

# CLAIMS RESOLUTION TRIBUNAL

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In re Holocaust Victim Assets Litigation  
Case No. CV96-4849

## **Certified Award**

to Claimant [REDACTED 1]

to Claimant [REDACTED 2]

and to Claimant [REDACTED 3]

## **in re Account of Nelly Cases**

Claim Number: 734203/MBC<sup>1</sup>

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], [REDACTED 2], and [REDACTED 3] (the “Claimants”) to the unpublished account of Nelly Cases (the “Account Owner”) at the Bern branch of the [REDACTED] (the “Bank”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

## **Information Provided by the Claimants**

The Claimants, who are sisters, submitted an Initial Questionnaire (“IQ”), which they each signed as claimants in their own right, identifying the Account Owner as their mother, Nelly Cases, née Raffael, who was born on 26 March 1893 in Milan, Italy, and was married to [REDACTED] in 1924 in Milan. The Claimants indicated that their family was Jewish and resided in Milan, and that after the German occupation of Italy, they and their parents fled to Switzerland. The Claimants further indicated that their family remained in Switzerland as refugees from 30 October 1943 until the end of the Second World War; that throughout their stay in Switzerland, their father was in poor medical condition and was hospitalized in several hospitals; and that they returned to Milan on 3 May 1945. The Claimants indicated that while

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<sup>1</sup> [REDACTED 1], [REDACTED 2] and [REDACTED 3] (the “Claimants”) did not submit a Claim Form to the CRT. However, in 1999 they submitted an Initial Questionnaire (“IQ”), numbered ITA-0003-137, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 734203.

their family was in Switzerland, their mother opened an account at the Bank, where she deposited money and jewelry.

In a telephone conversation with the CRT, Claimant [REDACTED 2] stated that during her family's stay in Switzerland, she, her mother and her sisters were interned in several refugee camps, including the "Casa Italiana" and "Majestic" camps near Lugano, and that as of April 1944, her mother was allowed to leave the refugee camp and reside in Roveredo, Switzerland.

Claimant [REDACTED 1] indicated that she was born on 23 October 1916. Claimant [REDACTED 2] was born on 1 March 1925, and Claimant [REDACTED 3] was born on 7 March 1934.

### **Information Available in the Bank's Record**

The CRT notes that the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report an account belonging to Nelly Cases during their investigation of the Bank. The document evidencing an account belonging to Nelly Cases was submitted by another unrelated claimant, and is further described below.

The Bank's record consists of a letter from the Bank to the Police Division at the Federal Department of Justice and Police in Bern (*Département Fédéral de Justice et Police, Division de Police*) (the "Police Division"), dated 7 November 1946, in which the Bank provided a list of names of five former refugees in Switzerland, each of whom held a demand deposit account at the Bank.<sup>2</sup>

According to this record, the Account Owner was Nelly Cases. As indicated above, the Bank's record indicates that the Account Owner held a demand deposit account. The Bank's record does not indicate the Account Owner's domicile; however, the Bank's record indicates that the Account Owner's date of birth was 26 March 1893, and that her refugee number (*PA.N.*) was 17660.

In this letter, the Bank requested instructions from the Police Division concerning the continuation of the applicability of the Swiss Federal Council's Decree of 12 March 1943 ("the Decree") to the five accounts, and instructions as to whether these accounts could now be treated as regular accounts at the Bank.

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<sup>2</sup> The CRT notes that pursuant to the Swiss Federal Council's Decree of 12 March 1943 ("the Decree"), the assets of all refugees who had entered Switzerland after 1 August 1942 were confiscated by the Swiss Federal authorities and held for them in accounts at the *Schweizerische Volksbank* (the "Bank"). The Decree applied retroactively to refugees who entered Switzerland after 1 August 1942, and provided that cash exceeding 100.00 Swiss Francs, securities, and valuables belonging to refugees were to be put under the control of the Swiss Federal authorities. See Independent Commission of Experts, Switzerland - Second World War, *Switzerland, National Socialism, and the Second World War: Final Report*, at 158-59 (2002) ("*Bergier Final Report*"). See also Independent Commission of Experts, Switzerland - Second World War, *Die Schweiz und die Flüchtlinge zur Zeit des Nationalsozialismus (Switzerland and Refugees in the Nazi Era)* ("*Refugee Report*").

The Bank's record does not show when the account at issue was closed, nor does this record indicate the value of this account. There is no evidence in the Bank's record that the Account Owner or her heirs closed the account and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The Claimants' mother's name matches the unpublished name of the Account Owner. The Claimants identified the Account Owner's date of birth and her refugee status in Switzerland during the Second World War, which match unpublished information about the Account Owner contained in the Bank's record.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Nelly Cases, and indicates that her date of birth was 26 March 1893, that she was Italian, and that she was a refugee in Switzerland as of 31 October 1943, which matches the information about the Account Owner provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to this account.

### Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, and that she fled with her family from Nazi-occupied Italy to Switzerland, where she was forced to reside in refugee camps. As noted above, a person named Nelly Cases was included in the CRT's database of victims.

### The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimants' mother. There is no information to indicate that the Account Owner has other surviving heirs other than the Claimants.

The CRT further notes that the Claimants identified unpublished information about the Account Owner as contained in the Bank's record and that the Claimants also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimants as family members, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Form.

## The Issue of Who Received the Proceeds

Given that the Account Owner left Switzerland in May 1945 and returned to Italy; that according to the Bank's record, the account remained open on 7 November 1946; that there is no record of the payment of the Account Owner's account to her; that a number of refugees could not retrieve the value of their accounts following the Second World War;<sup>3</sup> that complaints of refugees mostly concerned the fact that their deposited assets were not returned;<sup>4</sup> that the Account Owner and her heirs would not have been able to obtain information about her account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

## Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their mother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

## Amount of the Award

In this case, the Account Owner held one demand deposit account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"). The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 26,750.00.

## Division of the Award

According to Article 23(1)(c) of the Rules, if the account owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the account owner who have submitted a claim, in equal shares by representation. Accordingly, each Claimant is entitled to one-third of the total award amount.

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<sup>3</sup> *Refugee Report*, at 309, 312 ff.

<sup>4</sup> Jung, Joseph (ed.): *Zwischen Bundeshaus und Paradeplatz - Die Banken der Credit Suisse Group im Zweiten Weltkrieg (Between Parliament and Paradeplatz: The Banks of the Credit Suisse Group in the Second World War)*, Zurich: NZZ Verlag, 2001, at 704.

**Scope of the Award**

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

**Certification of the Award**

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
25 November 2008