

SOCIAL SECURITY ADMINISTRATION  
Office of Disability Adjudication and Review

Order of Administrative Law Judge

IN THE CASE OF

Claim Number [REDACTED]

[REDACTED]

Request for Reinstatement of  
Benefits

Hearing: May 5, 2015

Administrative Law Judge: Jerome Hornblass

This matter originally came before the undersigned on the request of the claimant, [REDACTED] ("Claimant"), by his representative, Lissner & Lissner LLP, to review the Decision of the Program Office of the Social Security Administration ("SSA") that terminated, as of April 1, 2012, Claimant's Supplemental Social Security Income ("SSI") benefits stating that Claimant possessed excess resources. Specifically, the SSA in its Notice of Planned Action dated January 9, 2013 erroneously deemed that the assets held in the [REDACTED] German Restitution Trust<sup>®</sup> dated January 17, 2007 (the "Trust") were countable, and therefore not exempt resources of the Claimant. This SSA Decision failed to properly consider that Claimant had established that: a) the assets in the Trust were payments made by the German government to the Claimant's parents because of their status as Victims of Nazi Persecution; b) the Victims of Nazi Persecution Act of 1994 (P.L. 103-286) provides that "any payments made to individuals because of their status as victims of Nazi persecution must be disregarded in determining eligibility for and the amount of benefits provided under any needs-based federal program"; c) payments under this Act include restitution and reparation payments; and d) that all funds held in the Trust (hereinafter referred to as "Funds") were received as a result of being a victim of Nazi persecution. Following Claimant's request for reconsideration of the SSA decision the Central Office affirmed the SSA Decision. The Claimant thereafter requested a hearing before an Administrative Law Judge and the undersigned held a hearing on February 12, 2014.

The Claimant's representative, Lissner & Lissner LLP, presented his case at said hearing. Thereafter, in a Decision dated April 9, 2014, the undersigned ordered a reversal of the SSA denial of SSI benefits to the Claimant and directed that his SSI payments be restored with retroactive payments to the date of SSA's denial of his SSI benefits.

The SSA's Appeals Council thereafter reopened the Decision by notice dated August 6, 2014. By Order dated December 24, 2014 the Appeals Council remanded this case for further proceedings.

Pursuant to the Appeals Council's Order on remand, the undersigned was charged with determining whether the Funds in question meet the criteria of the Victims of Nazi Persecution Eligibility Act of 1994 (P.L. 103-286), Inheritance as defined by 20 CFR 416.1121(g) and SSA Emergency Instruction 14060, Section C.2. Said issue had been brought to the attention of the Acting Commissioner of the SSA by Lissner & Lissner LLP and resulted in the issuance of Emergency Instruction 14060 which clearly established that inherited reparation payments are not to be considered as a resource or income for SSI eligibility purposes.

Having reviewed the submissions provided by Claimant's representative, Lissner & Lissner LLP, the undersigned has determined that the Funds in question do meet the criteria set forth in the Victims of Nazi Persecution Eligibility Act of 1994 (P.L. 103-286), Inheritance as defined by 20 CFR 416.1121(g) and SSA Emergency Instruction 14060, Section C.2., namely:

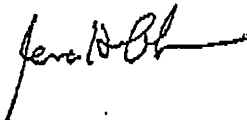
- the funds were inherited from or can be traced back to an individual who received the funds as payments because of his or her status as a victim of Nazi persecution;
- the funds were or would have been excludable under the Victims of Nazi Persecution Act for the original recipient;
- the funds are identifiable as reparation payments; and
- the funds are unspent.

The criteria for the exemption of inherited reparation payments under Section C.2. of Emergency Instruction 14060 having been met, the undersigned has determined that the Funds held in the Trust shall not be counted as either a resource or as income for the purposes of determining Claimant's eligibility for SSI. This finding shall be applied retroactively from April 1, 2012 and shall continue to apply to such Funds as long as they remain identifiable as inherited reparation payments.

Further, having reviewed the submissions provided by Claimant's representative, Lissner & Lissner LLP, the undersigned has determined that the Claimant did not possess resources that exceeded the program limits during the period in question.

Having established the exemption set forth above of the Funds held in the Trust and having verified that the Claimant is otherwise eligible to receive SSI benefits, it is ordered that Claimant's SSI eligibility and benefits be restored as of the date hereof and that the Claimant receive retroactive SSI payments commencing from April 1, 2012.

DONE AND ORDERED at the Office of Disability Adjudication and Review, 26 Federal Plaza, New York City, New York, this 9<sup>th</sup> day of JUNE, 2015.



Jerome Hornblass,  
Administrative Law Judge

JUN 09 2015