

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1],  
also acting on behalf of [REDACTED 2],  
[REDACTED 3] and [REDACTED 4]

and to Claimant [REDACTED 5]

## **in re Account of Hirsch Cygler**

Claim Numbers: 207588/MBC; 300525/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) and [REDACTED 5], née [REDACTED], (“Claimant [REDACTED 5]”) (together the “Claimants”) to the published account of Hirsch Cygler (the “Account Owner”), over which Abraham Hendeles (the “Power of Attorney Holder”) held power of attorney, at the Zurich branch of the [REDACTED] (the “Bank”).

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

## **Information Provided by the Claimants**

### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his paternal uncle, Hirsch Cygler, who was Jewish and who was born on an unknown date in Nowe Miasto, Poland. Claimant [REDACTED 1] indicated that his grandparents, [REDACTED] and [REDACTED], née [REDACTED], had twelve children, including Hirsch Cygler and Claimant [REDACTED 1]’s father, [REDACTED]. In telephone conversations with the CRT on 18 and 25 November 2004, Claimant [REDACTED 1] indicated that his family came from Nowe Miasto, but that it was possible that his uncle, Hirsch Cygler, lived in Zbaszyn, Poland. Claimant [REDACTED 1] further indicated that since he and his parents emigrated from Poland before 1933 he does not know what happened to his relatives who remained in Poland during the Second World War. Claimant [REDACTED 1] submitted a copy of his own passport, indicating his surname and Polish origin, and a family tree, indicating that Hirsch Cygler is his uncle.

Claimant [REDACTED 1] indicated that he was born on 7 September 1928 in Warsaw, Poland. Claimant [REDACTED 1] is representing his brother, [REDACTED 3], who was born on 20 December 1931 in Paris, France; his brother, [REDACTED 4], who was born on 27 February 1933 in Paris; and his sister, [REDACTED 2], née [REDACTED].

Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted a Claim Form identifying the Account Owner as her paternal uncle, Hirsch Cygler, who was Jewish, and was born in Russia on an unknown date. Claimant [REDACTED 5] stated that her uncle lived in Zbaszyn, Poland with his wife, whose name may have been [REDACTED], and children: [REDACTED], [REDACTED], and a daughter, possibly named [REDACTED]. Claimant [REDACTED 5] further stated that in addition to Hirsch Cygler, her father had many brothers and sisters who lived in various parts of Poland, as well as Germany and France. Claimant [REDACTED 5], who was a child during the Second World War, stated that she could not remember the names of her paternal grandparents. According to Claimant [REDACTED 5], just before the Nazis took over her family's factory in Lodz, Poland, her father, [REDACTED], went to Zbaszyn to see his brother, Hirsch Cygler, where he buried special factory machine parts in Hirsch Cygler's garden. Claimant [REDACTED 5] further stated that her own brother, [REDACTED], was named for her uncle Hirsch. In a telephone conversation with the CRT on 23 November 2004, Claimant [REDACTED 5] explained that her maiden name, [REDACTED], was spelled a number of different ways by various members of her family, including [REDACTED], [REDACTED], and [REDACTED].

Claimant [REDACTED 5] stated that her entire family perished in the Holocaust and that she travelled to England as a refugee in 1945, at which time she formally changed the spelling of her last name to [REDACTED]. Claimant [REDACTED 5] stated that all documents pertaining to her family were destroyed during the Second World War. Claimant [REDACTED 5] previously submitted an Initial Questionnaire ("IQ") with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her aunt, Elisa Ziegler. In support of her claim, Claimant [REDACTED 5] submitted two certificates of life (*Lebensbescheinigung*), issued by the German restitution authorities, dated in 1995 and 2000 in Düsseldorf, Germany; and documents related to previous compensation claims stemming from the Holocaust, including a pension paid to survivors of the Lodz ghetto, dated in 2000, and a claim form for compensation for slave labor performed in the Lodz ghetto, Auschwitz, and other locations, dated in 2000. In these documents, Claimant [REDACTED 5]'s maiden name is listed as [REDACTED] or [REDACTED]. Claimant [REDACTED 5] indicated that she was born on 2 February 1929 in Lodz.

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

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Hirsch Cygler, who resided in Zbaszyn, Poland,<sup>1</sup> and the Power of Attorney Holder was Hendeles Abraham, whose place of residence is not indicated. The Bank's record does not indicate the relationship between the Account Owner and the Power of Attorney Holder.

The Bank's record indicates that the Account Owner held an account, the type of which is not indicated, which was opened some time in 1939. The Bank's record does not show when the account at issue was closed, nor does this record indicate the value of the account.

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 find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's record that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

### Identification of the Account Owner

Claimant [REDACTED 1]'s uncle's name matches the published name of the Account Owner. Claimant [REDACTED 1] also identified his uncle's possible city of residence as Zbaszyn, which matches the published city of residence of the Account Owner.

Claimant [REDACTED 5]'s uncle's name and city of residence match the published name and city of residence of the Account Owner. Furthermore, her cousins' names, [REDACTED] and

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<sup>1</sup> The CRT notes that the Bank's record, which consists of a printout from the Bank's database rather than an original bank document, lists the Account Owner's residence as "Zbaszync." However, the correct spelling for this town is "Zbaszyn."

[REDACTED], together match the published name of the Power of Attorney Holder, Hendeles Abraham.

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 5]'s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 5] have each plausibly identified the Account Owner.

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

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, that he lived in Poland before the Second World War, and that Claimant [REDACTED 1]'s family lost touch with him after the Second World War.

Claimant [REDACTED 5] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 5] stated that the Account Owner was Jewish, and that he perished in the Holocaust.

#### The Claimants' Relationship to the Account Owner

Both Claimant [REDACTED 5] and Claimant [REDACTED 1] have plausibly demonstrated that they are related to the Account Owner.

Claimant [REDACTED 1] submitted his passport, showing that he has the same surname as the Account Owner, and that he previously resided in the same country as the Account Owner.

Claimant [REDACTED 5], who explained that her maiden name, [REDACTED 5], was spelled a number of different ways by various members of her family and that she formally changed the spelling of her maiden name after arriving in England in 1945, submitted documents showing that her maiden name is [REDACTED 5] or [REDACTED 5], and that she resided in the same country as the Account Owner before the Second World War. The CRT notes that the Polish pronunciation of the names [REDACTED 5], [REDACTED 5], and [REDACTED 5] is nearly identical.

There is no information to indicate that the Account Owner has other surviving heirs.

#### The Issue of Who Received the Proceeds

Given that there is no record of the Account Owner's account to him, nor any record of a date of closure of the account; that neither the Account Owner, the Power of Attorney Holder, or their heirs would have been able to obtain information about this 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, the Power of Attorney Holder, or their 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, their claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, although the Claimants may not have identified the same person as the Account Owner, each of the Claimants has plausibly demonstrated that the Account Owner was their uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

#### Amount of the Award

In this case, the Account Owner held one account of unknown type. 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 an account of unknown type was 3,950.00 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 49,375.00.

#### Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules.

The CRT notes because neither Claimant possesses extensive information about his or her family, it is impossible to conclude that the Claimants have identified the same person as the Account Owner. Yet each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and the parties he represents are entitled to share one-half of the total award amount; and Claimant [REDACTED 5] is entitled to the other half of the total award amount.

Claimant [REDACTED 1] is representing his three siblings. According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Therefore, Claimant [REDACTED 1] and his siblings, [REDACTED 3], [REDACTED 4], and [REDACTED 2], are each entitled to one-eighth of the total award amount.

### **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 claims to determine whether there are additional Swiss bank accounts to which they 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  
19 July 2007