

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Lino Modena  
also acting on behalf of Luisa Modena

**in re Account of Jacopo Franco and Ugo Fano**

Claim Number: 222790/MBC

Award Amount: 47,400.00 Swiss Francs

This Certified Award is based upon the claim of Lino Modena (the "Claimant") to the account of Jacopo Franco ("Account Owner Franco") and Ugo Fano ("Account Owner Fano") (together, the "Account Owners") at the Geneva branch of the [REDACTED] (the "Bank").

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

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

The Claimant submitted a Claim Form identifying Account Owner Jacopo Franco as his maternal uncle, Giacomo Jacopo Franco, who was born in 1884 in Verona, Italy, and married to Gina Della Seta. The Claimant stated that Jacopo Franco, who was Jewish, was the owner of a glass trading company and laboratory in Torino, Italy, where he lived at Cosseria 1 until 1944. The Claimant stated that Jacopo Franco and his wife had no children and that the couple was arrested in Florence, transferred to a concentration camp in Fossoli, and then deported to Birkenau, Auschwitz, in 1944, where they were murdered. The Claimant does not provide any information regarding Ugo Fano. In support of his claim, the Claimant submitted documents, including his birth certificate and the birth certificate of his sibling, Luisa Modena, whom he is representing. The Claimant also submitted documents demonstrating that their mother's maiden name was Franco and detailing that Jacopo Franco was their mother's brother.

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

The Bank's records consist of a ledger entry and printouts from the Bank's electronic database. According to these records, the joint Account Owners were Jacopo Franco and Ugo Fano of Gono Valentino 13, Turin, Italy. The Bank's records indicate that the Account Owners opened a numbered account on 12 December 1938, but these records do not indicate the type of account held. The Bank's records do not show if or when the account at issue was closed, or to whom it

was paid, 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") did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. The auditors indicated that there was no evidence of activity on this account after 1945.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant's uncle's middle and last name match the published name of Account Owner Franco, and the city of residence provided by the Claimant matches unpublished information about the Account Owners contained in the Bank's records.<sup>1</sup> In addition, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Jacopo Franco, and indicates that his year and place of birth was 1884 and Verona, 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. In support of his claim, the Claimant submitted documents, including his birth certificate and the birth certificate of his sibling, Luisa Modena, whom he is representing. The Claimant also submitted documents demonstrating that their mother's maiden name was Franco and detailing that Jacopo Franco was their mother's brother. The CRT also notes that the name Jacopo Franco appears only once on the February 2001 list of published accounts determined by the ICEP Investigation to be probably or possibly those of victims of Nazi persecution. The CRT also notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

### Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Jacopo Franco was a Victim of Nazi Persecution. The Claimant stated that this Account Owner was Jewish and was deported in 1944 to Birkenau-Auschwitz, where he was murdered. As noted above, a person named Jacopo Franco was included in the CRT's database of victims.

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

The Claimant has plausibly demonstrated that he and his sibling are related to Account Owner Jacopo Franco by submitting documents demonstrating that their mother's maiden name was Franco and detailing that Jacopo Franco was their mother's brother. There is no information to indicate that this Account Owner has other surviving heirs.

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<sup>1</sup> The street address the Claimant provided for Account Owner Franco does not match Account Owner Fano's address contained in the bank documents. The CRT notes that there is only one address recorded in the bank documents, which appears alongside the name of Ugo Fano, and it appears that the address relates only to this Account Owner.

### The Issue of Who Received the Proceeds

Given the Account Owner's death in Auschwitz and 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 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 Account Owner Jacopo Franco was his uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their 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 current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of an unknown type was 3,950.00 Swiss Francs. The current 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.

### Division of the Award

As noted above, the account at issue was a joint account. According to Article 25 of the Rules, in cases where the Joint Account is claimed by relatives of only one or some of the Joint Account Owners, it shall be presumed that the Account was owned as a whole in equal shares by the Account Owners whose shares of the Account have been claimed. Therefore, the CRT has determined that in the absence of any claims to Account Owner Fano's share of the account, the account was owned as a whole by Account Owner Franco.

According to Article 23 of the Rules, if the Account Owner's spouse has not submitted a claim, an award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. The Claimant is representing his sibling, Luisa Modena, in these proceedings. Therefore, the Claimant's sibling is entitled to receive one half of any payment made to the Claimant.

### **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  
June 3, 2003