

# 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], née [REDACTED]

## **in re Accounts of Robert Fischer**

Claim Number: 204113/SJ

Award Amount: 216,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Robert Fischer (the “Account Owner”)<sup>1</sup> at the Zurich branch of [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 cousin, Robert Fischer, who was of French nationality and had homes in Belgium as well as in Paris, France. According to the Claimant, Robert Fischer’s parents were [REDACTED], née [REDACTED], and [REDACTED]. Furthermore, the Claimant stated that Robert Fischer’s mother and his mother, [REDACTED], née [REDACTED], were sisters, and that [REDACTED] had two children: the Claimant and [REDACTED 2], née [REDACTED]. The Claimant added that Robert Fischer, who was Jewish, was a shop proprietor, art gallery owner and an art collector. The Claimant stated that his cousin had art galleries in Paris and Rome, Italy, as well as somewhere in South America. In a telephone conversation with the CRT on 29 September 2003, the Claimant added that his cousin also had business dealings in New York City, the United States, and indicated that his cousin had a relationship with the Guggenheims. The Claimant further indicated that his cousin was killed by the Nazis in a concentration camp at some point during the Second World War, though he could not identify the exact date. Finally, the Claimant added that all letters that he had received from his cousin were destroyed at his home in London, the United Kingdom, as a result of German air raids during the Second World War.

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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”), Robert Fischer is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of three accounts.

The Claimant indicated that he was born on 6 April 1922 in London. The Claimant is representing his sister, [REDACTED 2], née Lee, who was also born in London.

The Claimant previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999 asserting his entitlement to a Swiss bank account owned by Robert Fischer of Paris, France.

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

The Bank’s records consist of two customer cards. According to these records, the Account Owner was Robert Fischer who used addresses in Paris, France; London, the United Kingdom; and New York, the United States. According to these records, the Account Owner held one custody account, numbered Vd. 4786, and two demand deposit accounts.

The Bank’s records indicate that one of the demand deposit accounts was opened on 10 February 1939 and was closed on 31 December 1940. The dates of opening of the other two accounts are not legible. According to the Bank’s records, the second demand deposit account was closed on 30 September 1940, and the custody account was closed on 9 June 1945.

The amounts in the accounts on the dates of their closure are unknown. There is no evidence in the Bank’s records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

### **The CRT’s Analysis**

#### Identification of the Account Owner

The Claimant’s cousin’s name and country of residence match the published name and country of residence of the Account Owner. The Claimant identified the Account Owner’s city of residence as Paris, France, and his business and personal ties to New York City, the United States, which match unpublished information about the Account Owner contained in the Bank’s records. Furthermore, the CRT notes that while the Claimant did not identify his cousin’s connection to London, the United Kingdom, and may not have been aware of such a connection, the Claimant identified a family connection to London as he explained that the letters he received from his cousin were burned there in a fire and that he and his sister were both born in London, which matches unpublished information about one of the Account Owner’s addresses contained in the Bank’s records. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Robert Fischer from Paris, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT also notes that the Claimant filed an IQ with the Court in 1999 asserting his entitlement to a Swiss bank account owned by Robert Fischer of Paris, prior to the publication in February 2001 of the 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”).

This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different country of residence than the countries of residence of the Account Owner. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and that he was killed by the Nazis in a concentration camp. As noted above, a person named Robert Fischer was included in the CRT's database of victims.

#### 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 his cousin. The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records; that the Claimant filed an IQ with the Court in 1999, identifying the Account Owner prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information that matches information contained in the Yad Vashem records. Finally, 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 a family member, and all of 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 other surviving heirs other than his sister, whom he represents.

#### The Issue of Who Received the Proceeds

The CRT notes that the Bank's records indicate that the accounts were closed on 31 December 1940, 30 September 1940, and 9 June 1945. Given that the Bank's records do not indicate to whom the accounts were closed; that while the Bank's records indicate that the Account Owner used addresses in Paris, France; London, the United Kingdom, and New York, the United States, but that the CRT notes that the Account Owner resided in Nazi-occupied territory in Belgium and Paris, France and was killed in a concentration camp during the Second World War; that the Account Owner's heirs would not have been able to obtain information about his 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 Bank's 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 (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid

to 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 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 the Account Owner was his cousin, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

#### Amount of the Award

In this case, the Account Owner held one custody account and two demand deposit accounts. 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 investigation carried out pursuant to the instructions of the ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"), and the average value of a demand deposit account was SF 2,140.00. Therefore, the total 1945 average value of the accounts at issue is SF 17,280.00. 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 216,000.00.

#### Division of the Award

According to Article 23(1)(e) of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner's parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner's grandparents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his sister, [REDACTED 2], née [REDACTED]. Accordingly, the Claimant and his sister, [REDACTED 2], are each entitled to receive 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 his claim 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  
28 September 2004