

# 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] and [REDACTED 3]

## **in re Account of Heinrich Felber**

Claim Number: 501415/AE

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“the Claimant”) to the published account of Heinrich Felber (the “Account Owner”), over which Rosa Felber (the “Power of Attorney Holder”) held power of attorney, at the Zurich 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 Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as his maternal great-uncle, Heinrich Felber, who resided in Vienna, Austria. The Claimant identified the Power of Attorney Holder as his great-uncle’s wife, Rosa Felber, née Blauer. The Claimant indicated that his great-uncle and great-aunt were Jewish. In an e-mail to the CRT on 9 February 2005, the Claimant indicated that his great-uncle was born on 20 July 1880 in Brzezany, Poland, and that his last occupation was as a commercial representative. The Claimant further indicated that his great-aunt was born on 30 June 1874 in Krowinka in Tarnopol, Poland. The Claimant indicated that his relatives’ last known address was in Vienna at Hiessgasse 13. The Claimant indicated that his great-uncle died on 7 April 1929, and that his great-aunt died on 18 May 1926. The Claimant indicated that he has no information about Heinrich Felber’s family members, but that he is aware that Rosa Felber had a sister named [REDACTED], née [REDACTED], the Claimant’s maternal grandmother, who was born on 1 June 1873 in Tarnopol. The Claimant indicated that [REDACTED] wrote several letters to the Claimant’s mother, indicating that she resided in Vienna from 27 December 1938 until 10 February 1941, and that between 6 March 1941 and 7 August 1942 she was in Kielce, Poland. The Claimant indicated that [REDACTED], who was Jewish, perished in Kielce.

In support of his claim, the Claimant submitted the death certificates of his great-uncle and great-uncle's wife, indicating their names as Heinrich Felber and Rosa Felber, née Blauer, who both resided at Heissgasse 13 in Vienna, as well as copies of letters from [REDACTED] to the Claimant's mother, which were addressed from Kielce. The Claimant indicated that he was born on 6 January 1947 in Lugano, Switzerland. The Claimant is representing his brother, [REDACTED 2], who was born on 23 October 1943 in Lugano, and his cousin, [REDACTED 3], was born on 12 October 1946 in Bremen, Germany.

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

The Bank's records consist of a power of attorney form dated 24 March 1926, and printouts from the Bank's database. According to the Bank's records, the Account Owner was Heinrich Felber and the Power of Attorney Holder was Rosa Felber, the Account Owner's wife, who both resided at Hiessgasse 13 in Vienna, Austria. The Bank's records indicate that the Account Owner held one custody account.<sup>1</sup> The Bank's records do not show when the account at issue was closed, nor do these records indicate the value of this 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 records that the Account Owner, the Power of Attorney Holder, or their heirs closed the account and received the proceeds themselves.

### **The CRT's Analysis**

#### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's great-uncle's name, city and country of residence match the published name, city and country of residence of the Account Owner. The Claimant's great-uncle's wife's name matches the published name of the Power of Attorney Holder. The Claimant also identified that the Account Owner and the Power of Attorney Holder were married, which matches unpublished information about the familial relationship between the Account Owner and the Power of Attorney Holder contained in the Bank's records. Moreover, the Claimant identified her relatives' street address in Vienna as Hiessgasse 13, which matches unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's records. In support of his claim, the Claimant submitted documents, including the death certificates of his

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<sup>1</sup> The Bank's record contains a power of attorney form that references a "*Titeldepot*," which is a custody account. The Bank typically used such forms at the time regardless of whether the account in question was in fact a custody account. Although this power of attorney form therefore does not necessarily demonstrate that the Account Owner held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that he held such an account.

great-uncle and great-uncle's wife, indicating their names as Heinrich Felber, and Rosa Felber, née Blauer, who both resided at Hiessgasse 13 in Vienna. These documents provide independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same names and resided at the same address recorded in the Bank's records as the names and address of the Account Owner and the Power of Attorney Holder.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different city or country of residence than the city or country of residence of the Account Owner.

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

The CRT notes that the Account Owner died in 1929 and therefore was not a Victim of Nazi Persecution. However, those family members known to have survived the Account Owner, including the Account Owner's sister-in-law, [REDACTED], née [REDACTED], were victims of Nazi Persecution. The Claimant stated that the Account Owner's sister-in-law resided in Nazi-controlled Austria from 27 December 1938 until 10 February 1941. The Claimant further indicated that the Account Owner's sister-in-law perished in Kielce.

The CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that her date of birth was 1 June 1873 and place of birth was Tarnopol, which matches the information about the Account Owner's sister-in-law provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

#### The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's great-uncle. The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records. The CRT further notes that the Claimant submitted a copy of the Account Owner's death certificate, which is a document which most likely only a family member would possess. 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 Claimant as family members, and all this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom the Claimant is representing.

#### The Issue of Who Received the Proceeds

Given that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner's heirs would not have been able to obtain information about the accounts 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 accounts 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 Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his maternal great-uncle. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

#### Amount of the Award

In this case, the Account Owner held one custody 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 custody account was 13,000.00 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 162,500.00.

#### Division of the Award

The CRT notes that the neither the Bank’s records nor the information that the Claimant was able to provide indicates who the Account Owner’s heir was. In any case, according to Article 23(1)(g) of the Rules, the CRT may make an award to any relative of the Account Owner, whether by blood or by marriage, who has submitted a claim, consistent with principles of fairness and equity. In this case, the Claimant is representing his brother, [REDACTED 2], and his cousin, [REDACTED 3]. The Claimant and his brother are the children of the Account Owner’s wife’s niece, [REDACTED], and [REDACTED 3] is the daughter of the Account Owner’s wife’s other niece, [REDACTED]. The CRT finds it fair and equitable that the Award be divided in equal shares by representation. Accordingly, the Claimant and his brother are each entitled to one-quarter of the total award amount and [REDACTED 3] is entitled to one-half of the total award amount.

#### **Scope of the Award**

The Claimant 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 2005