

## **Press Release**

### **Introduction**

The Social Security Administration (SSA) has released an Emergency Message providing guidance to its offices across the United States regarding treatment of inherited reparation or restitution payments for Supplemental Security Income (SSI) eligibility and payment-amount purposes. These restitution payments were originally made to individuals because of their status as victims of Nazi persecution.

Although the Victims of Nazi Persecution Act of 1994 (P.L. 103-286) provides that any payment made to an individual because of their status as a victim of Nazi persecution must be disregarded in determining eligibility for and the amount of benefits provided under any needs-based federal program, the Act has often been misunderstood or simply disregarded for two decades. The statute's lack of clarity on this issue had been recently used by the SSA to deny the continuing beneficial treatment of inherited restitution benefits to a child of Holocaust Survivors. Thanks in large part to the efforts of two New York lawyers of the Lissner & Lissner LLP law firm, themselves children of Holocaust Survivors, and Sam Dubbin, Esq. a former Justice Department Lawyer in the Clinton administration and now a partner in the Florida Law firm of Dubbin and Kravetz, the Social Security Administration has righted this wrong.

Barbara H. Urbach Lissner who together with her husband and partner Michael D. Lissner founded the law firm of Lissner & Lissner LLP, explained that pursuant to the Emergency Message "The income and resource exclusions apply to reparation payments inherited by any individual. The individual inheriting the funds does not have to be related to the original recipient, nor does he or she have to inherit the funds directly from the original recipient. The exclusion applies to the funds as long as the claimant or recipient provides evidence that establishes that the inherited funds were Nazi reparation or restitution payments."

## **Background**

In 1993, Rep. Henry A. Waxman together with 45 co-sponsors introduced legislation to exempt payments received by victims of Nazi Persecution from being considered as an available resource for determining eligibility for federally funded programs. From the bill's enactment in 1994 to date, its application with respect to payments inherited from the original recipient has been misinterpreted and misunderstood.

## **Small Law Firm Gets Big Results**

Michael and Barbara Lissner, partners of Lissner & Lissner LLP a New York City law firm whose practice focuses on representing Holocaust Survivors, together with trust and estates associate Benjamin Mellors, Esq. and longtime "of Counsel" Robert J. Epstein, Esq. spearheaded the government initiative resulting in the release of the Emergency Message. The Lissner firm recruited Sam Dubbin, Esq. with his vast experience in government and Holocaust related policy issues to lead the litigation. Mrs. Lissner praised the administration for responding favorably to their exhortations and recognizing the acute need for the clear new regulations noting the tremendous concrete benefits the new regulations will bestow on the heirs of Holocaust Survivors. Mr. Dubbin added that, "For twenty years, the heirs of Holocaust Survivors have not received the benefits that the Waxman law was intended to provide. Now, thanks to the Obama administration and the dedicated officials in the SSA who were willing to listen and respond to us, the needy heirs of Holocaust survivors will be spared the needless fight to exempt benefits."

The genesis of their lobbying efforts arose out of the plight of an SSI recipient, a child of a Holocaust survivor living in his parent's apartment in Washington Heights. When the

government learned that the client had inherited the proceeds of his mother's "**Victim of Nazi Persecution Restitution Trust**" in the amount of \$35,000.00, the government's initial reaction was that the existing law did not shield such payments and terminated his monthly SSI payment of \$264.00. The Waxman law was interpreted so when a Holocaust Survivor passed on his or her accumulated restitution payments benefits to their child, that bequest or gift could render the child ineligible for federally funded need based government benefits. Reparation or restitution payments paid by the German government would thereby not benefit Holocaust victims or their children but rather would assist nursing homes, hospitals or the Government. Prior to the issuance of the new regulation, children of Holocaust victims needed to retain lawyers to fight to keep these benefits. Mr. Lissner said that the new regulations will provide a real benefit to the heirs of Holocaust victim's emphasizing that "the SSA's responsiveness and sympathy to Holocaust descendants demonstrated that it was possible to work with City Hall and that it was particularly noteworthy that the government was willing to correct an erroneous position that had been in place for over twenty years." Mr. Dubbin and Mrs. Lissner echoed that Acting Commissioner of Social Security Carolyn W. Colvin and her team deserve credit for this action.

For the past 20 years Michael and Barbara Lissner have dedicated themselves to advocating with local and State officials and the Courts that accumulated and identified restitution payments should be exempt and thus not included as either available income or resources when determining eligibility for federally funded needs based programs. Now in a major confirmation of the Lissner firm's position of the law, the SSA under the leadership of Acting Commissioner Colvin has retroactively instructed SSA officials that a recipient of SSI may not have their benefits terminated as a result of inheriting accumulated and identified restitution payments.

As a result of this decision the firm's client whose monthly SSI payments were terminated should now be entitled to a reinstatement of his benefits which will greatly assist him in remaining in his rental apartment and in his community in Washington Heights, N.Y.

Mrs. Lissner added that "this decision further emphasizes the need for Holocaust Survivors and their families to take advantage of the advance planning protection that result from establishing a **"Victim of Nazi Persecution Restitution Trust<sup>®</sup>"** to help ensure that needy Holocaust Survivors and families have access to vital governmental benefits.