

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Márton János Mihályfi

**in re Accounts of Elsa Fischer, Gisa Fischer, and Julius Fischer**

Claim Number: 501214/MBC

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Márton János Mihályfi (the “Claimant”) to the published accounts of Elsa Fischer. This Award is to the published account of Elsa Fischer (“Account Owner Elsa Fischer”), over which Ilona Hirschhorn (“Power of Attorney Holder Hirschhorn”) and Klara Fodor (“Power of Attorney Holder Fodor”) held power of attorney; the published accounts of Gisa Fischer (“Account Owner Gisa Fischer”), over which Account Holder Elsa Fischer and Power of Attorney Holder Klara Fodor (together the “Power of Attorney Holders”) held power of attorney; and to the unpublished account of Account Owner Gisa Fischer and Julius Fischer (“Account Owner Julius Fischer”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (the “Bank”).<sup>1</sup>

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

### **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying Account Owner Elsa Fischer as his paternal great-grandmother, Elsa Fischer, née Schweitzer,<sup>2</sup> and Account Owner Gisa Fischer and Account Owner Julius Fischer as Elsa Fischer’s sister and brother-in-law, Gisa Fischer, née Schweizer, and Gyula (Julius) Fischer. The Claimant indicated that his great-grandmother was born on 1 April 1880 in Miskolc, Hungary, and was married to Ignác Fischer on 5 November 1908 in Miskolc. The Claimant further indicated that his great-grandmother had six siblings: Alice, Margit, Andor, Ilona, who was married to Franz Hirschorn, Klára, who was married to Ödön

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<sup>1</sup> The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Gisa Fischer is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of four accounts solely owned by Gisa Fischer, and one additional account, which was jointly owned by Gisa Fischer and Julius Fischer.

<sup>2</sup> The CRT notes that the Claimant indicated several different variations of his family’s last name, including Schweitzer, Schweizer, and Schweitzer.

Fodor, and Gisa, who was married to Julius Fischer. The Claimant stated that his great-grandmother, who was Jewish, was a housewife, and that she and her husband lived in Miskolc and Budapest, Hungary. According to the Claimant, Elsa and Ignác Fischer had two children: Ilona Mihályfi, née Fischer, and Ferenc Fischer. The Claimant stated that his great-grandmother was deported to Auschwitz, where she perished on 15 September 1944. The Claimant further stated that Elsa Fischer's daughter, Ilona Fischer, married Ernő Mihályfi, and that their only son, János-Péter Mihályfi, is the Claimant's father.

In a telephone conversation with the CRT on 1 July 2005, the Claimant stated that his great-grandmother's sister, Gisa Fischer, and her husband Gyula (Julius) Fischer lived in Fiume, Italy, and that they had one daughter, Nora Fischer. The Claimant further stated that Nora Fischer married Giorgio Bandini, and that they also had a daughter, Clara Bandini. The Claimant finally stated that Clara Bandini had two children but that he has lost contact with this side of the family. The Claimant indicated that he does not have any more information about Gisa and Julius Fischer or their heirs.

The Claimant submitted copies of documents in support of his claim, including: (1) an official transcript of Elza Schweitzer's birth certificate, indicating that she was born on 1 April 1880 to Sámuel Schweitzer and Teréz Schvarcz; (2) a certificate of marriage, indicating that Elsa Schweitzer and Ignác Fischer married on 5 November 1908 in Miskolc; (3) a postcard dated 23 May 1911 addressed to Andor Schweitzer and signed by Elza and Ignác; (4) Elza Erzsébet Fischer's death certificate, which was requested by her daughter, Ilona Mihályfi, née Fischer, indicating that Elza Erzsébet Fischer perished in Auschwitz on 15 September 1944; (5) the birth certificate of Ilona Fischer, indicating that she was born on 17 February 1910 in Miskolc to Elsa Schweitzer and Ignác Fischer; (6) the certificate of marriage of Ilona Fischer, indicating that she was Jewish, and that she married Dr. Ernő Mihalovics (later known as Dr. Ernő Mihályfi) on 25 December 1934 in Miskolc; (7) the death certificate of Ilona Mihályfi, indicating that she died on 8 March 1986 in Budapest; (8) the birth certificate of Janos Peter Mihalovics (Mihályfi), indicating that he was born on 12 November 1935 in Budapest to Ernő and Ilona Mihalovics (Mihályfi); (9) the death certificate of Janos Mihályfi, indicating he died on 25 March 2000 in Budapest; and (10) two certificates of name change, indicating that Janos Peter Mihalovics and Ernő Mihalovics changed their last names to "Mihályfi." The Claimant also submitted his own birth certificate, indicating that he was born on 2 March 1973 in Budapest to Dr. Janos Mihályfi and Dr. Gizella Cserhalmi.

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

The Bank's records consist of a signature sample form, a list of dormant accounts, documents prepared in course of the survey of assets held in Switzerland by foreigners or stateless persons who were or who were believed to have been victims of racial, religious or political persecution, conducted pursuant to a federal decree of 1962 (the "1962 Survey"), customer cards, power of attorney forms, account opening contracts, correspondence with the Bank, and printouts from the Bank's database. Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist

of additional customer cards, lists of accounts, and a spousal consent form. According to the Bank's records, Account Owner Gisa Fischer was Gisa Fischer, née Schweitzer, who resided at 1 Villa delle Pile in Fiume, Italy; Account Owner Julius Fischer was Julius Fischer, who resided at the same address; and Account Owner Elsa Fischer was Elsa Fischer, née Schweitzer, who resided at Szemeregasse 5 in Miskolc, Hungary.

The Bank's records indicate the existence of six accounts: two demand deposit accounts and four custody accounts.

According to the Bank's records, Account Owner Gisa Fischer held a demand deposit account, which was closed by 8 June 1935. The Bank's records do not indicate the value of this account.

The Bank's records also indicate that Account Owner Gisa Fischer held another demand deposit account, numbered 271.652. The Bank's records further indicate that Account Owner Gisa Fischer granted power of attorney over this account to Account Owner Elsa Fischer and to Klara Fodor-Schweitzer, who resided in Miskolc, Ungarn. These documents also indicate that the account was opened on 3 November 1932, that it was assessed by the Bank in 1959, when the amount in the account was 1,452.00 Swiss Francs ("SF"). The Bank's records further indicate that the account was considered by the Bank for registration in the 1962 Survey, but was eventually not included in the survey. The balance of the account as of 1 September 1963 was SF 1,314.00. According to the Bank's records, the account was still registered by the Bank on 29 September 1980. 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 Account Owner Gisa Fischer, the Power of Attorney Holders or their heirs closed the account and received the proceeds themselves.

The Bank's records indicate that Account Owner Elsa Fischer held a custody account, numbered 26862, over which Klara Fodor and Ilona Hirschhorn, née Schweitzer, held power of attorney. The Bank's records indicate that custody account 26862 was opened in 1930, and that it was closed and transferred to another custody account, numbered 34295, on 21 December 1931. The Bank's records indicate that custody account 34295 was opened on 18 December 1931 and was jointly owned by Account Owner Gisa Fischer and Account Owner Julius Fischer. The Bank's records indicate that custody account 34295 contained various securities, but they do not specify their kind or value. The Bank's records further indicate that custody account 34295 was closed and transferred to a third custody account, numbered 35752, on 3 November 1932. This third custody account, numbered 35752, was solely owned by Account Owner Gisa Fischer and contained various securities with a total nominal value of SF 31,000.00. The Bank's records indicate that Account Owner Gisa Fischer granted power of attorney over this account to Account Owner Elsa Fischer and Klara Fodor. According to the Bank's records, custody account 35752 was closed and transferred to a fourth custody account, numbered 38876, on 8 June 1935. The Bank's records indicate that the custody account, numbered 38876, was opened by the Fiume branch of the *Banca Commerciale Italiana* on behalf of Account Owner Gisa

Fischer on 18 July 1935. The Bank's records indicate that this account, numbered 38876, was closed on 11 November 1935. The Bank's records do not indicate the value of this account.

## **The CRT's Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's great-grandmother's name and city and country of residence match the published name and city and country of residence of Account Owner Elsa Fischer. The name of the Claimant's great-grandmother's sister and her city and country of residence match the published name and city and country of residence of Account Owner Gisa Fischer. The Claimant also identified the name and city of residence of Account Owner Julius Fischer, which matches unpublished information contained in the Bank's records. Moreover, the names of two of the Claimant's great-grandmother's sisters match the published name of Power of Attorney Holder Fodor and the unpublished name of Power of Attorney Holder Hirschorn. In support of his claim, the Claimant submitted documents, including a certificate of marriage, indicating that Elsa Schweitzer and Ignác Fischer married in Miskolc, providing independent verification that the person who is claimed to be Account Owner Elsa Fischer had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of Account Owner Elsa Fischer.

The CRT notes that the other claims to these accounts were disconfirmed because these claimants provided a different maiden name or a different city and country of residence than the maiden name and city and country of residence of the Account Owners.

### Status of Account Owner Elsa Fischer as a Victim of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Elsa Fischer was a Victim of Nazi Persecution. The Claimant stated that Account Owner Elsa Fischer was Jewish, and he submitted Elsa Fischer's certificate of death, indicating that she was deported to Auschwitz, where she perished on 15 September 1944.

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

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owner Elsa Fischer was the Claimant's great-grandmother. These documents include the birth certificate of Ilona Fischer, indicating that she is the daughter of Elsa Schweitzer; the birth certificate of Janos Peter Mihályfi, indicating that he is the son Ilona Mihályfi, née Fischer; and the Claimant's own birth certificate, indicating that he is the son of Dr. Janos Mihályfi. The CRT notes that the Claimant identified unpublished information about Account Owner Gisa Fischer and Account Owner Julius Fischer as contained in the Bank's records. The CRT further notes that the Claimant indicated that Account Owner Gisa Fischer's family resides in Italy, that she has two great grandchildren, and that the Claimant has lost contact to Gisa Fischer's side of the family. There is no information to indicate that the Account Owners have other surviving heirs, who have submitted claim forms.

## The Issue of Who Received the Proceeds

In this case, the Bank's records indicate that Account Owner Gisa Fischer held two demand deposit accounts and two custody accounts, that Account Owner Elsa Fischer held one custody account, and that Account Owner Julius Fischer and Account Owner Gisa Fischer jointly held one custody account.

With respect to the demand deposit account held by Account Owner Gisa Fischer which was still in existence in 1980, given that the demand deposit account was considered for inclusion in the 1962 Survey and registered by the Bank as dormant in 1963 and 1980; that Account Owner Elsa Fischer, who was granted power of attorney over the demand deposit account, and who was Account Owner Gisa Fischer's sister, perished in Auschwitz; that there is no record of the payment of these accounts to Account Owner Gisa Fischer, nor any record of a date of closure of these accounts; that Account Owner Gisa Fischer the Power of Attorney Holders and their heirs would not have been able to obtain information about their 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 account proceeds were not paid to the Account Owners, the Power of Attorney Holders, 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.

With respect to the custody account held by Account Owner Elsa Fischer and the custody account jointly held by Account Owner Julius Fischer and Account Owner Gisa Fischer, the Bank's records indicate that these accounts were closed on 21 December 1931 and 3 November 1932, respectively. According to Article 14 of the Rules, the CRT shall have jurisdiction to resolve claims to Accounts of Victims open or opened in Swiss banks during the Relevant Period. According to Article 46(20) of the Rules, the Relevant Period is the period from 1 January 1933 to 31 December 1945. Consequently, the CRT concludes that it does not have the authority to treat the claim to these accounts. While the CRT makes no conclusions regarding accounts outside its jurisdiction, it does note that these accounts were closed long before the Nazi occupation of or alliance with the Account Owners' countries of residence.

With respect to the remaining accounts, the Bank's records indicate that the demand deposit account held by Account Owner Gisa Fischer was closed by 8 June 1935 and that the two custody accounts held by and on behalf of Account Owner Gisa Fischer were closed on 8 June 1935 and 11 November 1935, respectively. The CRT notes that these accounts were closed before Italy's alliance with Nazi Germany on 25 October 1936. Accordingly, the CRT determines that Account Owner was able to access her accounts, and that she closed the accounts and received the proceeds herself.

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owner Gisa Fischer was his great-grandmother's sister, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, this Award is for one demand deposit account held by Account Owner Gisa Fischer. The Bank's records indicate that the value of the account as of 7 September 1959 was SF 1,452.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 225.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1959. Consequently, the adjusted balance of the account at issue is SF 1,677.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 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.

### **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 his claims to determine whether there are additional Swiss bank accounts to which he 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  
27 February 2007