

# CLAIMS RESOLUTION TRIBUNAL

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

## Certified Award

to Claimants [REDACTED 1]

and [REDACTED 2]

**in re Account of *Ernst Strauss Getreide- und Futtermittel***<sup>1</sup>

Claim Numbers: 201563/TC; 215665/TC

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), and [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Leo Karl Strauss.<sup>2</sup> This Award is to the unpublished account of *Ernst Strauss Getreide- und Futtermittel* (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Custodian”).<sup>3</sup> All awards are published, but

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<sup>1</sup> The CRT notes that, on the list of accounts published in January 2005 (the “2005 List”), there is no account listed for the firm *Ernst Strauss Getreide- und Futtermittel*, but that Leo Friedsam and Clary Strauss are listed as having an account. Upon careful review, the CRT has concluded that the archival records evidence the existence of only one account, belonging to the firm *Ernst Strauss Getreide- und Futtermittel*, which in turn was co-owned by Leo Friedsam, Leo Strauss and Clary Strauss.

<sup>2</sup> The CRT will treat the claims to these accounts in separate determinations.

<sup>3</sup> The CRT notes that it has jurisdiction over accounts at [REDACTED] (the “Custodian”) under the Settlement Agreement reached by the parties to the Holocaust Victim Assets Litigation (the “Settlement Agreement”), even though the Custodian is not a bank and was not included in the investigation of Swiss banks carried out pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) in order to identify accounts of Victims of Nazi Persecution. According to the Settlement Agreement, “Deposited Assets means (1) any and all Assets actually or allegedly deposited ... with *any custodian, including, without limitation, a bank, branch or agency of a bank, other banking organization or custodial institution or investment fund established or operated by a bank incorporated, headquartered or based in Switzerland at any time (including, without limitation, the affiliated, subsidiaries, branches, agencies, or offices of such banks, branches, agencies, or offices of such banks, branches, agencies, custodial institutions, and investment funds that are or were located either inside or outside Switzerland at any time) in any kind of account* (including without limitation, a safe deposit box or securities account) prior to May 9, 1945, that belonged to a Victim or Target of Nazi Persecution ... and/or (2) *any and all Assets that the ICEP or the Claims Resolution Tribunal determines should be paid to a particular claimant* or to the Settlement Fund because the Asset definitely or possibly belonged to an individual [or business entity] ... actually persecuted by the Nazi Regime or targeted for persecution by the Nazi Regime for any reason.” [emphasis added] In re Holocaust Victim Asset Litigation, 105 F. Supp. 2d 139 (E.D.N.Y. 2000), Exhibit I to Plan of Allocation, Class action Settlement Agreement (26 January 1999), 2-3, text available at <[http://swissbankclaims.com/PDFs\\_Eng/exhibitItoPlanofAllocation.pdf](http://swissbankclaims.com/PDFs_Eng/exhibitItoPlanofAllocation.pdf)>. Furthermore, although it was not a party to the Holocaust Victim Asset Litigation, the Custodian is among the parties whose liability is released by the Settlement Agreement, since “Releasees means the Settling Defendants; the Swiss National Bank; Other Swiss Banks; the Swiss Bankers Association; the Swiss Confederation (including, without limitation, the Cantons and *all other political subdivisions and governmental*

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 custodian have been redacted.

### **Information Provided by the Claimants**

The Claimants, who are sisters, submitted substantially similar Claim Forms identifying the Account Owner as *Ernst Strauss Getreide- und Futtermittel*, the grain merchant firm owned by their father, [REDACTED]. The Claimants stated that their father, who was Jewish, was born on 11 June 1885 in Munich, Germany, and was married to [REDACTED], née [REDACTED], born on 15 March 1901 in Munich. The Claimants indicated that their parents lived at Holbeinstrasse 14 in Munich, and that the business *Ernst Strauss Getreide- und Futtermittel* was located at Innstrasse 9a and Rosental 2 in Munich. The Claimants explained that their paternal grandfather was [REDACTED], after whom the company was named, and who was married to [REDACTED], née [REDACTED]. According to Claimant [REDACTED 1], from 1934 to 1938, her father lived in Munich and was forced to do manual labor such as cleaning streets, shoveling coal, and washing dishes. Claimant [REDACTED 1] also indicated that her father was incarcerated in a labor camp in Milbertshofen, near Munich, from 1938 to 1945. The Claimants indicated that their father survived the Second World War and passed away in Munich in the 1950s.

In support of her claim, Claimant [REDACTED 1] submitted her father's personal stationary, indicating that [REDACTED] resided at Innstrasse 9a in Munich, as well as her father's company's letterhead, indicating that *Ernst Strauss Getreide- und Futtermittel* was also located at Innstrasse 9a in Munich, and listing a telegram address and bank information in Munich. Claimant [REDACTED 2] submitted a business card of the firm and a newspaper clipping indicating that [REDACTED] was the operator of the firm *Ernst Strauss*. Claimant [REDACTED 2] also submitted a copy of her father's identity card and German Reich work permit book (*Arbeitsbuch*), as well as a copy of her birth certificate, indicating that her father was [REDACTED], living at Holbeinstrasse 14, and her father's birth certificate, indicating that [REDACTED] was born on 11 June 1885 in Munich.

Claimant [REDACTED 1] indicated that she was born on 25 June 1926 in Munich. Claimant [REDACTED 2] indicated that she was born on 3 March 1933 in Munich.

The Claimants previously submitted Initial Questionnaires to the Court in 1999, and Claimant [REDACTED 2] previously submitted an ATAG Ernst & Young claim form in 1997, asserting their entitlement to a Swiss bank account owned by Leo Karl Strauss.

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*instrumentalities in Switzerland*); all business concerns (whether organized as corporations or otherwise) headquartered, organized, or incorporated in Switzerland as of October 3, 1996 ...” [emphasis added] *Id.* at 3. Additionally, the CRT has previously awarded an account held at a Swiss bank which was not included in the ICEP Investigation and was not among the Settling Defendants (*in re Account of Martin Frank*, approved 10 September 2004).

## **Information Available in the Custodian's Records**

The CRT notes that the Custodian was not included in the investigation of Swiss banks carried out pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) in order to identify accounts of Victims of Nazi Persecution. The documents regarding this account were obtained from archival sources in Germany, and the existence of an account at the Custodian is evidenced by its inclusion on the Account Owner’s letterhead and correspondence between officials in the Munich and Berlin fiscal authorities (*Finanzamt München and Finanzamt Berlin*).

## **Information Available from the German State Archive**

The archival records consist of a balance sheet of the firm *Ernst Strauss Getreide- und Futtermittel*, an excerpt from the commercial registry (*Handelsregister*), and correspondence of the firm and various financial authority (*Finanzamt*) officials regarding the firm. According to these records, the Account Owner was the firm *Ernst Strauss Getreide- und Futtermittel* located at Rosental 2 in Munich, Germany. An excerpt from the Munich commercial registry (*Handelsregister München*) indicates that this company was co-owned by Leo Friedsam, living at Keplerstrasse 1, [REDACTED], living at Holbeinstrasse 14, and [REDACTED], living at Prinzenregentenstrasse 14.

These records contain evidence of account ownership at the Custodian. Specifically, these records include a letter from *Ernst Strauss Getreide- und Futtermittel* to the Munich Fiscal Authority (*Finanzamt München*), dated 22 February 1932, and written on the company’s letterhead. As indicated on the company’s letterhead, *Ernst Strauss Getreide- und Futtermittel* held accounts in Munich, and Vienna, Austria, and a demand deposit account, numbered 14775, at the Zurich branch of the Custodian. The records also include a letter from the President of the Berlin Fiscal Authority (*Finanzamt Berlin*), dated 21 February 1934, discussing the account held by *Ernst Strauss Getreide- und Futtermittel* at the Zurich branch of the Custodian.

The archival records do not show when the account at issue was closed, nor do these records indicate the value of this account.

## **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

The Claimants have plausibly identified the Account Owner. The name and address of the Claimants' father's business matches the unpublished name and address of the Account Owner. The Claimants also identified their father's home address, which matches unpublished information about the owner of the Account Owner contained in the archival records.

In support of her claim, Claimant [REDACTED 1] submitted documents, including a business card of the Account Owner and a newspaper clipping indicating that [REDACTED] was the owner of the Account Owner. All these documents provide independent verification that the person who is claimed to be the owner of the Account Owner had the same name, and resided in the same city recorded in the archival records as the name and city of residence of the owner of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Leo Karl Strauss living in Munich, which matches the information about the owner of 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 owned by a Victim of Nazi Persecution. The Claimants stated that their father, the Account Owner's owner, who was Jewish, was forced to do manual labor in Munich from 1934 to 1938 and was incarcerated in a labor camp in Milbertshofen, near Munich from 1938 to 1945. Claimant [REDACTED 2] also submitted a copy of her father's identity card and German Reich work permit book. As noted above, a person named [REDACTED] 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 owner of the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the firm owned by the Claimants' father. These documents include a newspaper clipping, indicating that [REDACTED] was the operator of the firm *Ernst Strauss*, and a copy of Claimant [REDACTED 2]'s birth certificate, indicating that her father was [REDACTED]. There is no information to indicate that the Claimants' father has other surviving heirs who have filed claims.

### The Issue of Who Received the Proceeds

Given that the owner of the Account Owner was Jewish and resided in Nazi Germany; that he was forced to do manual labor and was incarcerated in a labor camp in Milbertshofen; that the Nazi authorities were aware of his account holdings; that there is no record of the payment of the Account Owner's account to its owners nor any record of a date of closure of the account; that

the Account Owner's owner and his heirs would not have been able to obtain information about the account after the Second World War from the Custodian 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 (d) and (h), 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 owner of the Account Owner or his 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, the Claimants have plausibly demonstrated that the Account Owner was their father's firm, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the owner of the Account Owner nor his 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. In this case, the Claimants are sisters and both direct descendants of the owner of the Account Owner. Accordingly, the Claimants are each entitled to one-half 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  
31 August 2007