

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

**in re Account of Dr. Otto Fleischer**

Claim Number: 222882/GH, 601352/GH<sup>1</sup>

Award Amount: 47.400.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Otto Fleischer (the “Account Owner”) at the Geneva 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 to the Holocaust Claims Processing Office (“HCPO”) and a Claim Form identifying the Account Owner as his paternal uncle, Otto Fleischer, who was born on 7 January 1891 in Ěeska Kamenice, Czechoslovakia, and was married to the Claimant’s paternal aunt, [REDACTED], née [REDACTED], who came from a well-known family of Czech lawyers. The Claimant stated that his uncle lived in Trutnov and in Prague, Czechoslovakia, at Pařiz ská 20, Prague V; U Smaltovny 17, Prague VII; and at Klimentská Prague. The Claimant also stated that his uncle and aunt were deported to the Theresienstadt concentration camp on 14 December 1941, and on 18 May 1944 they were transported to Auschwitz, where they both perished in 1944. The Claimant added that Otto and [REDACTED] Fleischer did not have any children.

In a telephone conversation with the CRT, the Claimant stated that because he was a child during the Second World War, he could not recall his uncle’s profession or connections to Austria, but

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<sup>1</sup> The Claimant submitted a claim, numbered B-00324, on 24 November 1997 to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601352. The claimant submitted additional claims to the accounts of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], which are registered under the Claim Numbers 218020, 218021, 222881, 222883, 222884, 223958, and 601352, respectively. The CRT will treat the claims to these accounts in a separate decision.

he remembers that his aunt was a bookkeeper. The Claimant submitted a detailed family tree; copies of two transport orders indicating that the Claimant's uncle and aunt were transported to Auschwitz on 18 May 1944; a copy of his own birth certificate; a copy of a letter from the Ministry of Foreign Affairs of the Czech Republic to a Mr. Martin dated 24 July 2000 concerning the Gruenbaum assets that were confiscated during the Second World War; and a document entitled, "Life in Czechoslovakia Before Terezin." The Claimant indicated that he was born on 23 August 1930 in Prague.

The Claimant previously submitted a claim to the HCPO in 1997 and an Initial Questionnaire to the Court in 1999, asserting his entitlement to a Swiss bank account owned by his uncle Otto Fleischer.

### **Information Available in the Bank Record**

The bank record consists of a copy of a page from the Bank's archives from 1938. According to this record, the Account Owner was Dr. Otto Fleischer who used an address in Bad Ischl-Kaltenbach, Austria. The bank record indicates that the Account Owner held one account of an unknown type, numbered 60293. The account was closed on 20 September 1938, unknown to whom. The amount in the account on the date of its closure is unknown.

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

#### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His uncle's name matches the unpublished name of the Account Owner and the CRT notes that the Claimant filed a claim with the HCPO in 1997 and an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his uncle. This indicates that the Claimant has based his present claim on a direct family relationship that was known to him without the benefit of the publication of the list of accounts published by the ICEP in February 2001 and 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 determines that, although the Claimant's uncle was from Czechoslovakia, it is possible that he could have used an Austrian address in the bank records. Given the proximity of Austria and Czechoslovakia, Vienna's attraction as an economic and cultural center, the mobility of people living in this area of Europe prior to World War II, and the fact that there are no other claimants to the account under review in this case and the inability of the Claimant, a child at the time, to identify the address given to the Bank by this Account Owner does not impair the Claimant's identification of the Account Owner in this case as his uncle, Otto Fleischer.

#### 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 perished in Auschwitz in 1944.

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

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting two detailed family trees.

#### The Issue of Who Received the Proceeds

Given the application of Presumptions (a), (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 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 uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither 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 account of an unknown type. 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 present value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the ICEP, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 47,400.00 Swiss Francs.

#### **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  
April 21, 2003