.

Years later, Mr. Karliner managed to obtain the very "repurchase" document. The date on that document was November 9, 1938, Kristallnacht. If either Allianz or ICHEIC had given him the document as they were required to do under the ICHEIC rules, Herb would have informed them that his father surely did not stop at the Allianz office on his way to Buchenwald to cash in his insurance policies that day.

Herbert moved to the United States in 1949. He served in the United States Army in Korea. How ironic, the country that rejected his whole family in 1939 at such a great cost asked him to serve

in 1951, and he was honored to do so. Yet as his statement for the record makes clear, we cannot comprehend how the American courts and the President, Congress have decided that Herb Karliner and all of us survivors, unlike all other Americans, cannot sue Allianz in court to recover what we—what they owe for his father's policy. We are second-class citizens under the American legal system. How can you, Members of Congress, stand by and accept this historical and moral injustice?

Madam Chair, the next couple of comments are mine. I would like to add a few words of my own to Herbert's powerful story. For over 45 years I have been active in the Jewish community from the federations to AIPAC, to other groups you can imagine. I have lead 36 missions to Israel and to the death camps of Europe. I was one of seven local leaders who came together to privately fund and build the magnificent Holocaust Memorial on Miami beach.

Madam Chair, you have been there so many times with us, which is visited by tens of thousands of school children and adult tourists alike. I would like the chair to know that in 2010, over 760,000 people walked through the Memorial. But the icing on the cake for me is the fact that over 300,000 were children. And to be very, very blunt, the children are my hope. The children are the hope of the survivors, those of us who are still around. We are so privileged to reach them, to speak with them, to make them aware about the Holocaust. Children are like sponges, you show him you, you speak to them, you make them aware and they remember and they are my hope and every survivor's hope that the memory of the Holocaust is not swept under a rug.

Just one last statement, ma'am, you know, we talk about 6 million people perished in the Holocaust, and we say it so quickly and its—say it in passing. I would like for this committee and you wonderful Congresslady of mine, I would like you to understand and reflect when you have a moment that over the 6 million people that were slaughtered, 1.5 million were children, from the age of infancy to the age of 12. And I very often reflect and I keep reflecting as to what would have happened had these 1.5 million children if given a chance to live.

Chairman ROS-LEHTINEN. Thank you.

Mr. SCHAECTER. And I further reflect about the fact what this 1.5 million children could have accomplished in their lifetime, what they could have contributed to humanity, to the sciences, to music had they been given a chance to live.

Chairman ROS-LEHTINEN. Thank you.

Mr. SCHAECTER. And I would like to leave you with that thought.

[The prepared statement of Mr. Schaecter follows:]

STATEMENT OF DAVID SCHAECTER

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FOREIGN AFFAIRS

Righting the Enduring Wrongs of the Holocaust: Insurance Accountability and Rail Justice

November 16, 2011

Madame Chairman, and Members of the Committee, my name is David Schaecter. I am the President of the Holocaust Survivors Foundation USA, a national coalition of survivor leaders and survivor groups. Thank you for providing Holocaust survivors the opportunity to address this Congress. It is a great honor.

Today I am addressing you not only on behalf of the Foundation, but for Herbert Karliner, a dear friend and fellow survivor who was scheduled to testify. He had a harsh fall and suffered several injuries a few days ago. We believe he will be OK, but at the age of 85, he could not take any chances to undergo the travel and pressure of speaking before Congress. So, it falls on me as a close friend of Herbie, and as President of the Foundation, to read his spoken testimony to this Committee. I will conclude with some personal remarks.

Herbie Karliner Story

Herbie Karliner now lives in Miami, Beach, Florida. But he remembers Kristallnacht as if it were yesterday. He was a small child that day when he awoke to the news that his father's store and most other Jewish-owned businesses were set on fire. Within hours, the Gestapo arrived and took his father, Joseph Karliner, to Buchenwald. Though his father returned, his family was fated to sail on the SS St. Louis that was turned away from the shores of Miami Beach in 1939. After the St. Louis returned Europe, Herbie's father, mother, and two sisters were doomed to death at the hands of the Nazis. Only Herbie and his brother Walter survived.

Before he died, Joseph Karliner had told his sons about a life insurance policy that he bought from Allianz "in case something happened." When Herb and Walter approached Allianz after WWII, the company said his policy had been paid out to an "unknown person." When Herb Karliner applied to ICHEIC in 2000, Allianz said the policy had been paid to the beneficiary. This closed the case under ICHEIC rules.

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Herbie moved to the United States in 1949, and served in the U.S. Army in the Korean War. How ironic – the country that rejected his whole family in 1939 at such a great cost asked him to serve in 1951, and he was honored to do so. Yet, as his statement for the record makes clear, we cannot comprehend how the American courts, and the President and Congress, have decided that Herbie Karliner, and all of us survivors, unlike all other Americans, cannot sue Allianz in court to recover what they owe for his father's policies. We are second class citizens under the American legal system. How can any member of Congress stand by and accept this historical and moral injustice?

David Schaecter Comments

I would like to add a few words of my own to Herb Karliner's powerful story. For over 45 years, I have been active in the Jewish community, from the Jewish Federation, to AIPAC, and all the other groups you can imagine. I led dozens of missions to Israel and the death camps of Europe. I was one of seven local leaders who came together to privately fund and build a magnificent Holocaust Memorial on Miami Beach, which is visited by tens of thousands of school children and adult tourists alike. Like hundreds of other survivors in South Florida, including Herbie, and thousands around the United States, like Renee Firestone, I have also spent countless hours speaking to students in grade schools and colleges and community events to ensure that no one forgets what befell our people in the Holocaust.

No one can ever repay us for the murder and destruction of the Holocaust. However, the Nazis and their collaborators also perpetrated a massive theft of the European Jewish people's property and assets. They even used some of the looted assets forcefully taken from our people to finance the war effort, and transport us to the hells of Auschwitz-Birkenau. Yet, companies that profited from the Holocaust such as Allianz, Generali, and the others have never been held accountable. We have been robbed of our family histories and legacies, and the world needs to know these companies are inflated and tainted by Holocaust profits. As economist Sidney Zabludoff has stated to Congress, these unpaid Holocaust insurance debts exceed $20 billion in 2011 dollars.

Today we face the challenge of all of us survivors getting older. Many are poor and frail. Even though the post-war German government promised to care for all Holocaust survivors, the programs have never been adequate to provide for our destitute and aging brothers and sisters. It pains me to say that half of the survivors in the United States live below or near the poverty line, and cannot afford the home care, dental care, medicines, eyeglasses, wheelchairs, and even food they need. Survivors are in crisis, not only in South Florida, but in Los Angeles, New York, Chicago, Boston, Las Vegas, and throughout the United States, as well as in Israel, Europe, Canada, Australia, and South America.

It is an outrage that the insurance companies have failed to pay over $20 billion they owe to Holocaust victims, while so many survivors are living in misery, dying before their time. Instead of paying the victims and families what they owe, these

companies are spending millions upon millions of dollars on Washington lobbyists, on sports events, and on Sunday talk shows, to sanitize their reputations.

Allianz is a perfect example. It has not denied its close relationship to the Nazi regime. In 1933, Allianz chairman Kurt Schmitt,an early Nazi party member, became Hitler's Minister of Economics. Allianz provided the Reich with insurance coverage for Auschwitz and other death camps. At the same time, it was selling policies to European Jews and handing over Jewish customers' files to the Nazis. After World War II, SS officers and other party members who used to work for Allianz went right back to their same jobs. Then in the 65 years after the war, Allianz failed to honor over $2 billion in policies it had sold to Jewish customers.

ICHEIC was a grand slam for Allianz – it paid less than $30 million to claimants compared to the $2 billion it owed.

Amazingly, though, soon after ICHEIC closed in 2007, Allianz offered to pay $300 million for naming rights to the new New York Giants and Jets in the Meadowlands. Thanks to a grass roots outcry from the community, the deal was cancelled.

However, unlike the good people of New York and New Jersey, others have been very willing to take Allianz's money, including CNBC, National Public Radio, American Public Media, the American Jewish Committee, and – believe it or not – Garrison Keillor and A Prairie Home Companion. Are these institutions really so blind to decency that they would accept this blood money so Allianz can sanitize its history?

Maybe this hearing will send a message. Maybe now, when our fellow Americans hear Allianz's ad on the Marketplace Morning Report on National Public Radio, or A Prairie Home Companion on Saturdays, they too will demand an end to this shameful behavior.

However, Congress can no longer plead ignorance. This history is well-documented. Today, Herbie Karliner and Renee Firestone have added their powerful stories and documents to the evidence from past hearings. Almost 5 years ago, Tom Lantos, the great human rights champion and the only survivor ever to serve in Congress, unanimously passed this bill through this same Committee. Yet, the bill was hijacked with a long list of evasions. Now, year after year, the response -- from Congress and from Presidents Bush and Obama – has been <u>to change the subject</u>. We are told our rights must bow to Foreign Relations, or to Executive Policy and Power. We are told that State Department bureaucrats or Jewish organizations know better than survivors what is best for us. We have even heard complete lies such as the argument that our government promised immunity for insurance companies, a lie exposed by Justice Department records under the Freedom of Information Act.

The latest diversion may be the most insulting of all. We are now told that if Congress restores our legal rights, then <u>Germany</u> will cut funding to assist indigent

Holocaust survivors. Can you imagine such an argument being made to deny Hurricane Katrina or California wildfire victims their full insurance rights? Why should Holocaust survivors be singled out for such an insulting argument? Why should Holocaust survivors should have to give up our legal rights to recover private insurance policies against Generali and Allianz, so that Germany will provide funding for the needs of impoverished Holocaust survivors? One thing has nothing to do with the other. Insurance companies should pay their debts and we should be able to sue them if they breach their contracts. This has nothing to do with Germany's long overdue moral obligation to provide adequate funding for the needs of survivors, a duty it has ignored and only recently began to address due to pressure from the survivor community and our allies here in Congress.

Time is running out. This is a deadly serious matter. Thousands of Holocaust survivors have died in these past several years, waiting for this Congress to restore our rights. Five years ago, Herbie could have probably bounced back from this fall in time to come here and plead his case by himself, but not now. Five years ago, Mrs. Firestone might have been able to fly here without needing her daughter to accompany her. Thankfully, she and Herbie have the courage to persevere and make sure their voices are heard. We urge this Committee and Congress to do the right thing, and to pass HR 890 without further delay.

I ask that the attached exhibits be included with my statement for the hearing record.

Chairman ROS-LEHTINEN. Thank you very much, Mr. Schaecter.

Thank you Mr. Schaecter, Ms. Firestone, Mr. Bretholz for evocative powerful testimony. Thank you so very much.

Ms. FIRESTONE. Madam Chairman, can we just ask you——

Chairman ROS-LEHTINEN. Mrs. Firestone, what is that?

Mr. SCHAECTER. We both would like to ask for the exhibit to be included in the hearing.

Chairman ROS-LEHTINEN. What was that now?

Ms. FIRESTONE. To be included in the hearing record.

Mr. SCHAECTER. The exhibit.

Mr. SCHAECTER. The exhibit.

Chairman ROS-LEHTINEN. Oh, I see.

Without objection, subject to the length limitations in the rules, because there are limits.

Mr. SCHAECTER. I understand.

Chairman ROS-LEHTINEN. Thank you so much.

I would like to begin the question and answer period.

Mr. Schaecter, you founded and you are the president of the Holocaust Survivors Foundation USA——

Mr. SCHAECTER. Yes.

Chairman ROS-LEHTINEN [continuing]. And you have stood firmly behind the position that non-survivors, non-survivors institutions cannot make decisions on survivors' rights. Mrs. Firestone in her testimony gave some figures that out of the many organizations that were participating in the ICHEIC process only two of them, I believe she said, were survivor agencies.

Can you describe to us, Mr. Schaecter and Mrs. Firestone, the involvement or lack thereof of a survivors group in the ICHEIC process? Were survivor groups invited to participate? Were they consulted? Did survivors or others voice concerns and critiques during the ICHEIC process and were those concerns and critiques listened to? How were those concerns received and responded to by those involved in the ICHEIC process?

Mr. Schaecter, we will begin with you.

Mr. SCHAECTER. Can I just give you a simple and straightforward answer?

Chairman ROS-LEHTINEN. I don't know if Congress can handle that, but go ahead.

Mr. SCHAECTER. This is part of this horrible injustice that is being perpetrated on an ongoing basis. We survivors are basically scarred. We have deep scars.

Chairman ROS-LEHTINEN. But can you tell me about the ICHEIC process? Were you—the survivor groups, were they listened to?

Mr. SCHAECTER. They don't listen. They don't really feel that they have to listen. Because, frankly, there are so many institutions that want to be involved in management, in managing the lives of the funds, managing the lives of the survivors, the funds that they receive, the method of distribution of these funds from ICHEIC to the Claims Conference to all the other Jewish established agencies.

They have never asked me what I felt and how I felt about survivors that cannot manage from day to day, Madam Chair. They have never asked me, although I have screamed it in a very loud

and continuous manner that we have people that cannot make it from hour to hour. Yet no one is asking for my input.

Chairman ROS-LEHTINEN. Thank you. Thank you, Mr. Schaecter.

Mrs. Firestone, on this issue about survivors—non-survivor institutions being involved in the survivors' rights issue, if you could address that; and also about the right of appearing before a court and having your day in court even without knowing what the outcome would be.

Ms. FIRESTONE. That is right.

Chairman ROS-LEHTINEN. Can you explain the importance of the process of bringing these cases before a Federal judge even though you don't know the outcome?

Ms. FIRESTONE. Madam Chairman, the problem is, first of all, that all the decisions are being made back east. We in California are the stepchildren, even though we are the largest survivor community in the United States.

For example, myself, I found out about ICHEIC through the lawsuit that my nephew claimed against the company. But there are many survivors who still don't know anything about ICHEIC. They don't even know that it exists and that they can or could have gone to court.

Well, that is what we are asking for. We are asking for the right to personally claim what is rightfully ours and have the right to go to court for it.

Chairman ROS-LEHTINEN. Thank you very much.

And, Mr. Schaecter, if you could address that issue about the opportunity to bring a case before the Federal judge. And you have been an active proponent of this. Even though the verdicts of the cases are not prejudged, that does not mean that you are going to win. Could you address that issue?

Mr. SCHAECTER. I think it is the only democratic way. I think it is the only fair way. And, for a change, we would like to see the fairness. And we expect that we are not going to be shortchanged, we expect to go to court, we expect to plead our case, and we hope that this Congress here will make it possible for us to do this in the future.

Chairman ROS-LEHTINEN. Thank you so much. Thank you, Mr. Schaecter. Thank you, Mrs. Firestone.

I did not mean to leave Mr. Bretholz out. It is just that we have limited time.

So I am going now to ask Mr. Sires, who is taking the spot of the ranking member, to be acknowledged for his 5 minutes of questioning.

Mr. Sires, thank you so much.

Mr. SIRES. Thank you, Madam Chairperson; and I commend you for having this hearing.

And I commend you for coming before the hearing. Your determination is admirable, and it really is a testament of your fortitude, what you have accomplished after what you have gone through, and I admire you for it. I really do.

My question has to do with H.R. 890. There are a lot of critics to this bill, and they always use the word "damage," that somehow this bill is going to damage relationships between America and European countries. I mean, they use that—to me it is a lot of bull—

excuse the word. But, you know, in all the critics they say that it will damage restitution and compensation that is still owed you. Can you elaborate on that a little bit? What are they talking about?

Ms. FIRESTONE. What they owe us?

Mr. SIRES. Yeah. They say that this bill, if it passes, it is going to damage the relationship between us and European countries and that there are other restitutions. What are they talking about?

Chairman ROS-LEHTINEN. If you could move a little bit closer to the microphone, Mrs. Firestone.

Ms. FIRESTONE. There are no other restitutions. I don't know what they are talking about. It is ridiculous. They are trying to get out of it, you know, dragging the time so that we are no longer here and then they don't have to account to anybody. That is what they are waiting for. And it is very obvious. Because Germany was willing to do their part in the restitution. Germany gave billions to the Claims Conference, and we got nothing. And we know, of course, today that some of that money disappeared. We know that, also.

Mr. SIRES. I can't figure it out. We know you are looking for this information, and this bill doesn't say that there is more money involved. All you want to do is be able to access the information.

Ms. FIRESTONE. That is right. We want the list from the insurance companies. All we want is a list of the names of who were insured. Now, is that so difficult? I am sure they have the list.

Mr. SIRES. I agree with you. I was just wondering.

Leo seems to be the feistiest one. Do you have any comments about what I just said? I admire you. At 94, you are still fighting.

Ms. FIRESTONE. I thank you.

Mr. SIRES. All of you.

Mr. SCHAECTER. She is a feisty lady. I assure you.

Mr. SIRES. Leo, do you have any comments? Do you want to add to what Mrs. Firestone has said?

Mr. BRETHOLZ. This is a different issue.

Chairman ROS-LEHTINEN. A little bit closer to the microphone. I know that your issue is the rail justice.

Mr. BRETHOLZ. Mine is the rail issue. This is a different issue. In fact, I don't understand much of it.

Mr. SIRES. Okay. No problem.

Mr. BRETHOLZ. I know it is all about money.

Mr. SIRES. Yeah. It makes the world go round.

Ms. FIRESTONE. It really isn't.

Mr. BRETHOLZ. But it is. And justice. Justice, yes.

Mr. SCHAECTER. May I just—one short example here.

ICHEIC became very much involved, and it was decided that this is the agency we should look to, this is the agency we should listen to, and they are going to go ahead and take care of all our problems.

Well, you have heard part of the report. But the most amazing and most insulting and most degrading of all things that ICHEIC has done, out of $20 billion worth of insurance policies they paid approximately $32 million worth of claims.

And I further submit to you that they went ahead when there was some dismay shown by the world—I am hopeful the world—but by the survivor people, they finally decided to go ahead and give to 30,000 people—to 30,000 people—$1,000 what they consid-

ered humanitarian—just because you guys are nice, we are going to give you $1,000. And that is so degrading, and I think that you beautiful people ought to know that.

Ms. FIRESTONE. May I just make a comment about when my nephew claimed—he had the papers. He found the papers at home, the insurance papers. And when he approached the insurance company they offered him—the insurance was originally—I don't know—40,000 Czech crowns, whatever that is. The way he figured it out, they owed him over $1 million. When he approached them with the papers, they offered him $10,000. And of course he wrote back he is not taking it, and that is when he sued. And finally they gave him over $100,000. But still he figured out that they owed him about $1 million.

Mr. SIRES. Thank you very much.

Chairman ROS-LEHTINEN. Thank you very much, Mr. Sires. Excellent questions.

Mr. Chabot, the chairman of the Subcommittee on Middle East and South Asia, is recognized for 5 minutes.

Mr. CHABOT. Thank you very much, Madam Chairman, and thank you for holding this very important hearing here this morning.

Although I was not here for all the testimony, I heard some of it and read the rest; and I have to say that this is some of the most inspiring testimony that I have heard in my time in Congress, some of the most disturbing, too, when you consider what we are talking about here and the loss of so many lives during probably the most horrific time in world history, the number of people who were affected by the Holocaust. And we are looking now at co-sponsoring this, and I am sure as a result of the three of you coming here a lot of us will seriously consider this legislation.

I just have one question before I head off to another committee.

Your written testimony underscores the need to hold the insurance companies accountable for their actions. Do you see a distinction between restitution efforts and holding these companies accountable for their Holocaust-era activities? Can you just explain what the distinction might be? How will bringing these cases before a Federal Court provide a different type of justice than contributions made to restitution?

And I will open that up to any of the folks here.

Mr. SCHAECTER. Well, an insurance policy, as far as from what I know about insurance policies, it is a contract. It is a contractual instrument. The insurance policies written especially by Generali and Allianz, they highlight the fact that you can go anyplace in the world and claim on that policy, but it is not happening.

The fact that Allianz, the chairman of Allianz became the exchequer of the Reich and the fact that he went ahead and used the funds to actually pay for part of World War II expenses, if you will. The fact that the people that worked for Allianz had records, had access, had the privilege to every Jew alive, to every Jew that existed in central and Eastern Europe, they took this information and gave it to the Gestapo so that the Gestapo could go ahead and implement the looting of assets. The insurance company needs to meet and fulfill its contract on these policies, if nothing else.

The fact that they were collaborators—there were many, many other companies, many other institutions in Germany that were collaborators of World War II and maybe even collaborated in the final solution of the Jewish people. So my beef is really from the standpoint of decency, from the standpoint of morality, from the standpoint of international understanding that these policies could be cashed anyplace on Earth.

Mr. CHABOT. Thank you very much. I appreciate your response.

Chairman ROS-LEHTINEN. Thank you.

Mr. Chabot, since you are done, I was wondering if you could yield me that remaining minute.

Mr. CHABOT. Yes, I yield.

Chairman ROS-LEHTINEN. Thank you, Mr. Chabot.

To Mrs. Firestone or Mr. Schaecter, ICHEIC issued, as you had pointed out, 34,000 humanitarian awards of $1,000 each. And you said in your written testimony that survivors found these offers insulting, and you had just spoken about that, Mr. Schaecter. Can you explain for the record why survivors felt as they did regarding these awards?

Mr. SCHAECTER. I can tell you, Madam Chair, that when you are desperate, those who are really, really desperate, that 35 to 40 to 50 percent of survivors still alive today they are very, very desperate, they took the $1,000.

Chairman ROS-LEHTINEN. And it also helped ICHEIC to—you look at the records, and they will say, here, look at the big numbers of cases that were resolved.

Mr. SCHAECTER. You are right. They displayed their magnanimity to the world that they care and that they have done their job.

On a personal level, Congresslady, you know me for a long, long time. You represented me in the House in the State of Florida. I was blessed to have met you. I was blessed that I didn't need the $1,000 from ICHEIC. But I would also admit to you that I was 11 years old when I was taken away. I don't know how much an 11-year-old guy is supposed to know about insurance. And I didn't want to go ahead and eat my guts out and search, so I decided to be an advocate. I decided to be the mouthpiece for the survivors.

Chairman ROS-LEHTINEN. And we thank you for that. Thank you, Mr. Schaecter.

I thank the gentleman from yielding me the time.

Mr. Deutch from Florida is recognized.

Mr. DEUTCH. Thank you. Thank you, Madam Chair.

First, I want to thank you for coming. I want to commend you not just for the work that you do here, but, Mr. Bretholz, you spoke beautifully about your experience and the amount of time you spend with kids and helping them understand the horrors of the Holocaust.

And, Mr. Schaecter, I am not privileged to represent you, but I am right up the road, and your work in south Florida is legendary. It is an honor to have you here, and thank you for all that you do in the community.

Mrs. Firestone, you have managed to become a movie star by being such a staunch advocate for survivors and telling the story.

And I had a whole series of questions, but I wanted to just ask you, you have all spoken about kids in one way or another. We spend a lot of time, those of us who are blessed to have kids, giving them the opportunity to hear from you, giving them the opportunity—as I tell my kids often, they are going to be—my kids will be the last generation who will hear this story firsthand. I would like you, if you would, spend a minute to talk about the message that this Congress can send to the kids that all of you speak so passionately about and spend so much time sharing your stories with.

Ms. FIRESTONE. Well, of course, I feel, first of all, that non-Jewish kids should really learn about the Holocaust and about all these issues. Like I personally think that this $1,000 ICHEIC project was an insult. I mean, how—these kids should know that, after we suffered what we suffered through the Holocaust, here we are again second-class citizens. We are deprived of our rights as a citizen in the United States.

And we want these children to know that when they grow up they have to correct all these wrongdoings. And this is why we are teaching them to respect humanity and to help humanity. There are atrocities going on all over the world which most people don't acknowledge or don't even know about. And we think that the Holocaust was the only thing that we should talk about. We should talk about all these horrible atrocities that are going on in the world today, and our children must learn from them. And that is why I have been teaching now for 34 years about the Holocaust.

Mr. DEUTCH. Mr. Bretholz.

Mr. BRETHOLZ. Well, it is a simple thing with children. I speak a lot to schools, and I get very good reactions from young people.

The whole thing when we speak about the Holocaust was based on unbridled hatred, hatred not for what we had done but who we were. And the children are being left with that message. When a hater ever approaches you, he or she involves you, wants to involve you in hate talk about religion or race, nationality, it behooves you to immediately tell that person they cannot count on you. I am not on the same page with you because you cannot engage me in a method to hate people.

And that is the only message that we have to leave with young people. It was hatred, and hatred breeds hatred. And when you—it has to go from family to family, from block to block, from home to home, from town to town. And when I tell the children you can make a difference and you can make a difference and you can make—all of you can make a difference. When I tell the students, each of you can make a little difference, but, collectively, it makes a big difference.

Mr. DEUTCH. And, Mr. Schaecter, what kind of difference can the United States Congress make right now with respect to these issues?

Mr. SCHAECTER. Congressman Deutch, you know, south Florida usually takes the initiative. I am talking about many things. But from the standpoint of our communities and the issue of the Holocaust and the issue of survivors, I was one of five other survivors, plus the child of a survivor, plus a real personality in our community in Miami, and we collectively built a memorial.

And when the memorial was finished after 5 years, we realized we kind of forgot what the real purpose, what our real purpose is. And that is to reach children, because they are the important element of everything and anything, and we started a program called the March of the Living.

And this committee needs to understand what happens if you start from scratch. We spent 2 months trying to label it, give it a name. And, finally, we came up with a name, with a word called March of the Living.

Because no one ever—when people got into Birkenau from Auschwitz, Birkenau was the killing factory. No one ever came out alive from Birkenau. And we wanted to impress the children that they are going to come with us, that survivors will accompany them and that the survivors will embrace them. We know these young children, we know their tenderness, we know that the survivors will embrace them and hug them and hold their hands and walk with them hand in hand even to the gas chambers. We wanted them to understand what had happened.

And they quickly—and it is not easy. When they cry, I cry. When they cry, Mrs. Firestone cries. We do it. This gentleman I am sure has gone through the same experiences.

So I will tell you this. We tell all of them, each and every one, and they accept the responsibility that we charge them with. We want them to be ambassadors. We want them to tell the world. Because there are so many Holocaust deniers, and these kids will set these deniers straight and make believers out of them because they are the witnesses.

So that is our part, and we will keep doing it. I know this, that this young lady here, she has been teaching and nurturing children for over 35 years. I think it is closer to 45 years. But she is only—she is still a youngster. And I am hopeful that I am probably amongst the youngest of the survivors. I just turned the ripe old age of 82. And if the guy upstairs really likes me I hope to continue for another 8, 10 years.

Chairman ROS-LEHTINEN. Well, we hope so.

Thank you so much, Mr. Deutch, and thank you for your leadership role. As the witnesses in the audience may know, Mr. Deutch is the lead Democrat sponsor of our bill for justice. Thank you so much, Mr. Deutch.

Mr. Bilirakis, another wonderful Florida colleague.

Mr. BILIRAKIS. Thank you. Thank you very much, Madam Chair. I appreciate it. And I want to thank the panel for sharing their stories. Please continue to do so. You are making a difference. And of course I want to thank the wonderful chairperson for holding this hearing.

Holocaust survivors must be made whole, and we should disassociate ourselves from those who seek to profit from the unprecedented tragedy. I co-signed a letter along with several of my Florida colleagues recently alerting the Florida commissioner of education to the hypocrisy of SNCF, which refused to make whole victims of Nazi death camps, including American POWs, while seemingly wanting to educate Florida's children of the Holocaust by underwriting a 3-year partnership between Florida's Task Force on Holocaust Education and the Shoah Memorial in Paris. I am con-

cerned that SNCF America will profit from high-speed rail contracts in the U.S. What are your thoughts on that? Can you please share them with us?

Maybe we can start with Mr. Bretholz.

Mr. BRETHOLZ. On the SNCF issue, well, the SNCF participated all throughout the period. They participated in the discussions about the technical conditions of the deportation trains, so they were involved.

Now comes the point where we need our day in court, and the court will decide. We need our day in court to show the SNCF has done something wrong. And it is self-interest on their part. You see, they apologized, yes, but the apology came only after they were interested in that high-speed rail contract here. Which means, in addition to the money that they made by sending Jews to the death camp paid per head and per kilometer, of its interest in sending more people and more people means more money, they now are bidding for a rail contract here, which means again more money.

But this has to be handled in the court. We want that justice to be done officially, openly, and with interest in doing the right thing. That finally justice be done. They did an awful thing. That night on the train on the 6th of November, it is something that is like a nightmare. And that is the only thing I would like, a day in court to see justice to be done.

Mr. BILIRAKIS. Thank you, sir.

Anyone else wish to comment on that?

Ms. FIRESTONE. Yes. I just want to say that SNCF is not the only railroad that should be responsible, because we are now beginning hear about the Hungarian railroad also trying to maybe—maybe they are worried because they hear what is going on in France, so they are coming forward, and they are trying to also make some compensation. We have been transported the same way as they were.

Mr. BRETHOLZ. But the Hungarians do not have the know-how and the technical know-how like the French. The French are good, they are the best in fast railroads, and the Hungarians will have a very little chance against the French.

Ms. FIRESTONE. They are not against the French.

Mr. BRETHOLZ. I understand.

Ms. FIRESTONE. They are claiming from the world, you know, experience. It is the railroads all over Europe were the same. I mean, they transported these people. In my carrier car, for example, there were 120 of us, 120 of us, the children crying, begging the parents to take them home. The parent had no idea if they were going to go home. So you cannot say that the French railroads were different.

Mr. BRETHOLZ. But you forget that we are here not to talk about the Hungarian, but we are here to talk about SNCF.

Ms. FIRESTONE. I know. But I am just saying that we have to really look at the whole European situation, what happened at the time.

Mr. BRETHOLZ. But the Hungarians did not ask to build railroads here. This is the issue that we have. You have SNCF. You can mention any railroads in Europe that shipped Jews to——

Ms. FIRESTONE. That is right, and they should.

Mr. BRETHOLZ. But we are dealing with SNCF, isn't that right? This is the bill on hand. Otherwise, you are going to be sidetracked.

Mr. SCHAECTER. I would like to comment about—and maybe that will give you a partial answer to what I think you are looking for.

I spoke to probably the largest group of high school seniors in the area. At Coral Gables High, they had 3,000 kids graduating; and I was asked to speak to them. The children ask very, very profound questions; and they want answers.

And then one little young lady, I think she wasn't even 17, maybe 16, 16½, and she stopped me while I was speaking. And she says, do you believe, do you believe in God? And I said, yes, I do. And then when I finished speaking she says, well, how could you? How could you? How could someone like you even now say so, without hesitation, say, yes, you believe?

And I looked at her and, honest to God, I was stunned for a couple of seconds. Because she in reality wanted me to find a whole host of people to blame. And the thing that stunned me the most was the fact, how could I? And then I had to give her an answer. She insisted I give her an answer.

And I said, you know, 6 million people were destroyed. It is on an ongoing basis. There are Holocausts in so many other places in the world, and it is ongoing.

But let me tell you about the Holocaust. We really should not ask, where was God; how could he have permitted that? and not pause for a second. Because I wanted to say the right thing that would be acceptable to her. And I said, "Instead of asking, where was God? I think that we ought to ask, where were the people? Where was the world while all that was happening and where is the world while all this is happening today and yesterday and tomorrow?"

Chairman ROS-LEHTINEN. Thank you. Thank you very much. And I thank Mr. Bilirakis.

Mr. BILIRAKIS. Thank you.

Chairman ROS-LEHTINEN. Did you want to say something?

Mr. BILIRAKIS. No, I am fine. Thank you so much.

Chairman ROS-LEHTINEN. Thank you very much. Excellent questions.

Mr. Connolly, thank you so much for being here; and you are recognized for your questions.

Mr. CONNOLLY. Thank you, Madam Chairman; and thank you for your leadership on this issue.

I don't really have a question. I just want to say my profound appreciation for the three witnesses who joined us here today and provided their testimony.

You know, the Holocaust has been something seared in my memory since I was a child. I will never forget the first time I was exposed to the reality of the Holocaust. I was a young child watching television in the 1950s; and there was some program, probably a documentary, and the image that came on television of the opening up of the camps and the number of bodies and the bulldozing of bodies into trenches. And I couldn't have been 7 or 8. And I was stunned at this image as a child, stunned that human beings could do such things to other human beings. And for the rest of my life

I have searched for the answers, Mr. Schaecter, that young girl asked you. Because the reality of it is so hard to encompass that maybe you are tempted to want to deny it.

I can remember my first trip to Europe. I went to Munich, and I insisted, over the objection of my traveling companions, that I go to Dachau. I wanted to touch the ovens to make sure this was real; this wasn't some fantasy; it was real. And this was near a modern European city today.

And I don't know that any of us here in Congress, even with legislation, can really ever help come to closure on something that ought not to ever come to closure.

And, you know, I listened, Mr. Bretholz, to what you said. It wasn't for something we did. It was for who we are, who we were. When a political system demonizes any class of human beings for any reason, this is the risk. You objectify humans, and they become things.

And I wish the answer were as simple as it was just a unique defect in one particular ethnic European strain. But how often do we need to be reminded that it is universal, sadly, that when political systems allow unbridled assaults on a group, a subgroup within its population, Holocausts follow?

And so I am so honored to have three Holocaust victims and survivors here honoring the halls of Congress. Thank you for your testimony, thank you for the witness you give, and thank you for reminding us always that this must never leave our consciousness even as the generation fades away.

With that, I yield back.

Chairman ROS-LEHTINEN. Thank you.

If the gentleman would yield me his remaining time.

Mr. CONNOLLY. I would be honored to.

Chairman ROS-LEHTINEN. Thank you.

Because I just want to give thanks to Mr. Schaecter for providing us with Mr. Karliner's testimony. As you pointed out, he fell on the anniversary commemoration of Kristallnacht, the Night of Broken Glass. And how ironic it is, as you pointed out in his statement, that the insurance company that held the policy for Herbie's family said that they actually paid it out on the Night of the Broken Glass.

This is the night, Kristallnacht, when Jewish synagogues, businesses, homes were attacked by Nazi Germany, by Nazis in Germany and in Austria, and that was the night that Herbie's father was deported to Buchenwald. And it is incredible for this insurance company to state that on this horrific night, as he is being deported to a concentration camp, Herbie's father passed by the insurance company and they cashed out his policy.

What do you say to that, Mr. Schaecter?

Mr. SCHAECTER. Madam Chair, you know, there is so many, so many things that we have heard and that are done and said that—not just borderline, on absolute ugliness—to assume that Herbert's—Herb Karliner's father on the way to the train that was going to take him to Buchenwald went ahead into the Allianz office to cash his policy. That was the answer ICHEIC's people gave Herbert Karliner when he went ahead with the policy—with a copy of the policy.

Chairman ROS-LEHTINEN. That was in the ICHEIC system that was supposed to work so well.

Mr. SCHAECTER. That is correct.

Chairman ROS-LEHTINEN. Thank you so much. I thank the gentleman for yielding me the time.

Mr. CONNOLLY. Madam Chairman.

Chairman ROS-LEHTINEN. Yes, sir.

Mr. CONNOLLY. I just want to be fair to one of our witnesses. I think Mr. Bretholz, when you asked me to yield, was seeking recognition. I wonder if we could accommodate him. I think he wanted to have a comment.

Chairman ROS-LEHTINEN. Without objection. Yes, Mr. Bretholz, did you want to say something, and I interrupted you?

Mr. BRETHOLZ. Yes. Just a couple of personal quotes.

There was a book written by a Jesuit priest, Father Edward H. Flannery, the title, "The Anguish of the Jews." And in this book Father Flannery says, "To say that the Holocaust is the most horrifying event in the annals of Jewish history is an understatement. It is the most horrifying event in the totality of recorded history, not just Jewish history."

And the other important quote is by none other than Elie Wiesel, Professor Wiesel, answering your question about God. Elie Wiesel is an Orthodox Jew, but when he is being asked about his faith there comes an answer—and, believe me, this is not to be disregarded when it comes from Elie Wiesel. When he is being asked about his faith, "Yes, I have faith, but my faith is wounded." Is that a good statement? His faith is wounded, and he explains it, when he witnessed his father's death in the camp. That is when he decided that his faith is wounded, and that is what you are dealing with.

And of course we have not much broached the subject of the SNCF here, and I hope that the Congress will do the right thing to give us a fair hearing in court. And that the SNCF, which is also very self-serving, you know, they have not come up with an excuse until they ask for a contract. But they never came up with a contrite statement that was satisfactory. So perhaps I hope the Congress will work on that SNCF thing, because I don't want them to get any contracts.

Chairman ROS-LEHTINEN. Thank you so much.

Thank you, Mr. Connolly, for giving Mr. Bretholz that opportunity.

Mr. Rivera of south Florida is recognized for his statement.

Mr. RIVERA. Thank you, Madam Chair.

And I certainly want to associate myself with Representative Connolly's remarks earlier regarding the manner in which you have honored us with your presence here today and honored Congress for the important lessons of history that must remain present, ever present in our minds to make sure that these types of horrific actions never replicate themselves again.

Mr. Bretholz, you alluded specifically to a question that I wanted to ask. Because in your testimony and in Representative Maloney's testimony both referenced the allegation that the SNCF maintain control over operations of their railroads and sought to maximize their efficiency in deporting their victims. Can you elaborate just

for the committee somewhat on the evidence you have seen supporting this claim?

Mr. BRETHOLZ. Well, sure.

The transports and the whole organizing the transports, these convoys were formed, directed, and implemented by the French. They did the utmost to do it with deception, with cruelty, and with precision.

You see the perception—the deception was when we were in the camp of Drancy, which was called the antechamber of Auschwitz, they took away belongings from us. Well, I didn't lose much, just a wristwatch and a stamp collection. But there were some very important valuables, jewelry from the ladies, fur coats. We received a voucher, and on that voucher every item that they took from us was mentioned in that voucher. It was an itemized voucher.

And do you know what the deception was? An admonishment to us, don't lose this voucher. Because when you get there, wherever you are going to get—and we never knew where it was—when you get there and you don't have that voucher, you won't get your belongings back.

So this gave us a—it should have given—they wanted us to have a sense of safety. It will be all right. We will get it back. That was the deception.

And the cruelty was separating families.

And the precision was with which they pushed us into this railroad car. You know, they could have just asked us to step into the car instead of using rifle butts to push us into it.

The SNCF was very instrumental in doing it the way they did it, yes.

If that is satisfactory to you, you can ask another question——

Mr. RIVERA. No.

Earlier, Mrs. Firestone, you were nodding when Chairwoman Ros-Lehtinen asked the question of Mr. Schaecter earlier regarding the incident on Kristallnacht in the documents. Did you want to add something to that as well?

Ms. FIRESTONE. Well, you know, the fact that everybody wants documents is an outrage. Because when we were packed into the cattle cars we already were limited to nothing. Everything was already taken away from us.

And then when they say that he paid—they paid—that he claimed his insurance, I mean, it is so outrageously awfully unbelievable. Because, by that time, by the time we were at the railroad station, we had absolutely nothing. Everything was taken away from us.

So they were giving us something? We were already stripped of everything. We were told how big the suitcase can be we can take with us and how much it can weigh. The suitcase was maybe this size.

So they stripped us of everything, take our homes, take our belongings, take everything away from us, and they were giving him money at the railroad station? I mean, it is so outrageously unbelievable that they even can claim something like this.

Mr. RIVERA. Yes, sir, you want to add something.

Mr. SCHAECTER. Yes. I would like to—again, I guess I survived for a reason, and I am humble enough to say that I survived, and

I need to go ahead and make sure that the world is aware and the world doesn't forget it. But the reality is that no other people, no other country has ever done what the Reich did.

The very first thing they did to us after they rounded us up and took us and quickly made the decision as to who was to live and who was to die, even those that they suggested that they are going to let you live, the very first thing they did to you is dehumanize you. They took away your name, and they went ahead and tattooed a number on your left arm.

And I was no longer David. I was number 4172. And I guess I knew my place very quickly. And if I hadn't stood on the feet of my older brother to make me look a little bigger or taller, I would never have survived. I was standing on his two feet, and I looked a little bigger. And they were just—he pointed me the other way.

And when history is written, and it has been written so many times, that dehumanizing element is one of the cruelest and most painful. And I guess—I guess our destiny is to keep on doing what we are doing and at the same time have the energy and perseverance to come and see you all and plead with you. And we know, we know that you have heart, we know that you are human beings and that you are good human beings. And in my book all of you are a gift from God to us.

Mr. RIVERA. Well, thank you for maintaining that energy and perseverance.

I yield back, Madam Chairman.

Chairman ROS-LEHTINEN. Thank you so much, Mr. Rivera.

I am pleased to yield to Mr. Sherman of California, the ranking member on the Subcommittee on Terrorism, Nonproliferation, and Trade, who is a co-sponsor of the Holocaust legislation that we are talking about today.

Thank you, Mr. Sherman.

Mr. SHERMAN. Thank you, Madam Chairman, for having these hearings to explore once again the horror of the Holocaust and to give us the honor and the education of being with Holocaust survivors.

As we explore what the Holocaust means about the nature of humankind, we should realize that, as others have stated, while this was the most horrific act it is not an act that was unprecedented, nor is it an act that was never repeated, and America's own history is marred by great crimes.

I want to focus a bit on perhaps another way to go about this issue as to insurance companies. Because the issue is, under what condition can European insurance companies do business in the United States? It would seem to me that they would publish on the Web a list of the insureds that are over 100 years old whose policies they have not paid. They might exclude those where they have had contact with the insured in the last 5 years. There may indeed be a 100-year-old man somewhere in Europe with a policy.

We shouldn't just focus on the Jewish victims of the World War II era but all those whose families were destroyed and whose insurance was never known about and never paid. Likewise, the Roma people; likewise, those from the Armenian genocide.

If we simply had a requirement that those who sold policies during or before the World War I era in the areas affected by World

War I and likewise those who sold policies before World War II and just said put on the Web the name and the hometown of every insured who is over 100 years old, and we may find that there are German and French families who simply didn't know there was a policy.

I would point out, because I sit on the Financial Services Committee, that in virtually every State under these circumstances the insurance company doesn't benefit. When they lose contact with the insured and the insured has reached a certain age, the money is paid to the unclaimed property fund of the State and is advertised. So why should Holocaust victims, why should victims of the Armenian genocide, why should the Roma victims of the Nazis not get this same benefit of a list?

Now, the response I have gotten from the insurance companies is they want to protect the insured, the 100-year-old, the 150-year-old. They have to hold onto the money secretly in order to protect the consumer, confidentiality of the consumer.

Well, any secrets that I have about my insurance policies I give to the world when I hit age 150.

The fact that companies would continue to hold the money knowing that the insured have probably died over 50 or 60 years ago, whether as a victim of murder or simply of the expiration of life, to hold on to that money raises the question is this the kind of company that American consumers should be allowed to do business with.

My God, you pay into an insurance company for decades in the expectation that when you and your family need the money they are going to pay. And if they are still holding the money from 150-year-old Holocaust victims, are these companies that act in good faith? Are they acting in good faith when they sell policies in California or just in bad faith when they sell policies in Poland?

And I am going to continue our efforts to say put the names on the Web or you are not the kind of company that Americans should do business with. This is not just a matter of justice for those who died in Europe and their families. This is a matter of protecting Americans from companies who would say, well, yeah, we haven't talked to that person in 60 years. Yes, I guess they are 160 years old. But we are going to hold on to the money. They might be alive somewhere.

I do have one question for Mrs. Firestone. I have many questions, but I have time for one.

During the Senate hearing on this issue in 2008, Mr. Rubin, who is a survivor, observed that ICHEIC did not follow its own relaxed standards of evidence. I notice the State Department yesterday agreed to support claims submitted to insurance companies that use an ICHEIC-like process. What should this standard look like and is there anything Congress should do to enforce this standard with the companies?

And I realize there may be other witnesses with a response. It is kind of a technical question.

Ms. FIRESTONE. I don't know much about the insurance business, but all we survivors are asking is for that list that you are talking about. And I just want to tell you, Mr. Sherman, that we in Cali-

fornia are very grateful to you for many issues that you stood by us, and I just can't tell you how grateful we are.

Mr. SHERMAN. Thank you. I yield back.

Chairman ROS-LEHTINEN. Thank you. And I regret that we have run out of time. Thank you for your support, Mr. Sherman.

Thank you to the three of you and Mr. Shearer. Thank you for being here today to prove that there are American victims of this injustice as well. We will continue to fight for you and in your name. Thank you so much.

The committee is now adjourned. Thank you.

[Whereupon, at 12 o'clock p.m., the committee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

FULL COMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128

Ileana Ros-Lehtinen (R-FL), Chairman

November 14, 2011

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held in **Room 2172 of the Rayburn House Office Building (and available live, via the WEBCAST link on the Committee website at http://www.hcfa.house.gov):**

DATE: Wednesday, November 16, 2011

TIME: 10:00 a.m.

SUBJECT: Righting the Enduring Wrongs of the Holocaust: Insurance Accountability and Rail Justice

WITNESSES: Panel I

The Honorable John Garamendi
Member of Congress

The Honorable Carolyn Maloney
Member of Congress

Panel II

Mr. Leo Bretholz
Holocaust Survivor
Author, "Leap into Darkness"

Ms. Renee Firestone
Holocaust Survivor

Mr. David Schaecter
Holocaust Survivor
President
Holocaust Survivors Foundation

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF FULL COMMITTEE HEARING

Day *Wednesday* Date *11/16/11* Room *2172 RHOB*

Starting Time *10:03 A.M.* Ending Time *12:00 P.M.*

Recesses [ ] (____to ____) (____to ____) (____to ____) (____to ____) (____to ____) (____to ____)

Presiding Member(s)

Rep. Ileana Ros-Lehtinen

Check all of the following that apply:

Open Session [✓]
Executive (closed) Session [ ]
Televised [✓]
Electronically Recorded (taped) [✓]
Stenographic Record [✓]

TITLE OF HEARING:

Righting the Enduring Wrongs of the Holocaust: Insurance Accountability and Rail Justice

COMMITTEE MEMBERS PRESENT:

Attendance sheet attached.

NON-COMMITTEE MEMBERS PRESENT:

HEARING WITNESSES: Same as meeting notice attached? Yes [✓] No [ ]
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

Rep. Berman 2 SFR's
Rep. Buerkle 2 SFR's
Rep. Maloney SFR
Mr. Bretholz SFR
Mr. Schaecter SFR & webpage link
Mr. Karliner (testimony) SFR
Ms. Firestone
French embassy SFR
Dutch embassy SFR
German embassy SFR

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *12:00 P.M.*

Jean Carroll, Director of Committee Operations

Hearing/Briefing Title: Righting the Enduring Wrongs of the Holocaust: Insurance Accountability and Rail Justice

Date: 11/14/11

Present	Member
X	Ileana Ros-Lehtinen, FL
X	Christopher Smith, NJ
	Dan Burton, IN
	Elton Gallegly, CA
	Dana Rohrabacher, CA
	Donald Manzullo, IL
	Edward R. Royce, CA
X	Steve Chabot, OH
	Ron Paul, TX
	Mike Pence, IN
X	Joe Wilson, SC
	Connie Mack, FL
	Jeff Fortenberry, NE
	Michael McCaul, TX
	Ted Poe, TX
X	Gus M. Bilirakis, FL
	Jean Schmidt, OH
	Bill Johnson, OH
X	David Rivera, FL
	Mike Kelly, PA
	Tim Griffin, AK
	Tom Marino, PA
	Jeff Duncan, SC
X	Ann Marie Buerkle, NY
	Renee Ellmers, NC
X	Robert Turner, NY

Present	Member
X	Howard L. Berman, CA
	Gary L. Ackerman, NY
	Eni F.H. Faleomavaega, AS
	Donald M. Payne, NJ
X	Brad Sherman, CA
	Eliot Engel, NY
	Gregory Meeks, NY
	Russ Carnahan, MO
X	Albio Sires, NJ
X	Gerry Connolly, VA
X	Ted Deutch, FL
	Dennis Cardoza, CA
	Ben Chandler, KY
	Brian Higgins, NY
	Allyson Schwartz, PA
	Chris Murphy, CT
X	Frederica Wilson, FL
	Karen Bass, CA
	William Keating, MA
X	David Cicilline, RI

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE ILEANA ROS-LEHTINEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA, AND CHAIRMAN, COMMITTEE ON FOREIGN AFFAIRS

STATEMENT OF HERBERT KARLINER

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FOREIGN AFFAIRS

Righting the Enduring Wrongs of the Holocaust: Insurance Accountability and Rail Justice

November 16, 2011

My name is Herbert Karliner. I was a child in 1939 when my family, and hundreds of other Jews on the SS St. Louis trying to escape Hitler were turned away by this great country. When we returned to Europe, my mother, my father, and my two sister and hundreds of others were killed. Needless to say, this tragedy has affected my entire life.

Last month, I participated in a Georgetown University symposium held to honor the memory of the St. Louis victims, and to examine in depth the perfidy of American officials who allowed hundreds of Jews to be rejected by the greatest democracy in world history and sent back to Hitler's maniacal Europe as a symbol of the world's indifference toward Jewish lives. During that seminar, I believed it was imperative, as I do now on the anniversary of Kristallnacht, to speak about today's terrible hypocrisy in official Washington and in some Jewish organizational circles toward the rights and interests of Holocaust survivors. Despite all of the talk about honoring the memory of the Holocaust, we survivors are second class citizens under American law, and thousands of impoverished survivors here and the world over have been allowed to suffer in pain and loneliness in the midst of such abundance, and within earshot of speech after speech and ceremony after ceremony intoning "Never Again."

During those tumultuous days, my father Joseph Karliner told my brother and me about an Allianz life insurance policy that he bought to provide for us if something happened, and even gave us the number. When we approached Allianz after the war, they said his policy had been paid out to an "unknown person."

When the International Commission for Holocaust Era Insurance Claims (ICHEIC) was created in 1998, my brother and I applied. Like many survivors and family members, we wanted to believe the process was worth trying. However, like most survivors and family members, we were bitterly disappointed by a process that seemed rigged against us. Allianz admitted it sold insurance to my father, but it refused to pay saying the funds had been "paid out to the policy holder." We doubted this was true, but neither Allianz nor ICHEIC provided us with any documents, so there was no way for us to challenge this decision under ICHEIC rules.

I recently obtained papers from the German consulate showing that the "repurchase" document was supposedly signed by my father on November 9, 1938 – Kristallnacht. If Allianz or ICHEIC gave me this document at the time I applied, I would have pointed out that on that day, my father's store was burned down and he was taken from our home to Buchenwald. Though I was a small child, this is something you never forget.

I seriously doubt that my father stopped by the Allianz office on his way to Buchenwald to cash in his life insurance policy. But since I am not allowed to go to the American courts to recover my property, Allianz will have "inherited" the proceeds of my father's insurance policy – worth more than $180,000 today.

There was another ridiculous ICHEIC practice that caused great harm to claimants. The ICHEIC web site posted the names of several men and women whom I knew to be my relatives, because I was familiar with their names and their hometowns, and I inquired about their policies as well. Allianz admitted that several of the named individuals had indeed purchased Allianz policies, but it refused to give me any information *unless I could provide their dates of birth*. This was impossible, because I was a 9 years old when WWII began, and I had no conceivable way of knowing the birthdates of adult relatives

who died in the Holocaust. But Allianz was fully within its rights under ICHEIC rules to simply deny us this information about insured relatives for whom my brother and I were the likely heirs.

So, even when companies followed ICHEIC's "rules," the system was stacked against the survivors, their family members, the legal heirs.

It is tragic that even in the year 2011, these deceptions have been accepted and perpetuated by our very own government. Shockingly, the United States government has taken the position that we survivors cannot go to court to sue Allianz and Generali and other insurance companies who cheated us and our families. Yet in recent years our Government has fought against Holocaust survivors in the name of foreign policy and executive power, even misrepresenting past agreements, and giving the insurance companies like Allianz and Generali victories worth billions of dollars (over $20 billion in 2011 dollars).

After I survived the war in hiding in France, I moved to the United States in 1949. I served in the U.S. Army in the Korean War. Although this great country turned me and my family away in 1939, and caused incredible life-long grief, in 1951 Uncle Sam "wanted me" and I was honored to serve. However, it is truly outrageous that today, *because I am a Holocaust survivor,* I am singled out among all American citizens in that I cannot take Allianz to court to demand the truth about my family legacy, and I cannot recover the value of my father's policy.

It is equally appalling that non-survivor Jewish groups like the American Jewish Committee, the Claims Conference, the Anti Defamation League, B'nai B'rith, and the World Jewish Congress are also supporting the insurance companies against us. ADL and AJC have even taken their money too. We are outraged by any Jewish groups arrogantly interfering with our rights, especially those who failed to help us in our extreme time of need. By what tortured logic or moral principle do such organizations – who are not authorized by survivors, do not represent survivors, have never even spoken with survivors, and certainly are not accountable to survivors – presume to interfere with our individual constitutional rights as American citizens? Their arrogance is criminal, and the results have been devastating.

As we commemorate the 73rd anniversary of Kristallnacht, the observance was again riddled with tragic irony. Half of the survivors in this country live near or below the poverty level, and tens of thousands died in misery, many before their time, without adequate health care, dental care, nutrition, shelter, eyeglasses, medicines, and home care. As a volunteer for the Jewish Community Services in Miami, I can certify that far too many survivors are not getting the help they need to live in dignity. Meanwhile, these non-survivor groups and our own government have been protecting the global insurers hoarding billions they owe survivors.

Our colleagues have suffered incalculable tragedies and unspeakable crimes, most losing all or most of their loved ones. To have no understanding or willingness to help in regard to Nazi stolen assets like paid up insurance contracts which are not given back is intolerable. Instead of holding Allianz and other companies truly accountable, if you look down the street in this City, no one seems to care. To the contrary, the companies are spending millions lobbying Congress to keep survivors from getting what is owed to us.

Let me remind the Committee just who Allianz was, and what it is today. It has never denied its intimate relationship to the Nazi regime. In 1933, Allianz chairman Kurt Schmitt, who was an early Nazi party member, became Hitler's Minister of Economics. Allianz provided the Reich with insurance coverage for Auschwitz and other death camps. During this same period of time, Allianz and its affiliates were selling policies to European Jews and handing over Jewish customers' files to the Nazis. Allianz escaped serious prosecution after the war, and its former employees who served in the SS or the Nazi party went right back to their old jobs. Between the end of the war and today, according to economist Sidney Zabludoff, Allianz failed to honor over $2 billion in policies it had sold to Jewish customers.

When Allianz tried to cynically sweep this past under the carpet and pay $300 million to name the new pro football stadium in the Meadowlands in 2008, thanks to some outstanding reporting the public

learned about Allianz and demanded the deal be scratched. Unfortunately, others have not been so principled. Today, National Public Radio, CNBC, and American Public Media are taking Allianz's money, shamelessly using their respected positions to launder the company's past.

You will also be shocked to learn that Garrison Keillor, and A Prairie Home Companion, are also taking Allianz's sponsorship money! And, they refuse to even respond to letters of inquiry from Holocaust survivors and our supporters. When one listener inquired through the program web site, the response was even more startling – with the official response insisting they are not responsible for such program sponsorship and do not take any responsibilities for broadcasts sponsored by Allianz.

We pray that this hearing, convened by the Honorable Ileana Ros-Lehtinen, a great champion of Holocaust survivors' rights, will bring change at long last. We pray that Congress will make a commitment to ensuring that we survivors obtain the truth about our families' legacies, including a full accounting from all corporate profiteers, passing HR 890 and its Senate counterpart S. 466. . And, maybe at long last, all survivors will be afforded the dignity they deserve in their last years. This will happen only if Congress acts now to restore our rights and insist that the Holocaust profiteers disgorge everything they stole. This is what remembrance -- and justice -- demand.

I would like to add a word about the French Railroad bill. We support all survivors' rights to full compensation for Holocaust era wrongs, no matter how many years have passed, no matter how powerful the culprit is today. This certainly includes the French Rail legislation. However, for the record, I would like the committee to know that when the St. Louis was returned to Europe, we were taken to France. My parents and sisters were deported by the French Railroad to their deaths in the camps. Due to my young age, I managed to survive in hiding in France until the end of World War II. However, I believe that I and others should be entitled to pursue justice against the French Railroad and others who participated in similar atrocities, and all who profited from the Holocaust like the insurance companies.

Thank you and please allow me to include several exhibits into the record with my statement.

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE HOWARD L. BERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

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Testimony of
American Jewish Committee
Anti-Defamation League
B'nai B'rith International
Conference on Jewish Material Claims Against Germany
World Jewish Congress
World Jewish Restitution Organization

to the
House Committee on Foreign Affairs
November 16, 2011
Washington, DC

As Jewish community organizations engaged in advocating for justice for victims of the Holocaust, we appreciate the careful consideration of the House Committee on Foreign Affairs of the issues raised by the H.R. 890, the Holocaust Insurance Accountability Act of 2011. Congress has played a vital role over the years in seeking ways to help mitigate the suffering endured by survivors of the Holocaust including helping address the mass theft of their property, as well as ensuring that the Holocaust is not forgotten.

Our community, like the US Government, continues to struggle to develop solutions – in the face of nearly insurmountable obstacles – which obtain the maximum amount of funds, for the most victims in need, as quickly as possible. These efforts have resulted in a number of agreements and claims mechanisms, such as the Swiss Banks Settlement, the German Foundation "Remembrance, Responsibility and Future" and the International Commission on Holocaust Era Insurance Claims ("ICHEIC").

With respect to insurance, during and for decades after World War II, except for Germany, a virtual vacuum existed in insurance restitution efforts. The absence of relevant documentation, the prohibitive costs and time involved in litigation and the nationalization or disappearance of many European insurance companies meant there was no effective way for survivors to obtain payment for their Holocaust era insurance claims. Such circumstances are precisely why ICHEIC was established – to provide a device which enabled claimants to receive some measure of justice which, up to that point, had not existed. Specifically, ICHEIC built a process to pay Holocaust era insurance claims issued by five main European insurers, their subsidiaries, and German insurance companies. Representatives of Jewish organizations, major survivor organizations, and entities such as the National Association of Insurance Commissioners joined in a years-long effort to develop a claims process and meaningful guidelines, as well as to identify policy holders. Notwithstanding the impediments which challenged such an effort, in the end, ICHEIC paid out over $300 million in insurance-related payments to tens of thousands of survivors and heirs of Holocaust victims, and an additional $200 million for assistance programs, including homecare, for survivors in need.

Any consideration of remedies for the damage perpetrated during the Holocaust – including the issue of unpaid Holocaust-era insurance policies – begins with the painful knowledge that nothing can erase the murder of the millions of Holocaust victims and the loss and suffering of those who survived and their families. At the same time, imperfect as they are, negotiated agreements have provided critical assistance to many who waited far too long for some measure of justice, in their lifelong effort to cope with unimaginable horrors they were forced to endure.

Without question, lawsuits, including those brought in U.S. courts, played a meaningful role in placing these issues on the public's agenda, highlighting the gross injustices survivors faced, and pressuring governments and institutions to face this most reprehensible chapter in history. At the same time, there

can be no doubt that the promise of legal peace for those who participated in these negotiations was critical to achieving the agreements which were reached. And, as a result, hundreds of thousands of victims of the Holocaust have been helped to live with some measure of improved comfort, care and dignity as they age.

Despite the admirable goals of H.R. 890, we have serious concerns that the proposed bill is not only unwarranted, but that its enactment could be detrimental to the interests of survivors, delaying and/or jeopardizing tangible efforts to provide support for them. Attached is a Memorandum on the draft legislation and the concerns it raises (Appendix A), as well as a document that walks through the "catch 22" this legislation poses for survivors (Appendix B). In sum, advancing the proposed legislation would:

- ***Raise false expectations for survivors.*** Encouraging lawsuits based on insurance policies issued in Europe, over 70 years ago, does not ensure that a single Holocaust victim will benefit. Not many claimants are in a position to begin long and costly litigation and the few that might be will face significant legal obstacles related, among other matters, to burdens of proof and evidence. In addition, even were insurers able to overcome the strict European data privacy laws, the release of unfiltered information, on potentially millions of insurance policies, would raise hopes, but yield little new information.

- ***Compromise the ability of the U.S. to advocate for survivor benefits and issues.*** This legislation effectively repudiates or reopens prior agreements. The U.S. plays an essential role in ongoing negotiations with a number of countries and the enactment of H.R. 890 will call into question the U.S. ability to abide by its commitments.

- ***Potentially hinder ongoing negotiations which have provided crucial funding for Holocaust survivors in need.*** Earlier this year, negotiations between the Conference on Jewish Material Clams Against Germany and the German Finance Ministry resulted in considerable additional and new support for, among other matters, survivor home care needs, amounting to over $500 million over the next four years. This will mean immediate, significant and tangible assistance for needy survivors throughout the United States and abroad. Trust and good faith between the negotiating parties have been key components of what have been constructive efforts to expand voluntary funding for, among other critical services, home health care for ill and aging survivors.

Hundreds of thousands of Holocaust survivors in the United States and around the world continue to be in urgent need of a wide range of assistance. The undersigned organizations have come together to jointly raise these concerns with the Committee as H.R. 890 is unlikely to yield results, by any significant measure, comparable to the tangible benefits survivors already – and, hopefully, will continue to – receive from foreign governments. Its passage could, in fact, hamper those ongoing and future efforts.

Congress has played a vital role in defending the rights of Holocaust survivors and raising the awareness of Americans about the moral imperative to seek every possible measure of justice for victims of Nazi persecution.

Embarking on lengthy legal action takes time – time survivors in need simply do not have. We would therefore urgently ask Congress to take action to provide critical assistance to survivors of the Holocaust who need them now:

- Support ongoing negotiations with East European countries pressing them to pass legislation and/or establish claims processes for the restitution of or compensation for private and communal property seized during the Holocaust; and

- Support the Terezin Declaration of July 2009, endorsed by 47 governments, which addresses outstanding restitution issues and which seeks the creation of a fund for the social welfare needs of survivors. Congress can help build on this declaration to urge European governments, the European Union, and private companies – including insurance companies – to step forward and meet these needs.

We are painfully mindful that no agreement, legislation, or hearing can ever provide closure on the moral responsibility of governments, institutions and individuals to confront the past and to learn the lessons of the Holocaust. This hearing demonstrates the enduring quest of Americans and the Members of Congress who represent them to seek justice and never to forget what can happen when anti-Semitism, when hatred in any disguise, goes unchecked. In this effort, we urge the Committee to prioritize the urgent and particular needs of the survivor community and to work to ensure that the most number of survivors, receive the maximum amount of support, as soon as possible.

Appendix A:

MEMORANDUM ON H.R. 890:
HOLOCAUST INSURANCE ACCOUNTABILITY ACT OF 2011

THE PROPOSED LEGISLATION WOULD:

(a) **Establish a Federal State Cause of Action and Encourage the Establishment of State Causes of Action:** H.R. 890 seeks to establish a federal-based cause of action against any insurer or related company with respect to insurance policies in effect between 1933-1945 and issued to a policy holder residing in any area occupied or controlled by Nazi Germany. The bill also provides that any state law creating a cause of action against an insurer based on an insurance policy in effect between 1933-1945 and issued to a policy holder residing in any area occupied or controlled by Nazi Germany will not be "invalid or preempted" by any executive foreign policy or executive agreement entered into by the U.S. The bill also prevents any court from dismissing such a claim on statute of limitations grounds, if brought within 10 years of the passage of the proposed legislation.

(b) **Mandate Disclosure of Insurance Information:** The bill provides that any state law, enacted on or after March 1, 1998, which requires an insurer doing business in the state to disclose information regarding Holocaust era policies, "shall not be invalid or preempted," notwithstanding any Executive Agreement involving the U.S.

In sum, H.R. 890 seeks to compel insurers to disclose information to facilitate lawsuits based on Holocaust era insurance policies issued in Europe between 1933-1945 by establishing a federal cause of action and by validating certain existing, or encouraging the passage of new, state laws.[1]

[1] H.R. 1746, the Holocaust Insurance Accountability Act of 2007 and 2008, unsuccessfully sought, during a previous congressional term, to establish a federally-based cause of action and disclosure requirement related to Holocaust era policies. H.R. 4596, the Holocaust Insurance Accountability Act of 2010, unsuccessfully sought to protect state laws creating causes of action related to Holocaust era insurance policies and state laws requiring insurers doing business in a state to disclose information related to such insurance policies from being undermined by any executive agreement. Proponents of the three bills have criticized the International Commission on Holocaust Era Insurance Claims ("ICHEIC"), which established a process to pay individual Holocaust era insurance claims issued by its five participating insurers and their subsidiaries – that is, Generali, Allianz, Zurich, Winterthur

Issues of Concern

(a) ***Survivors Can Already Make Claims Today***

Although ICHEIC has concluded, insurers which participated in ICHEIC committed to continue to process claims based on Holocaust era policies. This negates the need, with respect to ICHEIC companies, to establish federal or state causes of action. Assistance is available to help survivors file such post-ICHEIC claims and there is oversight of whether insurers are responding to applicant inquiries appropriately and in a timely manner.

(b) ***Congressional Support Raises False Hopes for Survivors***

While well-intentioned, H.R. 890 will generate unrealistic hopes and false expectations among survivors. Simply creating a cause of action is far from ensuring a success in court. The cost and complexity of pursuing litigation will be prohibitive, even for the few able to sue. Claimants will still have to surmount a range of legal obstacles in federal or state court, including issues related to burdens of proof and evidence, as well as formidable defenses which would be raised.[2] The reality is that, at best, a handful of survivors and heirs have any chance of realizing a benefit. Sadly, this will do little to bridge the gap between Holocaust era insurance policies which remain unpaid and claimants that should be paid.[3]

(c) ***Damaging U.S. Credibility in Ongoing and Future Negotiations***

Passage of H.R. 890 would amount to the specific disregard and violation of previous agreements, including Executive agreements which contain undertakings by the U.S. to provide "legal peace" to certain insurance companies. Such Executive agreements with Germany and Austria helped to generate over $200 million in compensation and social welfare assistance to survivors.[4] Repudiating

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and AXA – as well as by German insurance companies (and defunct companies which were nationalized or whose assets were nationalized by communist regimes). Established in 1998, ICHEIC consisted of representatives from these insurance companies, the National Association of Insurance Commissioners, the World Jewish Restitution Organization, the Claims Conference (including the American Gathering of Holocaust Survivors and the Centre of Organization of Holocaust Survivors in Israel) and the State of Israel. Lawrence Eagleburger, former U.S. Secretary of State, served as Chairman of ICHEIC and the Insurance Commissioners of Florida, New York and California also played a major role in the work of ICHEIC.

[2] Claimants would also have to identify and locate the company (or its modern-day successor) which issued a given policy, as well as establish jurisdiction where the insurer now does business.

[3] While mindful of the criticisms of ICHEIC, ICHEIC did pay over $300 million to eligible claimants, while distributing about another $200 million for assistance programs, including for homecare, to survivors in need. ICHEIC was able to pay tens of thousands of survivors and heirs of victims because it applied an extremely liberal evidentiary approach – that no federal or state court would adopt – in processing claims. A federal or state court, for instance, would not deem claimants without documentary support or with policies issued by defunct insurers eligible for payment (both of which ICHEIC did). ICHEIC also handled claims at no cost to claimants and ignored statutes of limitations. Significantly, H.R. 890 – as were its predecessors, H.R. 1746 and 4596 – is silent on the issue of attorneys' fees and litigation-related costs.

[4] This funding was obtained from insurance companies, industry and countries participating in the German Foundation "Remembrance, Responsibility and Future" and the Austrian Foundation "Reconciliation, Peace and Co-operation," in return for, among other matters, the U.S. commitment to issue a statement of interest encouraging courts in this country to dismiss claims brought to recover compensation based on Holocaust era insurance policies.

the very commitments which induced insurance companies and countries to participate in international agreements in the first place -- but not until after the distribution of the monies they contributed pursuant to these international agreements -- would compromise the U.S. role and undermine confidence in the ability of the U.S. to keep its promises with respect to future commitments.

(d) ***Critical Survivor Assistance Could Be Undermined***

H.R. 890 also may jeopardize ongoing negotiations with Germany and others on vital current and future funding for the benefit of Holocaust survivors in the U.S. and abroad. These negotiations affect far more survivors and involve much more in compensation than will ever be realized through H.R. 890.[5] H.R. 890 potentially hinders these and other negotiations on open issues around continuation and expansion of urgent funding for the neediest survivors.[6]

(e) ***Disclosure would unleash a trove of largely unhelpful and misleading information***

H.R. 890 endorses state laws obliging insurers, or (most likely) their European affiliates, to divulge data regarding Holocaust era policies, without any system to determine if the policy holders and/or beneficiaries are Holocaust victims. There are real obstacles to obtaining the information: a) many Holocaust era insurance companies, especially those which did business in Central and Eastern Europe, no longer exist; and b) insurers still in business would have to overcome the stringent European data privacy laws binding them.

Even absent these obstacles, while the information ultimately produced may very well reflect millions of policies, the overwhelming number of the policies will not have been purchased by victims of the Holocaust and many of those that were may already have been paid or otherwise compensated. Given the significant effort by ICHEIC regarding policy holder lists, compelling publication of "information" regarding Holocaust era insurance policies will yield little new, useful data regarding unpaid Jewish policy holders who were victims of Nazi persecution.[7]

Recommendations for Action to Help Needy Survivors Today:

H.R. 890 seeks to prevent the U.S. from taking the very action it promised by, among other actions, establishing a federal cause of action related to Holocaust era insurance policies and by blocking the government from issuing such a statement of interest. [H.R. 890, secs. 4(a) and (b)]

[5] In 2011, for example, Claims Conference negotiations with Germany have secured approximately $500 million for use over the next four years for, among other matters, homecare funding for Jewish victims of Nazi persecution – the most urgently needed and effective form of assistance – increased pension payments to survivors, and the inclusion of additional survivors in pension and one-time payment programs.

[6] These open issues, which involve tens of millions of dollars and require further negotiations, include increasing the payments made through the Article 2, Central and Eastern European and Hardship Funds; lowering the time period required for survivors to be eligible for certain pensions; raising the stipulated income level below which survivors are eligible for pensions; making survivors who were in open ghettos eligible for payments; and obtaining payments for child survivors.

[7] ICHEIC researched millions of policies and published the names of over 550,000 (most likely to be Jewish) Holocaust era insurance policy holders. That list was widely advertised and led to tens of thousands of survivors and heirs of Nazi victims being paid over $300 million by ICHEIC.

At this late stage in the lives of survivors, instead of the proposed legislation which risks undermining significant funding for tens of thousands of survivors in need, while providing compensation for a few claimants at most, Congressional action addressing the following issues would most effectively assist Holocaust survivors and their heirs:

- Supporting ongoing negotiations with Central and Eastern European countries focusing on establishing claims processes and/or laws which would enable former property owners and communities to recover or receive fair compensation for assets – private and communal – seized during the Holocaust and/or subsequently nationalized by communist regimes.

- Supporting and implementing the Terezin Declaration of July 2009, signed by 47 governments, and the related European Shoah Legacy Institute, through which projects are being developed, including the following: "Guidelines and Best Practices for Restitution and Compensation of Immovable (Real) Property Confiscated... during the Holocaust," which countries will be urged to follow; and the creation of a fund which would address the social welfare needs of survivors worldwide most in need.

Appendix B:

1. **Can a Holocaust survivor who is a policyholder or beneficiary of a Holocaust era insurance policy file a claim with the relevant insurance companies, even though the formal process established by the International Commission on Holocaust Era Insurance Claims ("ICHEIC") has concluded?**

   Although the claims and appeals processes of ICHEIC have formally ended, the insurance companies which participated in ICHEIC committed to continue to accept and process remaining Holocaust-era insurance claims – applying the ICHEIC standards in their decisions – at no cost to claimants. In addition, the Holocaust Claims Processing Office ("HCPO"), of New York State, assists survivors in preparing and filing such claims with insurance companies. The important work of the HCPO greatly helps claimants, nationwide, pursue their claims and is provided at no charge.

   Thus, today, anyone who believes he or she is the beneficiary of a Holocaust-era insurance policy and can identify the issuing company is still able to file a new claim with any of the companies that participated in or cooperated with ICHEIC, despite ICHEIC's closure. These include some of the largest insurance companies operating today in Western Europe. While the companies will not consider claims that have already been decided under the ICHEIC process, they have agreed to continue to process new claims against Holocaust-era policies underwritten by a specific company, and they will do so using relaxed standards of proof.

2. **In light of World War II, subsequent communist nationalizations, and the time that has passed since the insurance policies in question were issued, how did ICHEIC determine whether to provide payments to claimants that lacked critical evidence?**

No process could ever, with anywhere near perfect accuracy, compensate and pay the claims of each survivor who may have had a Holocaust-era insurance claim. Nonetheless, ICHEIC considered the many significant hurdles the survivors faced and did not impose the normative rules of evidence or standards of proof.

For example, it would be rare, if not impossible, for claimants to provide definitive proof of the number of premium payments made by a policyholder. If such payments were not made, the beneficiary would be entitled to receive less than the full face value of the policy. To address this issue, ICHEIC decided, as part of its guidelines, that all premiums were deemed to have been paid if they had been paid as of the start of the war in each country. Moreover, there are instances in which ICHEIC paid on claims where the company was not named or the insurance policy was not produced – based, for example, on anecdotal evidence – as well as paid on policies which could be produced, but which had been issued by Central and East European companies which had been nationalized or whose assets had been nationalized. Thus, to address the many challenges – indeed, the virtual guarantee of failure – claimants had faced and would continue to confront by bringing lawsuits in court, ICHEIC was established as the first (and the only) organization ever to offer Holocaust victims and their heirs a mechanism to pursue claims against insurance companies, at no cost, with no regard for any statue of limitations, even if neither the claimant nor the insurance company cold produce the policy in issue.

3. Given the leniency built into the ICHEIC process, how could claimants, even were H.R. 890 to be enacted, achieve better results in court?

The higher standard of proof applied in courts than used by ICHEIC would make it significantly more demanding to establish claims. Even if not impeded by statutes of limitations, claimants would still face a number of serious obstacles, including those related to rules of evidence, burdens of proof and other formidable defenses. Moreover, even if claimants could afford the considerable costs of litigation – and many will not – any such lawsuits will take time that survivors, on the whole, do not have.

4. How many claimants can hope to benefit from H.R. 890?

It is difficult, without a full-scale investigation, to provide a reasonable estimate of the number of individuals there are who might have a Holocaust-era insurance policy not yet produced or disclosed by insurance companies doing business in the U.S.

ICHEIC, as a result of its research, which involved the review of millions of insurance policies, was able to develop and publish the names of over 550,000 (most likely to be Jewish) Holocaust-era insurance policy holders. H.R. 890, in contrast, would require a substantial work and time investment for what likely would be a very small return. While the legislation may very well lead to the disclosure of information which reflects millions of policies, the overwhelming number of such policies will not have been purchased by victims of the Holocaust, nor by Jewish individuals. In other words, compelling publication of information regarding Holocaust-era insurance policies, pursuant to H.R. 890, will yield little new, useful data with respect to unpaid Jewish policyholders who were victims of Nazi persecution.

Moreover, H.R. 890 is not likely to yield anything comparable to the tangible benefits survivors already are receiving based on agreements with foreign governments. Indeed, H.R. 890 may jeopardize the continuation of such existing agreements and may compromise this country's role with respect to future negotiations, raising real questions about the ability of the U.S. to abide by its promises.

5. What is the likely impact of H.R. 890 on the survivor community in the U.S.?

The proposed insurance legislation may well raise the expectations of Holocaust survivors only, in the end, to disappoint them. The costs, time and effort required to engage in the litigation provided for in the legislation will be excessive, if not prohibitive, even if the insurance companies can overcome the strict European data privacy laws. The burden of proof confronting claimants will still pose an immense obstacle to surmount, in light of the death certificates, as well as policies and other official documents that were lost or destroyed during World War II and subsequently. In addition, the mandatory publication by the insurance companies which participated in the process established by ICHEIC of all Holocaust era insurance policy holder names – facilitated by H.R. 890 – will, at this point, yield little new information regarding policy holders who were victims of Nazi persecution. Further, even assuming that European data protection hurdles could be overcome, most of the policies which would be disclosed would not have been purchased by victims of Nazi persecution; many of the policies would have already been paid out; and many of those not paid would have been otherwise compensated. Thus, the huge expectations that the legislation will generate on the part of survivors will simply not be met – leading to upset, disappointment and frustration.

6. Apart from existing agreement and ongoing negotiations, especially with Germany, what might be sources of additional funding to assist Holocaust survivors in need?

In June 2009, the Prague Conference on Holocaust Era Assets concluded with 46 countries approving the Terezin Declaration, a joint statement including, among other matters, language which focuses on the need to help survivors in their last years, through home care and other health and medical-related assistance. The intention is that the Terezin Declaration and follow-up will motivate signatory countries to step forward and help meet these needs of survivors, whether by contributing to a fund or by returning certain property seized during the Holocaust. Such an approach, and efforts related to it, will bring far more funding to assist more survivors in need, and will do so much sooner, than the legal actions encouraged by H.R. 890.

DOUGLAS DAVIDSON
Special Envoy for Holocaust Issues
Department of State
H.R. 890, The Holocaust Insurance Accountability Act of 2011

The Department of State has sought over many years to help Holocaust survivors and their heirs achieve a measure of justice for the horrors done to them. An important part of this effort has been to ensure that all insurance policies from the Holocaust era are paid to survivors of the Holocaust and to heirs of Nazi victims to whom they are due. In our view, H. R. 890 (the "Holocaust Insurance Accountability Act of 2011") would set back these important goals. It would encourage claimants to reject existing remedies in favor of time-consuming and expensive litigation that could outlast the lifespan of the very people the bill is intended to benefit.

If this bill were enacted, the majority of those survivors who believe they still have uncompensated Holocaust-era claims against foreign insurers may be lured into lawsuits where they would face great difficulty both in meeting the standards of evidence required by U.S. courts and in overcoming myriad legal defenses, making it virtually impossible for them to receive insurance benefits they seek in their lifetimes. Experience with Holocaust-related claims in the past has demonstrated that it is only through alternative dispute resolution mechanisms with evidentiary standards sensitive to the realities of the Holocaust that the vast majority of such claimants have any realistic prospect of receiving any payments.

This is why the United States government supported the establishment of the International Commission on Holocaust Era Insurance Claims (ICHEIC) in 1998. ICHEIC was chaired by a former Secretary of State, the late Lawrence Eagleburger, and was led by six persons designated jointly by U.S. insurance regulators, the World Jewish Restitution Organization, the Conference of Jewish Material Claims Against Germany and the State of Israel, and by another six persons designated by the more than 75 participating European insurance companies and regulators. It is important to remember that ICHEIC was not created at the initiative of European insurance companies to avoid litigation but that American state insurance commissioners led the effort. Working together with major American Jewish organizations and Holocaust survivor organizations, they conceived and created ICHEIC under the conviction that an alternative dispute resolution process would achieve results more swiftly and more comprehensively

than would litigation, without cost to claimants and without the delay and strict evidentiary rules court proceedings would require.

H.R. 890 is apparently based on the premise that there are many extant Holocaust-era insurance claims for which ICHEIC failed to pay heirs of policyholders. However, all the evidence available to us suggests this premise is flawed. ICHEIC engaged experts to investigate the incidence of life insurance policy ownership in pre-war Europe. These experts concluded that the number and value of policies issued prior to World War II was far less than previous estimates had suggested. Other evidence, too, supports the view that, in addition to post-war compensation programs, ICHEIC has paid virtually all remaining claimants on unpaid policies. Since the completion of the ICHEIC process there have been very few claims subsequently sent either directly to the insurance companies involved in ICHEIC or to the State of New York's Holocaust Claims Processing Office, which handles such claims from any part of the world.

Another premise of the bill is that potential beneficiaries of policies need litigation to obtain "discovery" from European insurers and thus to locate their relatives' policies. But ICHEIC has already performed this investigation, and at absolutely no cost to Holocaust-era claimants. Within ICHEIC both American state insurance commissioners and major Jewish organizations acted as victims' advocates, establishing a process comparable to judicial discovery. This discovery-like process has resulted in audits of the claims process itself and in the publication of 500,000 names of Nazi-victims who could be possible policyholders.

Also at no cost to the claimants, ICHEIC undertook the complex archival work necessary to find, value, and pay a large number of such insurance policies. It found matches for 8,000 claimants who could not name an insurer, and it paid 2,900 claims on behalf of defunct companies in Eastern Europe that could never have been sued in a U.S. court. ICHEIC even made $1,000 in humanitarian payments to claimants when it could not be established whether a policy ever existed, as long as the claim included a plausible story that relatives may have owned an insurance policy. It paid eligible policies on terms that converted them into hard currency values and took account of the passage of time to bring their value up to the present through the payment of interest. It made payments even where the issuing insurer had gone out of business. Independent auditors and victims' advocates monitored every step of the claims process to ensure it was thorough and generous.

In all, ICHEIC paid approximately $300 million to some 48,000 claimants, both beneficiaries and heirs of beneficiaries, on policies issued to Nazi victims during the period from 1920 to 1945. This sum does not include earlier payments on policies made from the 1950s to the 1980s by European insurance companies and foreign state compensation programs.

Moreover, when ICHEIC completed all pending claims and closed its doors in March 2007, the foreign insurance companies pledged to process any additional Holocaust-era insurance claims on the same liberal basis. They continue to fulfill that pledge today.

None of this progress compensating claimants would have been possible if the foreign governments and companies providing these payments had believed they would be subject to continuing litigation in U.S. courts over Holocaust-era claims. Therefore, in return for the $6 billion these foreign governments and companies have paid to Holocaust victims, including to holders of Holocaust-era insurance policies, the United States committed to support "legal peace" for companies and claims covered by its executive agreements with Austria, France, and Germany. The United States has consistently confirmed the enduring nature of its foreign policy interests in supporting "legal peace" through non-judicial remedies in a number of statements of interest filed in American courts. American courts have maintained this legal peace.

Therefore, this bill would also undermine commitments made by the United States in bilateral agreements, creating significant problems in our foreign relations. Passage of this bill would undermine the State Department's ability to facilitate future Holocaust-era claims settlements with other countries in Europe and call American credibility into question.

In our judgment H.R. 890 would set back, rather than advance, the cause of bringing justice to Holocaust survivors and other victims of the Nazi era, as well as to their heirs, a cause for which the United States has been in the forefront for the past 60 years.

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE ANN MARIE BUERKLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Congresswoman Ann Marie Buerkle - Opening Statement

Thank you, Madam Chairman. I also wish to thank our panelists for appearing here today.

It is always with the deepest sadness and regret that we revisit the atrocities of the Holocaust and examine the lasting effects of one of the most horrific moments in the history of mankind. It is of the utmost importance to constantly remember and pay our respect to the victims of the worst crime against humanity the world has ever witnessed.

The vital and somber work of remembering those who suffered at the hands of the Nazis extends beyond memorializing. It is essential that Americans, and citizens around the globe, care for Holocaust survivors and their heirs. Although it is impossible to redress the wrongs of the Holocaust, we must strive to ensure that Holocaust survivors and their heirs receive the reparations to which they are entitled. To the best of our ability, Congress must do its part to care for survivors and their heirs by passing fair and effective legislation.

I wish to submit to the record an executive summary for a financial impact statement regarding Holocaust-era insurance policies and claims from the Holocaust Claims Processing Office, located in my home state of New York. Or you may find the full report that was released in October 2011 from the New York State's insurance department online at http;//www.dfs.ny.gov/consumer/holocaust/hcpor111031.pdf.

Thank you again to our panelists. It is moving to be in the presence of those who experienced the indescribable horrors of the Holocaust. Thank you for your willingness to share your story. Please accept my sincerest condolences and regrets for your suffering.

Thank you, Madam Chairman. I yield back my time.

Executive Summary

Economic, social, and political chaos plagued Europe in the aftermath of the First World War. Three empires were dissolved, new nations were created, and new political systems were introduced. In addition, the humiliating conditions of the peace treaties turned public opinion against both the Allied powers that imposed the settlements and the center-left governments that had been forced to sign the treaties.

To finance World War I, the Germans as well as the Austro-Hungarians turned to loans rather than taxes and after the war currencies lost their value at alarming rates; in Germany the mark lost 1 trillion times its value and by the summer of 1919, the value of the Hungarian crown had declined by 85%. Poland also suffered a postwar hyperinflation, such that 1924 prices were nearly 100,000 times that of 1914. During this period of hyperinflation, prices on average quadrupled each month. This development was catastrophic for the pre-World War I middle-class; pensioners, shopkeepers, and all those Germans who had responded to patriotic appeals and invested in war bonds, saw their incomes melt away. Hyperinflation eventually wiped out the capital of German and Austrian banks contributing to the bank failures of the early 1930s.

The events of the early 1920s in Central Europe were a sharp reminder that economic chaos had been the handmaiden of revolutions in the past. In order to defuse a clearly untenable situation a plan was crafted by the Allied Reparations Commission to stabilize the currency and bringing increased foreign investment and credit to the European market. Germany, Austria and Hungary were able to stabilize their currencies with outside help – massive loans from the League of Nations – and new currencies were introduced in the mid-1920s. Poland introduced the zloty to stabilize currency but it was overvalued against gold and not stabilized until 1926. Unlike the other countries formed out of the wreckage of the Austro-Hungarian Empire, the new Czechoslovak Republic managed to escape the worst of the postwar economic and political turmoil that afflicted its neighbors, experiencing only a relatively mild and short-live period of inflation in the immediate aftermath of World War I.

In general, the mid-to-late 1920s were a period of relative calm and moderate economic growth for most European countries. Structurally, the German economy in the 1920s was marked by high degree of industrial concentration and export dependency. Austrian progress toward economic recovery during this period largely relied upon tax benefits for Austrian industry while the country remained hampered by severe trade competition from neighboring countries. Due to the dynamic trade policies of the new Czechoslovak state, which did not amass a particularly large foreign debt, capital flowed into the country from Western Europe. Farther east, the countries of Southeastern Europe, Hungary and Poland remained largely dependent on agricultural production, which remained technically backward and labor intensive. State policies of land reform in Eastern Europe failed to stimulate technical improvements in agriculture or increase agricultural productivity even during the relative boom years of the 1920s.

This period of relative prosperity in the countries of Central and Eastern Europe was short-lived, however. The decline in agricultural prices that began in 1928 was followed

by the collapse of the New York stock market in 1929 and world-wide economic depression. During the Depression, access to foreign capital, which had been so critical to the growth experienced by the countries of Central and Eastern Europe during the 1920s, virtually dried up. The financial sector in Central and Eastern Europe also experienced a series of bank crises, which ended the availability of new loans and credit on the international financial markets. Central and Eastern European countries labored at a further disadvantage, being, for the most part, debtor countries, with large proportions of their national debt held by foreign governments and banks, who called outstanding loans as they too began to feel the pinch of financial crisis.

As the Depression continued and deepened, the agrarian economies of Eastern Europe were particularly hard hit. Accordingly, the countries of Central and Eastern Europe sought to restore the balance of trade by imposing quotas and high tariffs on imports. Countries across Europe effectively abolished the gold standard and central banks restricted currency convertibility in an effort to stop capital flight and placed foreign exchange transactions under their purviews, introducing a two-tiered exchange rate system.

The nations of Central and Eastern Europe were also plagued by massive unemployment, which in turn, often, though not always, led to political instability. In many countries, as established political parties seemed unable to cope with the economic crisis and impoverishment of their populations, voters turned increasingly to more radical parties of the left and the right.

In the wake of this global economic collapse salaries and wages were increasingly cut and more insured borrowed against their policies to pay debts which could not be paid with depreciated stocks, bonds, or other assets. Yet, given the economic uncertainty introduced by the currency crises of the early 1920s and the banking crises of the early 1930s, the purchase of whole life insurance policies (and related life products, such as dowry and endowment insurance) became one of the primary methods of savings for many people in Europe during the interwar years. Insurance denominated in hard foreign currencies (or gold) sold by foreign insurance companies seemed to provide a security lacking in national currencies and/or national banks.

In continental Europe, Germany was by far the largest market, with nearly 5 times the premium income in 1936 of the next largest Continental European market, France. Compared to other Eastern and Central European countries, the German insurance market was even more dominant, dwarfing its closest neighbors. The size of the German insurance market in 1936 is reflective of the size and wealth of the German economy as a whole.

Parallel to developments in the banking and manufacturing sector, the German insurance industry also underwent a period of turmoil during the early 1920s, followed by a high level of concentration during the 1920s and 1930s. The hyperinflation of the 1920s led to a combination of increasing policyholder underinsurance and rising costs for insurers. By 1922-1923, old policies were worthless and the revision of premiums and values on policies could not keep pace with the rapid devaluation of the currency.

After the introduction of exchange controls during the July 1931 banking crisis, holding foreign-exchange or gold-denominated policies was no longer particularly easy and these

policies, in any case, lost some of their attractiveness. Such conversions were made compulsory by an August 1938 law of general application.

By 1936, even with the wave of consolidation and concentration that the insurance industry had undergone, there were still over 80 companies – public, private and foreign – selling life insurance in Germany. The life insurance market in Germany was dominated by private companies, although these varied widely in their scope and aims. The total number of life insurance policies sold by private companies in Germany increased from 21.2 million at the end of 1934 to 26.2 million by the end of 1936. The largest single private insurer was the giant Allianz Konzern. In addition to private insurance companies, there were also a substantial number of publicly owned provincial life insurance companies, which made up nearly 13% of the market. Foreign companies did not play a large role in the German market. Their contribution to total premium income in the German domestic market was less than three percent, and the number of policies issued by foreign companies in force in 1936 was a scant 126,000.

Meanwhile, the Austrian insurance industry in the interwar period suffered a series of shocks, beginning with the collapse in 1918 of the single insurance market provided by the Austro-Hungarian Empire. All insurance companies that had once had their seat in the territory of the Austro-Hungarian Empire were permitted to continue their operations in the territory of the Austrian Republic, while Austria promised not to disadvantage these foreign companies by taxing them differently or charging different types of fees. The treaty did not, however, impose a similar reciprocal condition on the other successor countries (i.e. the Czechoslovaks did not have to permit Austrian companies to operate on their territories, although Czechoslovak companies could operate in Austria).

Hyperinflation in Austria had devastated the insurance industry, as the value of the Austrian crown plummeted. Although insurance companies had a portion of their assets in foreign currencies or gold, the largest share of their assets were in Austrian crowns (not to mention various war bonds that had completely lost their value). Just as in Germany, hyperinflation caused the costs of running the companies to exceed the value of premiums paid. Policyholders suffered too, however, since their policies were largely unsecured and the nominal values lost all meaning.

The real blow to the Austrian insurance industry came with the Phoenix bankruptcy in 1936. The Phoenix company was by far the largest life insurance company within Austria, accounting for 62% of all premiums paid in the domestic market in 1935. In addition to its dominant position in the domestic Austrian market, Phoenix was also active in twenty-two countries, and was the third largest company (including life and non-life products) in Europe. Because Phoenix was such a large company that was active in so many countries, its collapse caused major upheavals in the insurance industry all across Europe. The Phoenix crisis was a crisis for the entire Austrian life insurance industry, as the burden of the Phoenix reorganization and rescue was born by policyholders of other insurance companies.

In Czechoslovakia though 26% of the capital of the insurance industry came from foreign investors, a law was passed in 1924 forbidding insurance companies to denominate their policies in currencies other than Czechoslovak crowns.

Poland, despite its large size, had a very small and underdeveloped insurance market, with only about a quarter million life insurance policies for a population of 32 million. The total premiums paid for Poland in 1936 were 32 million Zloty, or just over $6 million 1936 US dollars.

The interactions of the German insurance industry, the indigenous companies of occupied Europe, and foreign insurers in each occupied country mirrored the complexity and overlapping jurisdictions of the social and political organizations set up in each of these countries. The Nazi occupation of most of Central and Eastern Europe provided the German insurance industry with an opportunity to expand beyond the borders of the Reich. Even in places where German companies were banned from doing direct business, they were able to find a way to indirectly enrich themselves – with the connivance of the authorities – through the purchase of indigenous companies. Meanwhile, the state also enriched itself at the expense of much of the occupied population, particularly the Jewish citizens who were systematically robbed by agencies of the Third Reich before their eventual murder.

Regardless of differing modes of governance and differing processes of spoliation in the areas occupied by or allied with Nazi Germany, the end result was the comprehensive looting of Jewish property, and ultimately, the physical destruction of the Jewish communities and their members in each of these regions.

Wherever Jews were murdered locally, the theft of their assets was often more directly linked to their murders: i.e. Jews were stripped of the few possessions they were able to carry with them to the sites of their deaths. However, in the areas where Jews were progressively disenfranchised and persecuted over a period of months and years, a veneer of legality was applied to their dispossession by the state. In general, though there are certainly exceptions to this rule, the length and complexity of the process of spoliation was directly linked as well to the relative wealth of the Jewish population of the area.

In the first years of the Nazi regime, Aryanization of the private insurance industry proceeded for the most part at the highest levels among the boards of directors and top executives. The largest insurers and re-insurers, many with international businesses, were able to hold out against the prevailing climate of anti-Semitism the longest. However, after 1938, the dismissal of Jewish employees of insurance companies became both more pervasive and more systematic.

At least in the prewar period, the Nazi regime was unwilling to provoke international public opinion by simply cancelling the contracts of Jewish policyholders. Moreover, non-Jewish asset owners (such as those who provided mortgage loans) would have been imperiled by the cancellation of the property insurance of Jewish policyholders. Thus, pre-war attempts to revoke Jewish-owned insurance contracts were more subtle and protracted than the Aryanization of the businesses themselves.

Deprived of their livelihoods, many policyholders cashed in insurance policies (and other financial assets) in order to pay their bills or, often, to pay off taxes that were mandated before they could emigrate. The Foreign Exchange Control Law of December 12, 1938, opened new ways for the state to discriminate against non-Aryan policyholders. Jewish-

owned policies could be confiscated at will, and payments from insurance contracts were deposited in blocked accounts, rather than being paid out to the policyholder. The subsequent passage of the 11th Decree of the Reich Citizenship Law of November 1941 ultimately stripped all Jewish "emigrants" of their assets and provided for their confiscation by the state and the seizure of Jewish insurance assets proceeded with ever-greater rapidity and efficiency.

The situation in Poland and Baltics was still more complex because Soviet occupation preceded Nazi invasion and the Soviets carried out their own seizures and confiscations based on the principle of class warfare. Therefore, many individuals in Eastern Poland and the Baltics had already lost many of their assets by the time the Germans occupied those territories. In Eastern and Southeastern Europe (Croatia,Slovakia, Romania, Bulgaria and Hungary), the Germans employed a wide variety of allies to carry out their policies towards Jews, Communists and other 'undesirables.' The governments of these countries cooperated intensively with German economic schemes for the region and were willing to hand over Jews in territories they had recently occupied to the German regime.

Even before the surrender of Germany in May 1945, one of the stated policies of the Allies was that, to whatever extent possible, reparations should be made to the victims of Nazi persecution. Restitution, i.e. the restoration of property which was confiscated or subjected to other forced transfers, varied in the countries which were either under the direct or indirect control of Nazi Germany. Restitution was the province of administrative bodies, courts, and specially created semi-judicial entities. The speed of the process also depended on the procedures involved, the number of claims presented, and the adjudicating organization.

Lastly, in many of the countries of Eastern and Central Europe, restitution became entangled in a further process of seizure and nationalization effected by the Communist regimes that were in power until the early 1990s. The same property could and often was seized multiple times from different individuals; an insurance policy might have been seized from its Jewish owners by the Nazis, then restituted to them or their heirs during the brief period between the end of Nazi occupation and the beginning of Communist rule, only to then have the company liquidated or nationalized by the new Communist regimes.

The German Federal government assumed the responsibility for paying out the proceeds of insurance policies (rather than shifting the burden to the insurance companies themselves) because insurance companies had been compelled to invest heavily in government bonds, now rendered virtually worthless by the 1948 currency reform that established the new Deutschmark as the official currency of the Federal Republic at the rate of ten Reichsmarks to one Deutschmark. Since the calculation of insurance benefits under the compensation law was to be made as if the policyholder had continued to hold the policies (unpaid premiums and payments made directly to the policyholder were deducted from compensation, but any payments to government authorities, blocked accounts or seizures were compensated), the insurance companies would have been required to pay out too many obligations to remain solvent.

The sole obligation of the insurance companies was to answer all questions regarding the policies being reviewed by compensation authorities, and the Federal supervisory

authority audited insurance company records to ensure that the companies were accurately calculating the amount of compensation due. The actual compensation amounts were paid out by the Federal government.

In Austria, The Insurance Companies Transition Act of July 13, 1946, limited payment of life insurance claims to 40%; amounts up to 400 schillings were paid out in full. Then with the passage of the Insurance Reconstruction Act of September 8, 1955 insurance companies were instructed to draw up a balance sheet for the years 1945-1954 and all life insurance contracts concluded before January 1, 1946 were reduced by 60%. This was in line with the measures taken in respect to cash and bank accounts, and applied to the domestic portfolios of insurance companies authorized to operate in Austria. The Insurance Reconstruction Act required all policyholders to register their insurance claims within two years. After that deadline such claims were deemed to have irrevocably expired.

The problem of the restitution of Jewish property in Czechoslovakia after World War II was closely linked to the complex political, social and economic developments of the immediate post-war period, which included the expulsion of German-speaking residents as well as the re-incorporation of Slovakia. The Czechoslovak government's Decree No. 5 of May 1945, placed all private insurance companies in Czechoslovakia under government administration. A further decree from October 1945 provided that "on the day this decree is published, contractual (private) insurance in the territory of the Czechoslovak Republic is nationalized by the state." Insurance payments to policyholders were blocked, until 1953, when they were formally cancelled.

In the other states of Eastern and Central Europe, which became Soviet satellites by the late 1940s, attempts to restitute property seized as a result of persecution were either non-existent or lasted for so short a time that there was virtually no possibility for anyone to file claims.

Despite some seemingly comprehensive programs of restitution, there were major lacunae in the postwar compensation processes. As a result by the late 1990s it became apparent that beneficiaries of insurance policies held by victims of Nazi persecution had yet to receive payment for those policies. After negotiations among the National Association of Insurance Commissioners, European insurance regulators from France, Germany, Italy, Austria and Switzerland, European insurance companies and the Jewish groups a Memorandum of Understanding was executed establishing the International Commission on Holocaust Era Insurance Claims, which was charged with investigating and resolving unpaid insurance claims of Holocaust victims, survivors and their heirs.

The statistics regarding HCPO claims are compatible with what we have learned about the prewar life insurance market as a whole. The size of the German market is quite clearly seen from the much larger number of documented German claims received by the HCPO. The large percentage of payments from the GSF on Austrian claims is also easily understandable given the large number of Phoenix/ÖVAG policies claimed, reflecting the dominant market share of Phoenix in the Austrian market.

A few deviations from what we know of the market do show up in an analysis of the HCPO's claims, most notably the large share of Generali offers in the total number of

offers made on Czechoslovak, Polish and Hungarian policies. Examination revealed that the domestic companies made up the bulk of the market in all three of these countries (65.62 in Poland, 69% in Czechoslovakia and nearly 73% in Hungary) and yet there is a seemingly anomalous situation in which foreign companies made offers on policies issued in these countries in numbers that far outstrip their market share. However, the anomaly is easily explained with reference to the fate of domestic insurance companies in these countries after World War II; all insurance companies, foreign and domestic, were nationalized in Poland, Czechoslovakia and Hungary.

The domestic companies, however, did not have offices outside the countries in question; nor do they have modern-day successors. The foreign companies often had copies of the policies they had issued at their home offices, so today documentation can be far more readily available in the case of a nationalized branch of foreign company than in the case of a nationalized domestic company. Moreover, since there are no successor companies to the nationalized domestic companies, there is nowhere to turn unless the claimant can establish the existence of the policy independently from the company.

In contrast, given that many of the foreign companies doing business in Eastern Europe do have some records of their portfolios from the period, the claimant did not always have to provide information regarding the company and the details about the policy. ICHEIC's research database did help to establish proof of the existence of many nationalized East European policies issued by both foreign and domestic companies, and the 8A2 process helped to pay claims on companies that had no successors.

Trying to assign an overall present-day US dollar value to the prewar European insurance market is highly contingent on the chosen valuation method (e.g. consumer-price index; thirty-year Treasury bond yields). Nevertheless, in order to provide a reference point in present-day terms, ICHEIC's valuation guidelines were used to calculate the value of the 1936 direct premium income across the European market, using the most generous multipliers for each country. This method of converting 1936 dollars to present-day sums, unlike using the US Consumer Price Index or long bond rates, takes into consideration the deflation suffered by most European currencies after 1945. The total value of the 1936 market in 1936 US dollars (converting the 1936 local currency to the 1936 US dollar using the end of year exchange rates for 1936) yielded a market valued at approximately $908 million dollars. Bringing the market value up to December 2006 values, as this was the final date for ICHEIC decisions, yielded a December 2006 value of the prewar market at just over $13 billion; this sum, which includes premium receipts for policies purchased by those who were never and those who eventually became victims of Nazi persecution, exceeds the estimated value of as yet unpaid insurance policies.

Victims of Nazi persecution made up a small percentage of the prewar population of the largest European insurance market (Germany, 0.5%); moreover, the country with the largest percentage of Nazi victims (Poland) had a relatively small and underdeveloped insurance market. It is therefore unlikely that billions of dollars worth of insurance policies belonging to victims of Nazi persecution remain unpaid, particularly after the extensive compensation programs of the 1950s and 1960s as well as modern-day processes such as ICHEIC, the Austrian General Settlement Fund and other entities previously discussed.

No system – be it a voluntary program or the courts – can resolve all the wrongs done during the Holocaust.

Working directly with claimants over the past 14 years has provided the HCPO with a unique vantage point. As we continue to assist individuals find some measure of justice we have learned that not every resolution of a claim depends on the recovery of an asset or monetary settlement. Success can consist of obtaining closure for a claimant, for example, by providing documentation that shows earlier compensation of the property.

The process of restitution is difficult and distressing for claimants; however, the HCPO's successes show that compensation for assets lost during the Holocaust-era is still possible. The HCPO's experience has shown that thoughtful research in conjunction with utilizing the mechanisms currently in place to process claims can minimize the difficulties suffered by claimants in dealing with matters of Holocaust-era asset compensation.

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CAROLYN MALONEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

CAROLYN B. MALONEY
14TH DISTRICT, NEW YORK

2332 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–3214
(202) 225–7944

COMMITTEES:
FINANCIAL SERVICES

OVERSIGHT AND
GOVERNMENT REFORM

JOINT ECONOMIC COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515–3214

DISTRICT OFFICES:

1651 THIRD AVENUE
SUITE 311
NEW YORK, NY 10128
(212) 860–0606

21–77 31ST STREET
ASTORIA, NY 11105
(718) 932–1804

WEBSITE: http://maloney.house.gov

December 1, 2011

Submission by Congresswoman Carolyn B. Maloney
House Foreign Affairs Committee
"Righting the Enduring Wrongs of the Holocaust: Insurance Accountability and Rail Justice"
November 16, 2011

Chairman Ros-Lehtinen,
I appreciate the opportunity to submit an excerpt of the following document to the House Foreign Affairs Committee record:

"United States Air Force
Oral History Interview with Mr. Donald R. Shearer
Former Technical Sergeant,
United States Army Air Forces, World War II
29 June 2007"

As detailed in this interview, on page 10, Mr. Shearer describes being deported from Paris on a train. To be clear, the only trains operating out of Paris were SNCF trains. I submit the following excerpt for the record.

United States Air Force

Oral History Interview with

Mr. Donald R. Shearer

Former Technical Sergeant,

United States Army Air Forces, World War II

29 June 2007

Conducted by:
Mr. Mark P. Stanley, YA-2, DAFC
Director, USAF Historian Development School
Ira C. Eaker College for Professional Development
Maxwell AFB AL 36112-6429

And

Mr. Neil M. Franklin, YA-2, DAFC
Director, Historian Basic Course
Ira C. Eaker College for Professional Development
Maxwell AFB AL 36112-6429

When I tell the kids, I misspoke when I said I was in solitary confinement because I would sleep on that pile of straw. I would wake up covered with fleas. You know on the inside of your pants, there's the seam? Well I'd take my pants off and turn them inside out and I'd crack fleas between my thumbnails until it looked like they'd been polished.

One day they came and talked to me and took me down the stairs. I'd seen some other people go down the stairs ahead of me, but anyway, they put me in a little room and I saw a fitting [pointing to the ceiling] something like that and he was jabbering and jabbering. I was standing there and I didn't know what was going to happen... we'd heard about them gassing people. All of a sudden water came and it soaked me real good. The door opened and the German just laughed. I was supposed to take a shower. No soap, no towel, just take a shower. I kept my clothes on and finally dried out. That was just an episode of fear.

Another episode of fear-- one day they took me out to a little place to exercise that had a concrete wall around it. A soldier was there with a snarling guard dog. I didn't get much exercise. Then, four days before the Allies liberated Paris, there were 2300 people in Fresnes Prison and the Germans took us all out and put us in buses and hauled us out to the railroad yards and put us in 40 and eight size box cars. That means 40 men or eight horses. You're familiar with that phrase. Well there were over 70 [men] in my car, it was August and it was hot, in a closed-up box car with one little window around 18-inches square with barbed wire over it.

We were in the last train out of Paris. We traveled a little ways, I don't know how long. We went into a tunnel and we sat there and sat there, the steam and the smoke were terrible; people were screaming and carrying on and you thought maybe they were going to do something to you in this tunnel. Finally, the train backed. The problem was that the Resistance people had destroyed a bridge across a river just beyond the tunnel, so the train couldn't go on. They backed it out and then they got us out and took a group of prisoners and said if anyone escapes, these men are going to be killed. We had to help carry the German's equipment up and over a hill to the next train. You can imagine how it is in a box car after three or four days with half a wine barrel that was our toilet. The spillover was terrible. It wasn't any fun.

Mr. Franklin: Did they provide you with any rations while you were on the train?

Mr. Shearer: Not much of anything because they couldn't handle it. They couldn't get them to you and you could hardly eat in that situation. But one time the train stopped and some people got out and got some of the water leaking out of the train engine. They had some instant coffee or tea or something. In one town, some people tried to give us some food through the window, but no, we didn't really have any meals in that time. They apparently gave us some drinking water, I don't remember, but I have read where they gave us some drinking water.

Early on, when we were still in France, it was nighttime, some of the guys removed some of the boards in the bottom of their boxcar as the train slowed on a hill. They dropped down onto the track to escape. The Germans had seen that. When daylight

came, they stopped the train and went back to that car and had a count. They saw there were some people missing. They took off everyone's clothes in that car and in the car next to mine. A young French boy had his hand up to the window and the Germans told them not to do that. Anyway, they shot him in the hand and the people in the car started yelling for first aid. The French people, not in my car, there weren't any Frenchmen in my car, but the car he was in. The Germans opened the door and got him out. You know how train tracks are built; they have a bank usually [sloping] down from the track. They told him to walk down the bank. When he did they shot him in the back. Then where he fell, an officer came and shot him in the head. They had some men out of the boxcar with a little light foxhole shovel dig him a shallow grave. When they left, you could still see his arms and legs sticking out.

Other Airmen tell me I saw that, I don't want to remember, but there is a movie called "Shot from the Sky" on the History Channel. That shows what happened next. The Germans took 20 prisoners from the troubled car, and lined them up in front of machine guns to shoot them all. The German officer took it right down to the final seconds and then called it off. Then he announced the next time they would kill! They controlled us by fear. OK, let's get onto Buchenwald Concentration Camp [near Weimar, Germany]. Do you have anything before that?

Buchenwald Concentration Camp

Mr. Stanley: No, go right ahead.

Mr. Shearer: Here you are going into a death camp. They're either going to work to death or starve you to death—you weren't supposed to leave. They didn't want any lice in the camp. People who went in had to be deloused. Have you heard that procedure before? Well they stripped you of your clothes, gave you a shower, lined you up then threw buckets of disinfectant on you like you were washing a car, and then after that, shaved all the hair off your body except your eyebrows and your eyelashes with real coarse electric clippers. Down around your privates they weren't very careful. They nicked you and so forth.

Well after they got you shaved, there was another fellow sitting on a three-legged stool like a milking stool. He had a paint bucket with a paint brush. And you mooned him and while you were in that position, he slopped you real good with whatever was in that bucket. It really burned. Then they took you on in and gave you a pair of pants and a shirt, previously worn by Jews who had been killed. That's all the clothes that they gave you. It was almost dark when we finished that and they took us down to the little camp. That was your introduction to Buchenwald and there were about 3,000 [Little Camp] people in there altogether.

They did give us something to eat when we got down to the little camp. We were barefooted and bald-headed. They didn't give us any shoes. Like cattle out in the field for two weeks. They gave us a *little* something to eat and I'll tell you it was *little*. In the morning they gave us something like coffee, but it was made out of acorns. They'd give us a piece of bread that was sometimes smeared with margarine that was made out of

coal. In 1985, we found out that the bread was 50 percent sprouted rye, 20 percent sliced sugar beets, 20 percent sawdust, and 10 percent grass and leaves. That was our bread. Around noon, they'd give us a third of a liter of soup it was barley cooked like oats and they didn't take the worms out, but we did the first few days. Or they'd give us green death soup which was a clear liquid with yellow fat floating around on it and green stuff in the bottom of my bowl. And that's what we had for all day.

After it rained for three days in a row—this was still in August, a little bit uncomfortable and they brought us into block 58. That was a big building previously occupied by about 500 gypsy children, boys from 6-16 years of age. I learned later that they had killed those gypsies. We slept on shelves around the wall like an old country store. They were four high and the pictures often seen of these shelves show only three people in them, but that wasn't the case for us—there were five in this space. You had to sleep on your side because there wasn't enough room to lie down on your back. I was on the bottom shelf. They gave me a paper sleeping bag.

Diarrhea was the big problem. At night in our big building other people would come to sleep just to get in out of the weather. They would sleep on the floor. I tell people I don't know how many languages I was cursed in trying to walk through all those men at night. They came around and had us take our shirts off. It was like a green mercurochrome "X" mark that they painted over our chest. They lined us up and gave us a shot. They didn't throw the needle away each time either. I think they did it twice and I hid the second time. We still don't know what they gave us a shot for.

You got out in the morning and they lined us all up for roll-call. You might be in roll-call for an hour or two hours and they counted and you didn't know what was going on because you didn't know their language. It's like the fellow that came in to tell me to take a shower. Well, they could tell you to do something and you didn't do it and they'd kick you or hit you. The men in charge of us weren't German military people; they were German civilians in there for crimes. The Germans gave them the job of controlling us and they had free rein to do whatever they want to do. Sometimes it wasn't nice.

Another language problem I wanted to tell you about. This British officer was standing at attention and when you stand at attention you form your fist. He was standing that way and this German officer yelled at him or something and told him a couple of times whatever he wanted him to do and the guy just stood there at attention. The German officer took his pistol out and broke the man's nose. The problem was that the German's held their hands out flat when at attention; because that shows you don't have any thing in your hands.

Four days after we got to Buchenwald, we looked up and saw flights of B-17s coming over. It was lunch time. We got all excited and we were shouting all kinds of things and 'boys give 'em hell' and that kind of stuff. A white thing [flare] came out, some of us knew what that meant—that meant that was a target. The planes dumped 353 tons of bombs on the war plants outside the prison camp. They caught the kitchen on fire with incendiaries. German officers came down, and yelled all excited and said all Americans and English line up, according to our interpreter. So you know what we thought, they're

going to get rid of us right then. They made us go up and fight the fires. I remember carrying out a bale of dehydrated onions from the kitchen. [Mr. Shearer provided a copy of a letter from the doctor at Buchenwald to Hitler on the casualties of the German soldiers, Luftwaffe and so forth. The letter can be found at the end of this document.]

Mr. Stanley: Did the Germans interrogate you after you got to Buchenwald, or did they just let you be after you got there?

Mr. Shearer: No. They didn't want to recognize us as being soldiers in any way. We were sent to Buchenwald not to get out—we were not supposed to get out of Buchenwald, because if we got out, the public would have known they put American Airmen in the concentration camps. So they really wanted to keep us there.

Two stories: one was, the communist society in Buchenwald had a man working in the office. He saw an order come through from Hitler to kill us. He went to his boss man and that man went to the head man of our 168 and tried to decide what to do—we're inside an electric fence and we're bare-footed and bald-headed. If you did escape and were gone for three days, they could shoot you if caught because you had to steal food to survive. They listed all of our names and gave them to a worker going into Weimar. That person was supposed to give the list to some German military man to get our message to Berlin—that's one story.

The other story is that one of our 168 could speak German and when they sent a German Air Force officer in to survey the damage from the bombing and this fellow told him that we were allied Airmen—supposedly then that was the reason he returned for us. We were asked to fill out papers like they had wanted us to do when we were interrogated in Paris. We wouldn't do it because we said we give only name, rank and serial number. Well they said you can just rot in here. So they left.

Some of our officers got us together and said nothing we could tell them would win the war for them. Let's have vague memories, inaccuracies and we'll say we'll fill out the forms. We told them and they came back we filled them out and four days later they came and got us. Now I'll tell you this because I was in the Air Force and you're in the Air Force. In the German military, their Air Force, was first class. They treated them real well. So here I was coming to Buchenwald in a boxcar with over 70 people—when the [German] Air Force picked us up, there were only 28 to a boxcar.

Stalag Luft III

Mr. Stanley: And that's when they moved you to Stalag Luft III?

Mr. Shearer: Yes. There was straw on the floor and two stoves in the boxcar.

Mr. Franklin: This would have been about when?

Mr. Shearer: This was in late October 1944. When the doors were opened, there was one German sitting on a stool with a rifle across his lap—he was sleeping. But we weren't going to do anything. We were glad to be going to a prisoner of war camp.

MATERIAL SUBMITTED FOR THE RECORD BY MR. LEO BRETHOLZ, HOLOCAUST SURVIVOR, AUTHOR, "LEAP INTO DARKNESS"

DOCUMENTS

SOCIÉTÉ NATIONALE DES CHEMINS DE FER FRANÇAIS

SERVICES FINANCIERS

DIVISION CENTRALE DE LA COMPTABILITÉ GÉNÉRALE

SUBDIVISION DU CONTRÔLE DES RECETTES VOYAGEURS

PARIS, le 12 AOU 1944
212, rue de Bercy (12e)

Monsieur le Préfet de la Haute-Garonne
à Toulouse

Objet: Règlement de frais de transport.

Monsieur le Préfet,

J'ai l'honneur de vous adresser, ci-joint, avec les réquisitions à l'appui, [illegible] exemplaires, s'élevant à la somme de 210.385,10 concernant les transports effectués pour le compte de votre département pendant le 1er trimestre 1944. (Transports d'embarquement, de bétail, Septembre, etc)

Je vous serais reconnaissant de vouloir bien faire effectuer le règlement de la somme précitée par mandats établis au profit de la Société Nationale des Chemins de fer français, 88, rue St-Lazare, et domiciliés à la Caisse Centrale du Trésor Public, à Paris (Circulaire Ministérielle Division de la Comptabilité Publique n° 3.541 1/0 4.516, du 2 février 1938).

Ces mandats seraient à adresser à la Subdivision de la Comptabilité des Recettes (5e Bureau) 21, rue de Londres, à Paris.

Je permets, à ce sujet, d'attirer votre attention sur les conditions de la Convention réglement les transports de l'espèce et prévoyant que tout retard dans les règlements imputables au Service départemental donnera lieu au versement d'intérêts moratoires calculés au taux d'escompte de la Banque de France majoré de 1% et courant à partir de l'expiration du délai de 30 jours suivant le reçu des factures.

Veuillez agréer, Monsieur le Préfet, l'assurance de mes sentiments les plus distingués.

Le Chef de la Subdivision
du Contrôle des Recettes-Voyageurs,

SERVICE DE BATTERIE
24 OCTO 1944
Reçu le

Pièces jointes.

E.T.

TRANSLATION

Paris, August 12, 1944
212 de Bercy Street (12th arrondissement)

The Prefect of Haute-Garonne

Re: Expense Accounting for Transportation

Dear Sir:

I have the honor of sending you the enclosed supporting invoices, in duplicate, for transportation which comes to the sum of 210.385 francs concerning the transportation effectuated by order of your department during the first quarter of 1944. (Handwritten portion is not legible)

I would appreciate your arranging for the payment of this sum prescribed by regulation for the benefit of the Railroad of France, 88 St. Lazare Street, located at the Public Treasury Fund in Paris (Mandates published by Ministerial Division of Revenue Accounts, published February 2, 1938).

These sums should be sent to the Subdivision of Revenue Accounting (5th Bureau) 21, Londres Street in Paris.

On this subject, I call your attention to the conditions of the Convention governing transports of cash and assume that any delay in payment will result in interest at the discount rate of the Bank of France plus 1% commencing on the date that is 30 days after your receipt of the bills and continuing until paid.

Please accept my most distinguished sentiments.

Chief of the Subdivision of Revenue Control

La facture est datée du 12 Août 1944, durant la Bataille de France. Paris a été libéré le 18 Août. En bas à gauche, daté du 30 Novembre 1944, le cachet portant la mention "Camp de Noé", "Sûreté Nationale" et le Croix de Lorraine, "certifié exact" par le Chef de Camp de Noé. Cette facture de décoration du premier trimestre 1944 a été payée à la SNCF, après la guerre, par le Ministère de l'Intérieur.

E.T.H.I.C. DOCUMENTS

Bien que Paris ne soit pas encore libéré le 12 Août 1944, le cachet en haut à droite porte déjà la mention RÉPUBLIQUE FRANÇAISE.

SOCIÉTÉ NATIONALE DES CHEMINS DE FER FRANÇAIS

INSPECTORAT DU CONTRÔLE DES RECETTES VOYAGEURS
512, rue de Berry
PARIS (19e)

SERVICES FINANCIERS

COMPTABILITÉ ET CONTROLE DES RECETTES

Transports du Ministère de l'Intérieur

FACTURE N° 45.313

des transports octroyés pendant le 1er trimestre 19 44 pour le compte de la Préfecture de la Haute-Garonne ci-dessous détaillés sont portés dans les relevés annexés à la présente facture, appuyés des pièces justificatives.

DÉSIGNATION DES RELEVÉS	SOMMES	
Montant des transports figurant sur les relevés ci-joints (Camp d'internement, Centres de séjour surveillé, Internés, Expulsés etc..)	210.385	9
24 OCT 1944 1519		
Total	210.385	9

Arrêté par le Chef de Bureau, soussigné.

Certifié exact
Noé, le 30
Le Chef de Bureau

Certifié la présente facture s'élevant à la somme de Deux cent dix mille trois cent quatre vingt cinq francs neuf centimes.

Paris, le 12 AOU 1944 19

Le Chef du Bureau des Contrôles et Recettes soussigné.

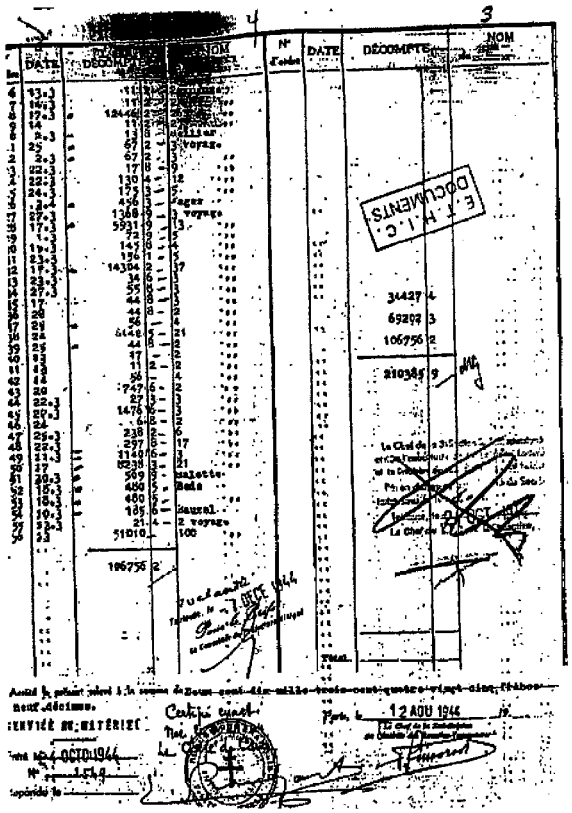
Invoice from the National Railroad of France:

Financial Services
Office of Accounting and Revenue Control
Transportation Ministry of the Interior

Invoice No. 45,313

for transportation provided during the first quarter of 1944 for the account of the Prefecture of Haute-Garonne of which the details are attached in the supporting documentation.

Description of Services	Charges
Provision of transportation on the attached documents to Camp of Internment, Centers of Supervised Stays, Interned and Expelled Persons, etc.	210,385.9
October 24, 1944 (Stamp)	
Total:	210,385.9



DATE	DÉCOMPTE	NOM
13.3	[illegible]	[illegible]
14.3	[illegible]	[illegible]
17.3	12446 2	[illegible]
14	[illegible]	[illegible]
3.3	13 [illegible]	[illegible]
25	67 2	3 voyage
2.3	67 2	3
22.3	17 6	9
22.3	130 4	12
24.3	175 3	5
24.3	456 3	7 pages
27.3	1368 9	7 voyage
17.3	5931 9	13
1.3	72 9	5
19.3	147 8	4
23.3	156 1	5
17.3	14304 2	17
23.3	34 6	1
27.3	55 4	1
17	44 8	3
20	44 8	2
21	56 1	4
22	6448 5	21
25	44 8	2
23	17	2
23	11 2	2
44	56	4
20	747 6	2
22.3	27 3	3
27.3	1476 6	3
24	68 8	2
25.3	238 2	6
22.3	297 8	17
21.3	3140 6	3
27	8238 3	21
20.3	509 2	valsette
15.3	490 5	Bain
16.3	480 5	
10.3	185 6	Sauzal
13.3	21 4	2 voyage
13	51010	100
	196756 2	

N° d'ordre	DATE	DÉCOMPTE	NOM
		34427 4	
		69297 3	
		106756 2	
		210345 9	

E.T.H.I.C. DOCUMENTS

Certifié conforme

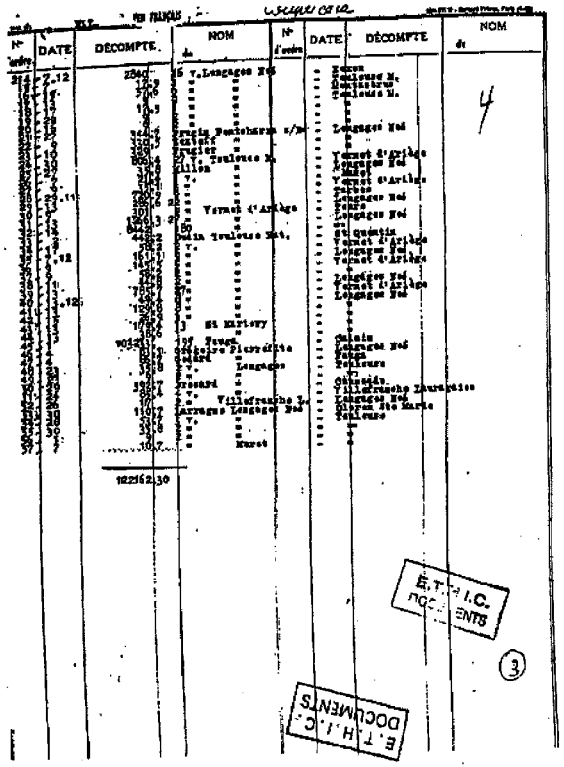
Fait, le 12 AOU 1944

Arrêté la présente présente à la somme de Deux cent dix mille trois cent quarante cinq, [illegible] neuf décimes.

SERVICE MATÉRIEL

Vu le 14 OCTOBRE 1944

N° 1549



N°	DATE	DÉCOMPTE	NOM	N°	DATE	DÉCOMPTE	NOM
		122162,30					

E.T.H.I.C. DOCUMENTS

E.T.H.I.C. DOCUMENTS

(5)

RÉPUBLIQUE FRANÇAISE
MINISTÈRE DE L'INTÉRIEUR
préfecture de la Haute-Garonne
CAMP de NOÉ
Bureau 12 à Noé

NOE, le 30 Novembre 1944

Le CHEF de CAMP. Etienne RAUFAST

à Monsieur le Préfet de la Haute-Garonne
I° Division - Service des Camps

T O U L O U S E

J'ai l'honneur de vous retourner par pli recommandé et dûment revêtu de ma signature, le Relevé et factures des transports des internés du Camp de Noé pendant le I° Trimestre 1944 présentés par la S.N.C.F.

Pièces jointes:
QUATRE - (4)

Le CHEF de CAMP

E.T.H.I.C. DOCUMENTS

E.T.H.I.C. DOCUMENTS

NOE, November 30, 1944

The Chief of Camp. Etienne Raufast

To The Prefect of Haute-Garonne
First Division – Service Camps

Toulouse

I have the honor of sending you the bills for the transportation of the interned persons to the Camp of Noe during the first quarter of 1944 presented by the S.N.C.F.

AA- 33

b

R.C/A.So

Toulouse, le 22 DECE 1944

1° Division
SERVICE DES CAMPS

LE PREFET DE LA HAUTE GARONNE
à
Monsieur le Chef de la Subdivision
de La Comptabilité des Recettes
3e Bureau
21, rue de Londres - PARIS -

Réf. V/Lettre n° 45313 -3e Bureau N° F2 CRV 30/T
du 12/8/1944

- J'ai l'honneur de vous transmettre ci-joint, aux fins d'encaissement, un bon de caisse n° 12.096 du montant de 210.385 frs représentant les remboursements à la S.N.C.F. au titre des frais de transport d'internés et déportés du département de la Haute Gar.

Le Secrétaire
P/le Préfet
Le Conseiller de Préfecture Délégué

Pièce : 1

E.T.H.I.C. DOCUMENTS

Toulouse, December 22, 1944

The Prefect of Haute-Garonne
To
Chief of the Subdivision of Accounting
3rd Bureau
21, London Street, Paris

Re: Letter no: 45313 – 3rd Bureau No. F2 CRV 30/T of 12/8/1944

I have the honor of submitting, attached here, for collection, a cash voucher no. 12,096 in the amount of 210,385 francs for the sum s due to the S.N.C.F. for fees for the transport of Internees and deportees from the department of the Hte One [Haute Garonne].

The Prefect.

MATERIAL SUBMITTED FOR THE RECORD BY MS. RENEE FIRESTONE, HOLOCAUST SURVIVOR, AND MR. DAVID SCHAECTER, HOLOCAUST SURVIVOR, PRESIDENT, HOLOCAUST SURVIVORS FOUNDATION

HOLOCAUST SURVIVORS' FOUNDATION – USA

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

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Child Survivors/Hidden Children of The Holocaust

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Council of Nazi Holocaust Survivor Organizations of So. California

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Holocaust Child Survivors & Friends of Greater Hartford

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New Cracow Friendship Society, New York

Survivors of Atlantic City, NJ

Survivors of the Holocaust Asset Recovery Project, Seattle

Survivors of the Holocaust of New Mexico

Tikvah Acharay Hashoah, San Francisco

May 18, 2011

Dear Secretary Clinton:

More than two full years after this Administration assumed office, Holocaust survivors and our families remain deeply disappointed in its treatment of our rights and interests. We last communicated you in June of 2009 about our desire to have you become directly involved in ensuring a fair and untainted U.S. representative to the Prague Conference on Holocaust Assets. It has now become necessary to renew our demand for a change in the Administration's and the State Department's personnel and policies affecting Holocaust survivors and restitution.

Back in 2009, we raised concerns about the State Department's appointment of a representative of the Conference on Jewish Material Claims Against Germany, Inc. ("Claims Conference") as the head of the United States delegation to the Prague Conference. We urged you to follow the lead of the Government of Israel, which refused to allow a Claims Conference official to represent the government given the documented conflicts of interest between the Claims Conference and Holocaust survivors. The resulting media coverage prompted the nominee to contact us and promise a full partnership on issues affecting survivors' rights, and a commitment not to be controlled by the Claims Conference.

We backed away from our opposition to the nomination at the time, and our withdrawal brought a six-week period where the Special Advisor participated in two conference calls and one face-to-face meeting with elected survivor leaders. However, that cooperation ended abruptly with no explanation, and the Administration's policy has indeed been indistinguishable from that of the Claims Conference, a non-survivor NGO whose track record is far too compromised for such deference to be paid by an Administration that promised the highest standards of ethics, accountability, and transparency.

So unfortunately, even in this Administration for which so many held high hopes, we Holocaust survivors have been once again relegated to the long time role historically and continually assigned to us and our

"JUSTICE AND DIGNITY FOR SURVIVORS"

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families as objects to be talked about, patronized, and acted upon by unwanted and un-chosen representatives, being told what and how we are supposed to feel, what we want and need. To make matters worse we hear infuriating rhetoric purporting to place survivors at the pinnacle of concerns, when policies in fact oppose us and advance the interests of governments, corporations, and non-survivor NGOs. The result has been a brutal deprivation of our rights, and shocking and unremitting poverty and misery for tens of thousands of Holocaust survivors in this country and around the world.

We attempted to draw your attention to the Claims Conference's history of scandal and conflicts which should have disqualified any official of the group from service as an official U.S. government representative, much less one dealing with Holocaust survivors' concerns. We wrote:

> As reported in the media and testified in Congressional committees, the Claims Conference has drawn the ire of Holocaust survivors throughout the world for lack of survivor representation in policy making, policies that cause grave harm to thousands of impoverished survivors, lack of transparency in the handling of restituted assets, use of restitution funds for pet projects including grants to board members and cronies of organization officials, and other serious concerns.

In the last eighteen (18) few months, the evidence has gotten worse. You undoubtedly read about the recent indictment of Claims Conference employees who orchestrated a $42.5 million fraud that went undetected for 16 years, while we and others have been clamoring for serious accountability and transparency for that group and all Holocaust-related funds. And, earlier this year, the Board of Deputies of British Jews filed a report squarely acknowledging and criticizing one of the Claims Conference's long-hidden scandals – that its multi-billion empire was accumulated by claiming and seizing Holocaust survivors' and heirs' Eastern German properties under German law and concealing the

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information from the rightful heirs in order to create a powerful "philanthropic" organization with victims' money. These stories have been widely reported in most of the daily newspapers around the United States and worldwide, and in the Jewish and Israeli press as well.

In addition, there have been other terribly damaging actions taken by the Administration toward survivors in the past two years. In March 2009, we made a request under the Freedom of Information Act (FOIA) to the State Department and the Justice Department asking for documents pertaining to the Executive Branch's formulation of policy affecting Holocaust survivors. This was done after the previous Administration opposed survivors and heirs in court cases against Italian insurance company Assicurazioni Generali, S.p.A., making assertions flatly contradictory to what the Clinton Administration had done and said. Taking *this* Administration's promises of openness and transparency to heart, we assumed this request would provide the survivor community with the facts that we are entitled to as American citizens to learn how and why our government has behaved so disrespectfully toward us.

To our shock, the State Department never produced the first document despite the passage of over two years. The Justice Department sent us two boxes of materials after 14 months, representing only one of the Department's offices. How is it that policy changes promising the opening of government records, announced the President himself in public, are not even honored?

Further, the documents that the Justice Department did produce are profoundly disturbing. They show that in 2008, the State Department urged the Justice Department to mislead the Court of Appeals in the Generali case about what the U.S. government had previously committed to insurance companies in negotiations with Germany. And, sadly, the Justice Department went along and did in fact mislead the Court, despite its clear understanding that the District Court in New York had misapprehended the scope of previous U.S. government commitments and radically expanded executive power.

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In 2009, when the Court gave this Administration the opportunity to correct the record, we also had high hopes for common sense and decency. We were wrong. At the urging of the State Department's Legal Adviser, DOJ repeated the misstatements of the previous regime. You can't imagine what it means to us Holocaust survivors to read the words of your chief lawyer, aware the outcome of the Generali case will depend on what DOJ says about U.S. foreign policy, who, instead of supporting our rights and the Constitution, worried that the Bush Administration's policy justification might be *too weak to propel Generali to victory*. How shocking that the State Department Legal Adviser would urge the Justice Department to "more persuasively explain why the absence of an executive agreement with Italy does not affect the relative strength of U.S. foreign policy interests in this case." Yet he provided no *actual* foreign policy reasons to justify barring survivors from pursuing court cases against Generali, or Allianz, AXA, or other Holocaust insurers, and completely ignored Clinton Administration precedent.

There has been, to our dismay, no recognition of the lack of justice that had been afforded to us survivors, or concern that the global insurance companies who accepted our parents' and grandparents' hard-earned money outrageously defrauded victims' family to gain billions in unjust enrichment. For unspoken and still unseen reasons, this Department continues to support the Holocaust profiteers against us survivors.

What else can be done to us, who thought we had survived all which could be done and deserved the right post-Holocaust for moral and legal peace in our lives and that of our families not to be lied to, and not to be treated like second class citizens, only to live to see the day our own wonderful United States of America would protect the very companies which cooperated with the murderers and emerged with billions in blood money – our families' money?

Contrary to the behavior shown in those documents from the Department of Justice, we survivors need and expect your help and support. It is beyond the pale that we would be perceived as the

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Tikvah Acharay Hashoah, San Francisco

adversary of our own government, to be gamed and denied what was ours and was stolen from us by companies with the protection of the most vicious regime in history.

Ironically, the good people of New York and New Jersey had enough common sense and common decency to cry out when the secret negotiations were exposed that Allianz was prepared to pay the pro football teams $300 million for stadium naming rights. Thanks to the media's focus on Allianz's scandalous history, including unpaid debts to survivors, the cabbies of NYC picketed outside the stadium decrying the possibility that their stadium would be so named. Yet this one example of decency is of little comfort as millions of dollars are expended here in Washington by these companies to lobby the Administration and Congress against us and against the return of our basic constitutional rights. It is of little comfort when the insurers win and successfully attack our legal rights with the affirmative and tarnished support of *our government*. How would you feel?

In September 2010, the Administration, through State Department "Special Adviser" Stuart Eizenstat, opposed legislation introduced by a bi-partisan group of House Members that would have required Generali, Allianz, AXA, Munich Re, and other insurers to disclose the names of pre-war policy holders and allowed survivors to pursue court claims. Mr. Eizenstat argued that the legislation would break the United States' prior commitments to insurers for immunity from litigation. This is the same mis-statement of policy that the DOJ documents produced under FOIA admit.

He also argued that such a law would disrupt negotiations for return or compensation for survivors' property in Poland, despite the obvious lack of any connection between private insurance policies and Polish property. To no one's surprise, Poland remains doggedly recalcitrant, as it announced again last month, while the insurers remain bloated with our families' money, secure in their protection by the U.S. government.

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Mr. Eizenstat's appearance on behalf of the Administration, while simultaneously a member of the Claims Conference leadership, confirmed our worst fears, i.e. that his conflicts of interest would skew the United States Government's policy to further injure Holocaust survivors. Consequently, a change in the Department's leadership on this issue, and on corrective legislation now proposed by Congress (HR 890 and S.466) are essential.

In January 2009, we wrote to President Obama and asked that his Administration seek sufficient resources for all Holocaust survivors in need around the world to receive all necessary support and services for a dignified old age, and require disgorgement of unjust profits by insurers and others right away to meet those needs. Thanks to the survivors signing this letter and our supporters in Congress, the Prague Conference added as a subject area the problems of survivors in poverty, and it became the "number one" issue at the Conference. Nevertheless, in the ensuing months the results have been very disappointing.

At a hearing of the Congressional Helsinki Commission, Mr. Eizenstat reported no concrete steps or plans to increase the resources available to survivors in need. Instead, he speculated about creating pools of additional funds from Eastern European countries' future liberalization of real property restitution. We knew at the time that such an amorphous and politically difficult goal would not help survivors today in their late 80s and 90s who are living in poverty, suffering, and dying needlessly because of the lack of care. And, to make matters worse, Poland's announcement in March that there will be no compensation to Holocaust survivors of real estate confiscated by the Nazis only confirms that the status quo is failing.

We notice of late that the Claims Conference has been aggressively trying to polish its image with reports of greater funding from Germany to assist Holocaust survivors with home care. Their public relations campaign is understandable given the scandals that have defined the operation for the past decade, up to and including the horrible Federal indictments in New York City in November, or the news that Mr. Eizenstat himself managed to pluck $50,000 from the Claims

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Conference treasury for a Kennedy Center concert, while so many Holocaust survivors were suffering without food, medicine, home care, dental care, eyeglasses, and other basic needs. When you compare the $50,000 concert expenditure with the $2,500 annual limit imposed by the Claims Conference for an individual Holocaust survivor's emergency needs, perhaps you can begin to appreciate our anger.

To be clear, for over a decade, HSF has been demanding that Germany step up and assume responsibility for providing a decent and dignified quality of life for all survivors. This demand was belittled and ignored by Germany and the Claims Conference, and as a result tens of thousands of our dear brothers and sisters have suffered needlessly and died in misery wondering why the world forgot them again.

For over a decade, the Claims Conference buried its head in the sand and defended its indefensible business practices, while inflicting tremendous damage to tens of thousands of survivors who died in misery without the assistance they needed. All the while, the Claims Conference was working relentlessly to deny individual Holocaust survivors' basic restitution rights in order to create pools of money it could control – pools of other people's money, obtained at a steep, steep discount in morality and in monetary terms at Holocaust survivors' expense.

The Claims Conference's approach acting as a supplicant and subordinate, begging and scraping at the knee of Germany and global corporations, while opposing actual Holocaust survivors' legal rights to hold culpable financial culprits doing business in the United States accountable in U.S. courts, has been catastrophic. It has resulted in a scarcity framework under which Holocaust profiteers have retained billions in unjust enrichment, while we survivors, American citizens, including many U.S. veterans and combat veterans, are officially second class citizens under U.S. law, and tens of thousands of our brothers and sisters have died in poverty and misery. This mind-set should have no place in a United States Presidential Administration.

PHONE (305) 576-4000 EXT. # 293 4200 BISCAYNE BLVD MIAMI, FL. 33137-3279 FAX (305) 573-2966

HOLOCAUST SURVIVORS' FOUNDATION – USA

Member Organizations
(Partial List)

Amer. Assn. of Jewish Holocaust Survivors of Greater Boston

Assn. of Holocaust Survivors from Former USSR, Los Angeles

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

Child Survivors of Arizona

Child Survivors/Hidden Children of The Holocaust

Coalition of Holocaust Survivor Clubs in South Florida

Council of Nazi Holocaust Survivor Organizations of So. California

Habonim Cultural Club, Miami

Holocaust Child Survivors & Friends of Greater Hartford

Holocaust Survivors Club of Boca Raton

Holocaust Survivors of Greater Detroit

Holocaust Survivors of Greater Pittsburgh

Holocaust Survivors of South Florida

Holocaust Survivors Group of Southern Nevada

Houston Council of Jewish Holocaust Survivors

The Jewish Holocaust Survivors & Friends of Greater Washington

Jewish Survivors of Latvia, Inc. New York

National Assn. of Jewish Child Holocaust Survivors, Inc.

New American Jewish Social Club, Miami

New Cracow Friendship Society, New York

Survivors of Atlantic City, NJ

Survivors of the Holocaust Asset Recovery Project, Seattle

Survivors of the Holocaust of New Mexico

Tikvah Acharay Hasheah, San Francisco

Secretary Clinton
May 18, 2011
Page 8

Madame Secretary, we have come to the conclusion that a bold move will be required to provide the level of care needed for survivors given their advanced age, their severe medical needs arising directly from their barbarous treatment by the Germans, and the widespread poverty among them.

We are proposing that the Obama Administration immediately incorporate Holocaust survivors into the newly enacted national health care program, with funding by a guaranteed annual contribution of adequate size to meet survivors' needs from the Government of Germany. Only if properly engaged by you, Madame Secretary, whose history of good will toward survivors and previous efforts to play a key role in rectifying history's wrongs, with your current position of diplomatic leadership on behalf of President Obama, is there any serious chance that Germany will assist in meeting these historic obligations which were not pursued in the last rounds.

Holocaust survivors must be able to be enrolled immediately and not wait the next critical few years under the current law – they have so little time and have already suffered far too much. And to be clear, despite Germany's admirable record today in the field of education and Holocaust memory, Germany remains uniquely responsible for the harms inflicted upon Holocaust survivors, harms with unremitting consequences still causing great suffering, and requiring sufficient resources to address.

In sum, Holocaust survivors are entitled to a more responsive, responsible, and untainted advocate within this Administration, and we insist on a change in the State Department's Special Adviser immediately, and its policies toward survivors' rights.

We look forward to you helping to turn a new page very soon free and clear of any past deeds by others including those in our own government to find creative solutions which can be applied as early as are practicable.

I am available to discuss this serious matter at the following numbers (305)-231-0221 (office) or 305-742-8501 (cell).

"JUSTICE AND DIGNITY FOR SURVIVORS"

PHONE (305) 576-4000 EXT. # 293 4200 BISCAYNE BLVD MIAMI, FL. 33137-3279 FAX (305) 573-2966

HOLOCAUST SURVIVORS' FOUNDATION – USA

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Holocaust Survivors of Greater Detroit

Holocaust Survivors of Greater Pittsburgh

Holocaust Survivors of South Florida

Holocaust Survivors Group of Southern Nevada

Houston Council of Jewish Holocaust Survivors

The Jewish Holocaust Survivors & Friends of Greater Washington

Jewish Survivors of Latvia, Inc. New York

National Assn. of Jewish Child Holocaust Survivors, Inc.

New American Jewish Social Club, Miami

New Cracow Friendship Society, New York

Survivors of Atlantic City, NJ

Survivors of the Holocaust Assoc. Recovery Project, Seattle

Survivors of the Holocaust of New Mexico

Tikvah Acharav Hashoah, San Francisco

Secretary Clinton
May 18, 2011
Page 9

Respectfully,

David Schaecter, President

JOINED BY HSF EXECUTIVE COMMITTEE:

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[NOTE: Additional information may be accessed on the World Wide Web at http://www.hsf-usa.org (accessed 1/19/12).]

MATERIAL SUBMITTED FOR THE RECORD BY MS. RENEE FIRESTONE, HOLOCAUST SURVIVOR

Renee Firestone
470 So. Bedford Drive, #101
Beverly Hills, CA 90212
(310) 552-9239

October 1, 2010

Congressman Howard Berman
Chairman, Committee on Foreign Affairs
Rayburn House Office Building Rm. 2221
Washington, D.C. 20515
Fax No. 202-225-3196
Fax No. 818-994-1050

Subject: Holocaust Insurance Accountability Act of 2010

Dear Congressman Berman:

We have met a couple of times at events here in Los Angeles, so I will not waste time with a personal introduction. As a Holocaust survivor (and one of your constituents), I have been watching in horror for these past several years as Congress, two Presidents, and various Jewish organizations have banded together to protect insurance companies that have exploited Holocaust survivors by cheating these customers out of their rightful claims. I join with the vast majority of survivors and their family members in expressing our great disappointment at the government's failure to protect our legal rights.

We have no idea who decided that survivors should be the only Americans not permitted to enforce their insurance contracts in U.S. courts, but whoever did, and whoever continues that policy, should be ashamed.

Last week, it was reported that you sent a "private and confidential letter" to one of your Congressional colleagues opposing legislation, HR 4596, that would allow survivors and our family members to enforce our legal rights against the insurance companies. We are outraged that you would attempt to block our rights without even disclosing your reasons. We are at a loss to comprehend by what rationale you could possibly oppose this simple and vital bill. What gives you the right to oppose a measure that your constituents in the survivor community so strongly support? You never even asked our opinion! This is part of a cruel pattern we have suffered over the decades where institutions who have no authority appoint themselves to bargain over our rights, without our permission.

Congressman Howard Berman
October 1, 2010
Page 2

It is a sad day when you, a man the survivor community always counted as a friend, have so callously turned your back on your constituents in their time of greatest need.

I believe the business of Congress is **public** business. Consequently, I respectfully request that you send a copy of your private letter to me immediately. Our rights should not be decided away behind closed doors. We intend to hold you accountable for your actions in this regard. My fax number is: 310-282-0848.

My father was a very responsible man with a business, property, and a family to support in pre-war Czechoslovakia (annexed by Hungary in 1938). I am certain my father had insurance because my first cousin Ference Jakubovitz (the son of my father's sister) was the very first person to have a claim approved by ICHEIC under his parents' policy. Since my father was the one who advised the entire family, why would his sister's family have a policy but not my father? However, when we applied, after all the fanfare, the Commission informed us that my father's name was not on any of the lists. This is difficult for me to accept since it is well-known that the lists produced by Generali and the other companies were incomplete. We wonder why the U.S. government has neither demanded a full accounting nor allowed the states to require it.

My experience is similar to that of my close friend, Si Frumkin, a survivor and giant in the history of human rights. Si was speaking for all survivors when he exposed the cruel hypocrisy and disrespect that Congress, arrogant Jewish groups, and the Executive branch of government has shown by allowing the insurers to inherit the funds that rightfully should have been paid to the victims' families decades ago:

> I am angry. Angry with the SOBs in Germany. With our own SOBs in Washington. With the SOBs running the Jewish organizations that presume to speak and negotiate for me and others like me. With the criminals who run European insurance companies that stole hundreds of millions of dollars from people who died prematurely in gas chambers, and then hired stooges to make sure it's not given back.
>
> I am a law-abiding American citizen. I pay my taxes and my traffic tickets. I vote. I have served on a jury. I fly my flag on national holidays. In return, I expect my government to fulfill its constitutional obligations to

me. One of them is my right to a trial by a jury of my peers. This has been denied me because, apparently, my government prefers to defend and uphold the rights of giant German corporations.

* * *

I never authorized any Jewish organization to negotiate for my father or me. There are, of course, some ex-slaves who gladly accepted the agreement—and they have the right to do so. Others, like myself, want the compensation to be decided in court by a jury of our peers—an option which appears to have been abolished by the decisions of my government and some self-appointed Jewish machers.

* * *

A case in point is a friend of mine who is one of the few claimants to have a paper policy, for $2,000, issued in 1936. Assicurazioni Generali, the Italian insurer that refused to acknowledge the policy for thirty years, finally admitted that it was valid and offered to pay $5,000 as settlement in full. My friend rejected the offer. Apparently the ICHEIC formula values a 1936 U.S. dollar as being worth approximately two and a half dollars in 2002, rather than the actual $100. (In 1936 a Cadillac cost about $600, compared to about $60,000 in 2002.) So, the $2,000 life insurance should be worth $200,000, plus the compound interest for 66 years. I estimate the total to be about $500,000—yet Generali offered $5,000!

So far, Generali has been able to keep the money it stole. It, too, has the cooperation of the U.S. government and its judiciary in acknowledging ICHEIC —created, financed, and controlled by the insurance SOBs — as the only legitimate body to rule, decide, and control Holocaust-era insurance claims. Still, I want to see those lists. I am sure that my father's name appears on one of them. I am also sure that tens of thousands of other Jews whose parents or grandparents perished will find the names of their relatives.

> Hitler took away my father's name and gave him a number. The insurance companies took it away again by pretending that he never existed. I want them to acknowledge that he lived, that he died, and that the way he died matters to his son and to the grandchildren he never knew.

As you no doubt recall, Si was desperately trying to get you and other members of the California Congressional delegation to pass legislation to restore survivors' rights when he became stricken with cancer and died within a few short months just last year.

Survivors and their families, across this nation, universally support the legislation by Congresswoman Ros-Lehtinen of Florida and Congressman Adam Schiff of Los Angeles, even though we have routinely been silenced and disenfranchised from the deliberation process. The only ones who don't support this legislation have financial ties to the Claims Conference, a highly controversial body mired, of late, in its own scandals, and known for standing between us, our restitution, and our family properties and legacies. Their arguments in opposition to this bill should therefore be discounted.

The Claims Conference and other organizations have no authority to speak for anyone . . . much less us survivors.

I would appreciate your prompt response.

Sincerely,

Renee Firestone

Renee Firestone

WORLD'S LARGEST CIRCULATED JEWI
REFORM JUD
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1st Place Award Winner for Excellence in
and a Benefit of Membership in a Ur

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Why Won't Those SOBs Give Me My Money?

by Si Frumkin

As banks, insurance companies, judges, presidents, and even Jewish organizations close off channels to individual claims, this survivor refuses to give up.

This is a rhetorical question. I know why they won't. They would rather keep it.

They figure, if I got along all this time without them paying what they owe me, well then, I can wait a while longer, and eventually I will be gone and that will be the end of the story. If they bother to talk or think about what I and the other survivors are bitching about, while they smoke their expensive cigars on chartered jets on the way to luxurious destinations, they're probably saying: you shouldn't bitch; you're lucky to be alive.

And yes, they are right. I am lucky to be alive. I have survived, I've lived a good life, I have seen much beauty, I have known much ugliness, and I am coming to the end of it all. Should I just relax and let it go? Maybe, but not yet.

I am angry. Angry with the SOBs in Germany. With our own SOBs in Washington. With the SOBs running the Jewish organizations that presume to speak and negotiate for me and others like me. With the criminals who run European insurance companies that stole hundreds of millions of dollars from people who died prematurely in gas chambers, and then hired stooges to make sure it's not given back.

I am a law-abiding American citizen. I pay my taxes and my traffic tickets. I vote. I have served on a jury. I fly my flag on national holidays.

In return, I expect my government to fulfill its constitutional obligations to me. One of them is my right to a trial by a jury of my peers. This has been denied me because, apparently, my government prefers to defend and uphold the rights of giant German corporations.

The SOB I know best is the one whose slave I was, the one that worked my father to death, the one my government is protecting from me. Called Philipp Holzmann A.G., it is a biggie—the second largest company in Germany and one of the largest in Europe.

During World War II, Holzmann owned my father and me for slightly more than a year. I was a 13-year-old Jewish kid from Lithuania given to Holzmann as a slave by the Nazi government. I didn't have a name. I was Jew #82191. My dad was #82192—he stood in line behind me when the numbers were given out. Then about 9,000 or 10,000 of us from Lithuania were loaded into freight cars and shipped to Landsberg, a town in Bavaria where Holzmann was constructing an

underground factory to build jet fighters for Hitler's air force.

Hitler needed the jets. The dozen or so prototype ME-262s flew about 100 MPH faster than anything the Allies could deploy. In their first month of operation they downed almost 100 U.S. and British bombers. Holzmann's job was to get the factory built in a hurry, and they did their best. Work went on twenty-four hours a day, in twelve-hour shifts, seven days a week. We lived on starvation diets—and when people died, more were brought in for free.

The factory was never finished. I was liberated at age fourteen, twenty days after my dad died. After a few years of wandering around Europe and South America, I ended up in California. By 1954, I had an American wife, a job, a college education, a tract home in the San Fernando Valley, and a newborn son.

In the late 1980s, when people started talking about German companies paying compensation to slave laborers during the war, I decided to figure out what Holzmann owed me. We worked eighty-four-hour weeks. At the unskilled-labor rate of twenty-five cents an hour, my fourteen months of work totaled roughly $1,100. A 1944 dollar is worth about $15 today—let's be generous and say $10—so that brings us to $11,000. Add the compound interest for fifty-eight years at a minimal 3% per year and you end up with $70,000–90,000.

And let's get something clear. This isn't charity—it's compensation.

There is also the matter of my father's death. He collapsed on his way to work. The rest of the column kept on going, and I just managed to see him being taken away on a handcart. Dad was still alive when I came back from work. I said goodbye; I think he understood. And then he was gone. I have no idea how to calculate the value of my father's life.

In 2000, after California abolished the statute of limitations on compensatory claims by former slaves, about forty other former Holzmann slaves in California and I engaged a lawyer to sue Holzmann.

Naturally, Holzmann resisted. Powerful, expensive attorneys specializing in obfuscation did everything to beat us—to prolong the process, to tire us out.

And throughout, from one appeal to another, the SOBs had the support of my government. State Department experts during the Clinton Administration testified: "Lawsuits by former slave laborers would be tantamount to interference with the foreign policy of the United States." They insisted that the statute of limitations was still in force and that California's action was an unconstitutional usurpation of powers. We kept losing.

If that wasn't bad enough, several Jewish organizations appointed themselves as our representatives and began negotiating with Germany on the final resolution of all claims. A German foundation was created into which German slave owners would deposit $5 billion as final compensation for all claims in perpetuity. All valid claimants would receive about $7,500 each, and there'd be "legal peace," now and forever. There was jubilation all around.

I object.

I never authorized any Jewish organization to negotiate for my father or me. There are, of course, some ex-slaves who gladly accepted the agreement—and they have the right to do so. Others, like myself, want the compensation to be decided in court by a jury of our peers—an option which appears to have been abolished by the decisions of my government and some self-appointed Jewish machers.

And here's an interesting fact about my personal SOB, Holzmann.

Guess which construction company was awarded the $56 million contract to build the National Monument in Washington to honor the GIs of World War II? The Tompkins Builders of Washington, DC, which is wholly owned by the J. A. Jones Construction Co., a subsidiary of J. A. Jones Inc. of Charlotte, North Carolina, a subsidiary since 1979 of Philipp Holzmann A.G. It's disconcerting: a monument honoring fallen American soldiers was built by a company owned by a corporation that tried so very hard to help Hitler manufacture the weapons that had killed them.

And now to a different cast of SOBs who won't give me my money.

My dad had a name before he became #82192. He was an educated, sophisticated man, a cosmopolitan businessman who traveled widely. It's inconceivable that my father wouldn't have provided for his family in case something happened to him. He must have had a life insurance policy. But I cannot prove it.

A few years ago, the world suddenly realized that European insurance companies had been holding on to hundreds of thousands of unredeemed insurance policies on the lives of Jews who died when the Nazis ruled Europe. The companies refused to pay. Even the few who recovered the actual policies were told that a death certificate was needed, or some other silly and cruel excuse.

By 1999, the pressure mounted—primarily from California, which enacted a law requiring any insurer doing business in the state to disclose information about policies sold in Europe from 1920 to 1945. With few exceptions, the insurers refused to open their files. Like the slave owners, they hired expensive lawyers and went to court.

The cases dragged on and on until June 2000, when the U.S. Supreme Court overturned the California law, ruling 5 to 4 that the state was improperly interfering with the conduct of foreign affairs. Really? Hiding the names of insured and murdered Jews was unacceptably influencing our foreign policy?

Annoyed by all the fuss, the European insurance companies came up with a brilliant scheme: the International Commission of Holocaust Era Insurance Claims, or ICHEIC, that would have the authority to decide the matter of all the claims concerning dead Jews. The insurance companies would be members of the commission as would insurance commissioners from several states. And retired U.S. Undersecretary of State Lawrence Eagleburger would be hired (at a salary of $360,000/year) to run the ICHEIC out of London, far away from most of those pesky survivors.

During congressional hearings in September 2002—after almost three years of work—Eagleburger acknowledged that the ICHEIC had spent $56 million on overhead, salaries, travel, etc. while offering $35 million to settle claims by qualified claimants with "acceptable" proof. Many—maybe most—of these offers to people with "acceptable proof" were rejected by the claimants as being unfair and insufficient. A case in point is a friend of mine who is one of the few claimants to have a paper policy, for $2,000, issued in 1936. Assicurazioni Generali, the Italian insurer that refused to acknowledge the policy for thirty years, finally admitted that it was valid and offered to pay $5,000 as settlement in full. My friend rejected the offer. Apparently the ICHEIC formula values a 1936 U.S. dollar as being worth approximately two and a half dollars in 2002, rather than the actual $100. (In 1936 a Cadillac cost about $600, compared to about $60,000 in 2002.) So, the $2,000 life insurance should be worth $200,000, plus the compound interest for 66 years. I estimate the total to be about $500,000—yet Generali offered $5,000!

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insurance SOBs—as the only legitimate body to rule, decide, and control Holocaust-era insurance claims.

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Hitler took away my father's name and gave him a number. The insurance companies took it away again by pretending that he never existed. I want them to acknowledge that he lived, that he died, and that the way he died matters to his son and to the grandchildren he never knew.

Si Frumkin, liberated from Dachau at age fourteen, went on to become the CEO of a textile business while dedicating himself to the causes of Soviet Jewry, Holocaust education, and political activism. He is a cofounder of the Union of Councils for Soviet Jews.

SOUTHERN CALIFORNIA COUNCIL FOR SOVIET JEWS

AFFILIATE MEMBER OF UNION OF COUNCILS FOR SOVIET JEWS

P.O.Box 1542 · Studio City, CA 91614 · (818) 769-8862 · Fax (818) 766-4321 · E-mail: cdfrumkin@rundrunner.com · Web: www.sifrumkin.com

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Association Soviet Jewish Emigres
Baba Okudzhava Foundation
Holocaust Survivors Ass. - former USSR
Media Analysis Foundation

Congressman Howard Berman
House Office Building
Washington DC 20510

1/16/2009

Dear Howard:

On July 25, 2008 I wrote you a letter asking for your help in providing justice to tens of thousands of my fellow Holocaust survivors. Much has happened since then. Not least is the landslide election, your re-election and your well deserved move to the chairmanship of the Foreign Affairs committee. I congratulate you and wish you much success and meaningful accomplishments.

My July letter addresses the conflict that has been slowly winding its way through the House on the passage of HR 1746 – the bill dealing with restitution and compensation of the heirs and relatives of holders of life insurance policies with European insurance companies. Last year it looked as if justice was to be done but the untimely death of Tom Lantos brought it to a halt. This legislative session faces a number of important tasks. They are all critical but none will likely affect the life or death questions that this issue will – we are dealing with a destitute population of people who survived the nazis and who came to America searching for justice. I urge – I implore you to help them!

I have attached a copy of the letter of 7/25/08 that addresses the facts if the issue. I hope that you will devote some of your efforts towards a resolution that will finally do what is right.

I hope to meet with you and discuss this and any other issues when you are back in sunny California again.

A belated Happy New Year to you and yours.

Si Frumkin

Attached: Letter Si Frumkin to Howard Berman, 7/25/08

SOUTHERN CALIFORNIA COUNCIL FOR SOVIET JEWS

AFFILIATE MEMBER OF UNION OF COUNCILS FOR SOVIET JEWS

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Alliance/Partnership Media Group
Association Soviet Jewish Emigrés
Hillel Hlazbora Foundation
Holocaust Survivors Ass. – former USSR
Media Analysis Foundation

Congressman Howard Berman
House Office Building
Washington DC 20510

July 25, 2008

Dear Howard:

This is not the usual letter a legislator receives. I will not regurgitate the statistics that you have seen many times before. I will not go into the legalistic minutiae that are already familiar to you and your aides. This is an appeal to you, to your conscience, to your sense of right and wrong. And it isn't a selfish appeal: I personally want nothing for myself, my friends or my family.

This is a request for justice for tens of thousands of destitute people whom I do not personally know but whom I consider my brothers and sisters because we share a tragic past.

I am a Holocaust survivor. I was liberated from Dachau by the American army at the age of 14, just twenty days after my father died. Five years later, in 1949, I managed to come to the U.S.

I have lived here for most of my life – 59 years! I married a third generation American, we had two sons and two grandchildren, I got a good education and managed to build a good life for my family.

I love and trust America and, in this, I am not alone. We, immigrants – and especially, we survivors, know how grateful we should be to this wonderful country. We know better than those who were lucky enough to have been born here, the "real" Americans, how much better, fairer and more just this country is than just about any other on this planet.

I have tried to repay the debt I believe I owe, by helping those who were less fortunate than I. I was deeply involved in the Soviet Jewry movement that liberated 1 ½ million Soviet Jews to allow them and their children to live in freedom in the greatest Exodus to freedom in 3000 years. I have advocated help – often successfully, sometimes less so – for Holocaust survivors. I wrote and lectured on the Holocaust to thousands of children and adults at colleges, museums, churches and synagogues.

SOUTHERN CALIFORNIA COUNCIL FOR SOVIET JEWS

AFFILIATE MEMBER OF UNION OF COUNCILS FOR SOVIET JEWS

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Association Kovno Jewish Emigres
Baba Okudjava Foundation
Holocaust Survivors Ass. – former USSR
Media Analysis Foundation

In pre-Soviet Lithuania my father had an automobile dealership. He sold Harley Davidson motorcycles as well as German NSU and British motorcycles; Swedish SKF ball bearings; (U.S.) Fisk and (British Kelly) Springfield tires and much more. He spoke many languages, had a degree from a German university and traveled on business and pleasure all over the world.

I am mentioning this in order to show that he was a sophisticated, well educated individual who cared for his family. It is inconceivable that he didn't provide for his wife and children by purchasing life insurance. He died in Dachau on April 7, 1945 without a death certificate. Many years later, the European insurance companies (*and their handmaiden ICHEIC – created by them, financed by them, and controlled by them)* still refuse to reveal the names of their clients and thus give the possible beneficiaries a chance to see for themselves if the European insurance bandits had stolen and kept the premiums European Jews paid.

Several years ago, I was involved in the distribution of $3 million that a consortium of Dutch insurance companies made available for destitute Holocaust survivors in California. This was the only such action by European insurers. We distributed the money to several thousand recipients – without *any* expense to the fund we created – all costs were covered by the interest the money earned.

By comparison, in his testimony in 2003, Lawrence Eagleburger, ICHEIC's chairman declared that ICHEIC had paid out $35 million in insurance claims while spending $56 million to do so. He also stated that ICHEIC regarded as valid 54,000 received claims but had made offers of payment to just 2600 – less than 5%! The best estimate by experts is that *millions* of policies were sold to European Jews by the insurance companies - ICHEIC acknowledged 54,000 as valid.

The Claims Conference has a long and convoluted history some of it is commendable, some not. Its handling of Jewish properties in East Germany and reluctance to contact the rightful heirs of these properties, its refusal to acknowledge valid claims for restitution by immigrants and survivors from the former USSR that led to mass demonstrations in Los Angeles and resulted in a change of Claims Conference's policy for the better, its refusal to increase the participation on its Board of Directors of Holocaust survivors, the obscenely long time it took to finally expose

SOUTHERN CALIFORNIA COUNCIL FOR SOVIET JEWS

AFFILIATE MEMBER OF UNION OF COUNCILS FOR SOVIET JEWS

P.O.Box 1542 • Studio City, CA 91614 • (818) 769-8862 • Fax (818) 766-4321 • E-mail: esfrumkin@rmadronner.com • Web: www.sifrumkin.com

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and dismiss the former discredited chairman Israel Singer are examples of policies that resulted in harm to survivors without input from survivors.

At this time, HR1746 was meant to right some of the injustice in distributing millions for research, education, museums and historical landmarks at a time when tens of thousands of destitute, sick and feeble survivors who struggle to survive would be deprived of help. All of them are at least in their 70s – disillusioned, neglected and voiceless. HR1746 was unanimously supported by the Foreign Affairs Committee with the late Tom Lantos as chairman. And then, shockingly, the help that would have become available through HR1746 has now been emasculated by amendments in the Financial Services Committee.

I am aware that there was support from a number of Jewish organizations for making the bill meaningless. It is interesting that most of the organizations – possibly all of them – will be receiving sizeable allocations under the adjusted and cruel bill. The organizations supporting the amendments are not directly involved with Holocaust survivors, do not represent them and, frankly, have no business in lobbying or influencing decisions concerning the plight of the survivors.

At this point I want to repeat something I have said before: if and when the lists of insurance clients are published and it becomes obvious that my father had life insurance, I will transfer anything I would be entitled to, to organizations or individuals that would use the money to help indigent survivors.

I am not in this for money. I write this letter in search of justice. In just a few years more, the survivors will be gone forever. I beg you – do whatever you can to pass HR1746 in the form that was supported by the late Tom Lantos!

Sincerely,

Si Frumkin, chairman SCCSJ; Staff lecturer at Museum of Tolerance, Simon Wiesenthal Center; Senior Adviser and Founder Association Holocaust Survivor from former USSR; Board of Directors, L.A. County Retirement Association; L.A. Jewish Family Service Survivors Supervisory Commission; Russian Language Interviewer Shoah Foundation; L.A. City Human Relations Commission (former); Board of Directors Israel Christian Nexus; L.A. County Sheriff Advisory Board; etc., etc.,

[NOTE: Material submitted for the record by the Dutch, French and German Embassies is not reprinted here but is available in committee records.]

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