

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1],

and to Claimant [REDACTED 2]

## **in re Account of Irene Fischer**

Claim Numbers: 778643/WI/KG;<sup>1</sup> 777935/WI/KG<sup>2</sup>

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED], (Claimant [REDACTED 1]”) and the claim of [REDACTED 2] ([REDACTED 2]) (“Claimant [REDACTED 2]”) (together the “Claimants”) to the account of Paul Fischer.<sup>3</sup> This Award is to the published account of Irene Fischer (the “Account Owner”) over which Paul Fischer (the “Power of Attorney Holder”) held power of attorney, at the [REDACTED] (the “Bank”).<sup>4</sup>

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.

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<sup>1</sup> [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0335-038, 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 778643.

<sup>2</sup> [REDACTED 2] (“Claimant [REDACTED 2]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an IQ, numbered ENG-0307-178. The IQ was forwarded to the CRT and has been assigned claim number 777935.

<sup>3</sup> The CRT will treat Claimant [REDACTED 1]’s claim to this account in a separate determination. In a separate decision, the CRT treated Claimant [REDACTED 2]’s claim to the account of Paul Fischer. See *In re Accounts of Paul Fischer* (approved on 29 May 2007).

<sup>4</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”), Irene Fischer is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of only one account. In addition, the CRT notes that on the List of Account Owners Published in 2005 (the “2005 List”), the name Irene Fischer also appears. Upon careful review, the CRT has determined that the second Irene Fischer is not the same person addressed in the current decision and, consequently, the Claimants did not identify this other account owner as their relative.

## **Information Provided by the Claimants**

### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) identifying the Power of Attorney Holder as her father, Paul Fischer. According to documents submitted by Claimant [REDACTED 1] to the CRT on 15 February 2007, and described further below, her father, Paul (Pàl) Fischer, was born on 20 December 1885 in Piszke, Hungary and was married to [REDACTED] on 21 November 1909 in Budapest, Hungary. In a telephone conversation with the CRT on 17 August 2007, Claimant [REDACTED 1] informed the CRT that her father’s parents died when he was a child, that her father was adopted by his uncle and thereafter had a hyphenated surname, Fischer-Stern, but that he only used the surname “Fischer” during his adult life. Claimant [REDACTED 1] indicated that her father, who was Jewish, lived in Budapest prior to the Second World War and that he owned a textiles factory. Claimant [REDACTED 1] further stated that, during the Second World War, her parents were deported to a ghetto and subsequently to Auschwitz, where they remained interned until they were liberated in 1945. Finally, Claimant [REDACTED 1] indicated that, after the Second World War, her family emigrated to the United States, where her father died in 1973.

In support of her claim, Claimant [REDACTED 1] submitted a copy of her parents’ marriage certificate, indicating that Pàl Fischer was born on 20 December 1885 in Piszke, that he married [REDACTED] on 21 November 1909 in Budapest, and that both he and his wife were Jewish; and her father’s confirmation of address certificate, dated 3 July 1941, indicating that Pàl Fischer, who was born on 20 December 1885, and who was a factory owner, resided at Gyömrői Ut. 40 in Budapest X.

Claimant [REDACTED 1] indicated that she was born on 5 March 1924.

### Claimant [REDACTED 2]

Claimant [REDACTED 2], who is Claimant [REDACTED 1]’s brother, also submitted an IQ identifying the Power of Attorney Holder as his father, Paul Fischer (Pal Fischer Stern), who was married to [REDACTED]. Claimant [REDACTED 2] indicated that his father, who was Jewish, resided at Gyömrői Ut 40 in Budapest and that he worked in the cotton and wool industry. Claimant [REDACTED 2] further indicated that his family’s home was looted by the Nazis and that, from 1942 until the end of the Second World War, his father was forced to perform slave labor in Poland. In a letter to the CRT, dated 28 March 2005, Claimant [REDACTED 2] indicated that his father survived the Second World War, and later emigrated to the United States, where he died in 1973. Claimant [REDACTED 2] stated that his original surname, [REDACTED], was changed back to [REDACTED]. In support of his claim, Claimant [REDACTED 2] submitted his birth certificate, indicating that he, [REDACTED 2], was born on 28 September 1916 in Budapest and that his parents were Pàl Fischer-Stern and [REDACTED].

## Information Available in the Bank's Records

The Bank's records consist of a power of attorney form, a consent form signed by the Accounts Owner's husband (*Zustimmungserklärung des Ehemannes*) and printouts from the Bank's database. According to these records, the Account Owner was Irene Fischer, née Reimann, and the Power of Attorney Holder was *Herr* (Mr.) Paul Fischer, both of whom resided at Andriany Street 110 in Budapest VI, Hungary. The Bank's records further indicate that the Account Owner's husband was [REDACTED]. The Bank's records indicate that the Account Owner held a custody account, over which she granted Paul Fischer power of attorney on 20 July 1931.<sup>5</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

### 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' father's name, city and country of residence match the published name, city and country of residence of the Power of Attorney Holder.<sup>6</sup>

In support of her claim, Claimant [REDACTED 1] submitted her father's marriage and confirmation of address certificates, and in support of his claim, Claimant [REDACTED 2] submitted his own birth certificate, providing independent verification that the person who is

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<sup>5</sup> The Bank's records contain a power of attorney form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank 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.

<sup>6</sup> The CRT notes that documents submitted by the Claimants indicate that their father's name was Pál. The CRT notes that Pál is the Hungarian equivalent of the name Paul.

claimed to be the Power of Attorney Holder had the same name and resided in the same town recorded in the Bank's records as the name and city of residence of the Account Owner and the Power of Attorney Holder.

The CRT notes that the Claimants each filed an IQ with the Court in 1999, asserting their entitlement to a Swiss bank account owned by Paul Fischer, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimants have based their claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that information provided by the Claimants indicates that, as of 1941, their father resided at Gyömrői U. 40 Budapest X whereas the Bank's records indicate that, as of 1931, the Account Owner and the Power of Attorney Holder resided at Andriany Street 110 in Budapest VI. The CRT further notes that it is plausible that the Account Owner and the Power of Attorney Holder changed their addresses at some time during the ten year period indicated, that they may not always have resided together at the same address, and that the Claimants were minors at the time that the Bank's records indicate that the Account Owner and the Power of Attorney Holder resided at Andriany Street 110 and may therefore not remember the addresses of all of their family's residences. The CRT therefore concludes that this discrepancy does not adversely affect the Claimants' identification of the Account Owner and the Power of Attorney Holder.

The CRT further notes that the Claimants did not identify the Account Owner. However, the CRT notes that, given that the Account Owner and the Power of Attorney Holder shared the same surname and resided at the same street address, the CRT determines that it is plausible that the Account Owner and the Power of Attorney Holder were members of the same family.

The CRT notes that the other claims to this account were disconfirmed because those claimants provided a different maiden name than the maiden name of the Account Owner or different cities and countries of residence than the city and country of residence of the Account Owner and the Power of Attorney Holder. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner as their relative.

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

The CRT notes that, while the Claimants did not indicate that the Account Owner was a Victim of Nazi Persecution, they have made a plausible showing that the Power of Attorney Holder was a Victim of Nazi Persecution. The Claimants stated that the Power of Attorney Holder was Jewish, that he resided in Nazi-allied Hungary, and that he was deported to Auschwitz. Claimant Herman also submitted a copy of her father's marriage certificate, indicating that the Power of Attorney Holder was Jewish.

### The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Power of Attorney Holder, and by extension, to the Account Owner, by submitting specific biographical information demonstrating that the Power of Attorney Holder was the Claimants' relative.

As indicated above, the CRT notes that the Account Owner and the Power of Attorney Holder shared the same family name and that the Bank's records indicate that they resided at the same address and the CRT therefore determines that it is plausible that the Account Owner and the Power of Attorney Holder were members of the same family.

The CRT notes that the Claimants filed IQs with the Court in 1999, identifying the relationship between the Power of Attorney Holder, who had the same family name as the Account Owner, and the Claimants, prior to the publication in February 2001 of the ICEP List. The CRT further notes that between them the Claimants submitted copies of her father's birth, death and confirmation of address certificates. The CRT notes that it is plausible that these documents are documents which most likely only family members would possess and that they provide independent verification that the Claimants' relatives bore the same family name as the Account Owner and that they resided in Budapest.

There is no information to indicate that the Account Owner and the Power of Attorney Holder have other surviving heirs.

### The Issue of Who Received the Proceeds

Given that the Account Owner and the Power of Attorney Holder resided in Nazi-allied Hungary; that the Power of Attorney Holder was deported to Auschwitz; that there is no record of the payment of the Account Owner's account to her or to the Power of Attorney Holder, nor any record of a date of closure of the account; that the Account Owner, the Power of Attorney Holder and their 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, 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 Owner, the Power of Attorney Holder 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 Power of Attorney Holder was their father. The CRT has further determined that the Power of Attorney Holder was related to the Account

Owner which entitles the Claimants to an Award. 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 account.

#### 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, while the Claimants have plausibly demonstrated that the Account Owner was their relative, the exact familial relationship between the Claimants and the Account Owner has not been determined. According to Article 23(1)(g) of the Rules, if none of the persons entitled to an award pursuant to Article 23(1)(a-f) of the Rules has submitted a claim, 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 applying these principles, the CRT also relies on Article 23(a) through (g) of the Rules and applies the principle of distribution through representation, as set forth in each of those subsections.

In this case, the Claimants are brother and sister. The CRT deems it fair and equitable and consistent with the principle of distribution through representation that Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to an equal share, or one-half each, 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  
15 November 2007