

RE: FH No. 4822913Y  
[REDACTED] Appellant

ELIHU KOVER, being duly sworn, deposes and states:

1. I am Vice President for Nazi Victim Services at Selfhelp Community Services, Inc. a program which serves over 5000 Nazi Victims each year. I have directed this program since 1987, and worked with Holocaust survivors for many years before that. Selfhelp was founded in 1936 to help the waves of émigrés from Nazi Germany find employment, housing, and a meaningful new life. Today Selfhelp is the largest organization providing comprehensive services to Holocaust survivors in North America. I am an expert in the various types of reparations that Germany pays to victims of the Holocaust.
2. One form of compensation is under the West German Federal Indemnification Law (known as the Bundesentschädigungsgesetz, or BEG), which was enacted in 1952 by the government of West Germany as a result of agreements with the Claims Conference. This law encompasses three separate German laws that were adopted in 1953, 1956 and 1965 that provided for compensation to Holocaust survivors.
3. This form of compensation was referred to by the German government as Wiedergutmachung, which literally means "making good again." However, this term was not accepted by the Claims Conference and is generally no longer used in recognition of the fact that the suffering of Nazi victims cannot be "made up for" by any amount of material compensation.
4. Another form of compensation is a payment through Germany's own government pension system, which is similar to Social Security in the United States. As in the U.S., if an individual work works in Germany and earns enough "credits" over the requisite period of time to become vested, they receive "Social Security" when they retire or become disabled.
5. Since people who were persecuted during the Nazi regime were deprived of the opportunity to earn these credits, the German National Recompensation Law (Bundesentschädigungsgesetzes or "BEG"), amended the German social security law in 1970 to authorize German Social Security for Nazi victims who, because of being forced to flee, to live in ghettos, or to live in camps, were deprived of the opportunity to work in Germany and earn credits to receive regular social

security.<sup>1</sup> As a result, for the past periods of Nazi persecution, these individuals were given retroactive “substitute” credit for Social Security. In such cases, the records of the German pension agency, formerly Landesversicherungsanstalt, and since 2005 the Federal Pension Insurance Association (Deutsche Rentenversicherung Bund), indicate that credits were given based on WGSVG, which stands for “Wiedergutmachung von NS-Unrecht in der Sozialversicherung.”<sup>2</sup> These records are very difficult to obtain, as they require obtaining the original “award letter” of the benefit, which may be decades old.

6. We can generally infer that an individual has received these “substituted credits” by her age and her chronology during the war. Here, the letter dated May 9, 2007 from the German Federal Pension Insurance Association (Deutsche Rentenversicherung Bund), indicates that [REDACTED] has received benefits since August 1986. I am told that she was born in [REDACTED] and fled Germany in 1937, when she had just reached 18 years of age. It is not possible that she could have worked enough time in Germany before the Nazi regime took control to qualify for the Social Security she receives now. She could only possibly qualify for Social Security based on the “substituted” credits described above, which are based on Nazi persecution.
7. The letter dated May 9, 2007 from the Deutsche Rentenversicherung Bund states that the pension amount does not include additional contributions she may have received. “Insofar as you received payments for child education or parenting, those would be contained in an additional document.” The German social insurance system gives additional amounts for parenting and children’s education, which were extended to victims of the Holocaust. Apparently, the pension indicated in the May 9<sup>th</sup> letter is solely based on substituted credit for lost work opportunity, without the additional contributions for parenting and children’s education.

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<sup>1</sup> Persons eligible are defined under section one of the BEG law above, as people who were persecuted because of political opposition, or because of race, religion, or ideology, was persecuted by Nazi oppressive measures, and consequently suffered loss of life, limb, damage to health, liberty, property, possessions, or vocational or economic pursuits.) A link to the German law is at <http://www.buzer.de/gesetz/5859/index.htm> -see § 1. A translation of this section is on page 3 of the document at [http://www.claimscon.org/forms/Ghetto\\_Pension\\_Handbook.pdf](http://www.claimscon.org/forms/Ghetto_Pension_Handbook.pdf).

This booklet published by the Claims Conference describes one particular type of German social security available to Holocaust victims - based on work done in ghettos. This is only one type, and the booklet refers to social security given for “substituted” coverage as is the case here.

<sup>2</sup> The actual German WGSVG law is available online in German at <http://www.buzer.de/gesetz/5859/index.htm>

8. Since these credits are based on her status as a Nazi victim, the Social insurance payment is exempt under the *Victims of Nazi Persecution Act of 1994* which provides:

Payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any Federal or federally assisted program which provides benefits or services based, in whole or in part, on need.

Public Law 103-286 (108 Stat. 1450)(set out as a note at 42 USC 1437a).

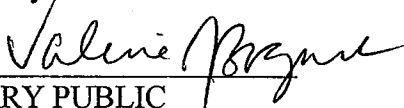
9. Many of Selfhelp's clients receive these social insurance payments, and they have been historically treated as exempt by the Medicaid program in New York City.



ELIHU KOVER

Sworn and subscribed to me this

19<sup>th</sup> day of June 2008

  
NOTARY PUBLIC

VALERIE J. BOGART  
Notary Public, State of New York  
No. 24-4819076  
Certificate Filed in New York County  
Qualified in Kings County  
Commission Expires September 30, 10 2010