

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
represented by [REDACTED]

## **in re Account of Michel Grumbach**

Claim Number: 218542/HM

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Michel Grumbach (the “Account Owner”) at the Basel 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 Form identifying the Account Owner, Michel Grumbach, as her great-uncle, who was born on 24 December 1879 in Soultz, France, was married to [REDACTED], born on 22 January 1889, and had one child. The Claimant stated that her great-uncle, who was Jewish, worked as a businessman and lived at Rue du Général Gourand in Guebwiller, France. The Claimant further stated that her great-uncle, together with his wife and child, were hiding in Thonon-les-Bains, France, during the Second World War when they were arrested by the Nazis and sent to Auschwitz where they perished. The Claimant stated that she was born in Basel, Switzerland on 14 February 1943. The Claimant submitted her great-uncle’s birth certificate, his death certificate, which indicates his street address, and his daughter’s birth certificate.

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

The bank records consist of an excerpt from a ledger of accounts held by account owners residing in the Alsace-Lorraine region in France. According to these records, the Account Owner was Michel Grumbach, who resided at 10 Rue du Général Gourand in Guebwiller, France. The bank records do not show what type of account the Account Owner held, when it

was closed, to whom it was paid, or 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 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.

## **The Tribunal's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her great-uncle's name matches the published name of the Account Owner. Further, the Claimant provided the street address of her great-uncle, which matches unpublished information about the Account Owner contained in the bank documents.

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

The Claimant has plausibly shown that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish and was killed in Auschwitz. Moreover, the Tribunal notes that a database containing the names of victims of Nazi persecution includes a list of Jewish Victims who were deported from France. This list includes a person named Michel Grumbach, who was born on 24 December 1879 in Soultz, France, 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 Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning her relationship to the Account Owner.

### The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account at issue was paid to the Account Owner or his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the "ICEP Investigation") demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank

profits. Moreover, Swiss banks were authorized, under certain conditions, to forcibly open safe deposit boxes in order to recover unpaid rental fees. Thus, since the funds in this case apparently were not paid to the Account Owner or his family, there is a substantial likelihood that these funds went to the Nazis or to the Bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds. After the German invasion of France in May 1940, Switzerland froze all accounts belonging to residents of France in July 1940. Further, the Account Owner and his family were in hiding in Thonon-les-Bains during the Second World War until their deportation to Auschwitz, where they were killed by the Nazis in 1944. Based upon these facts, it is plausible that the Account Owner did not receive the proceeds of the account during the Second World War. Moreover, it is plausible that none of the Account Owner's heirs received the proceeds of the account after the freeze was lifted because Swiss banks had by that time adopted a policy, which became official in the mid-1950s, of rejecting inquiries into accounts that were held by victims of Nazi persecution.<sup>1</sup> The final report of the Bergier Commission concluded: "Throughout the post-war period the banks relied on a combination of discreetly playing down the problem and erecting barriers to investigation: time and time again they would bring banking secrecy into play in order to legitimize their reluctance to provide information while at the same time charging high search fees for conducting investigations."<sup>2</sup> Thus, even if the Account Owner's heirs had contacted the Bank in an effort to close the account and withdraw the proceeds following the Second World War, it is plausible that they would not have been able to do so, as it is unlikely that the Bank would have acknowledged the existence of the account. The Tribunal's conclusion that it is plausible that the Account Owner's heirs did not receive the proceeds of the account is also supported in this case by the fact that there is no evidence in the bank records suggesting that the Account Owner's heirs either contacted the Bank or closed the account and received the proceeds.

#### Basis for the Award

The Tribunal 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 23 of the Rules Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her great-uncle, and that relationship justifies an Award. Finally, the Tribunal 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

Pursuant to Article 35 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 ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs. The present value of this amount is

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<sup>1</sup> See Final Report of the Independent Commission of Experts Switzerland--Second World War, at 446; *see also* Independent Committee of Eminent Persons Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks; Annex 5: Treatment of Dormant Accounts of Victims of Nazi Persecution, paragraphs 3 and 4.

<sup>2</sup> Final Report of the Independent Commission of Experts Switzerland--Second World War, at 446.

calculated by multiplying it by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 45,425.00 Swiss Francs.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid claims, claimants shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, there is the possibility of other competing claims, and the value of the account at issue is based on the Article 35 presumptions. In this instance, 35% of the total award amount is 15,898.75 Swiss Francs.

### **Scope of the Award**

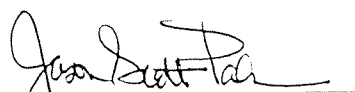
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

### **Certification of the Award**

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a plausible case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same account will be forthcoming. Articles 37(3)(a) and (b) of the Rules provide that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35% payment in awards submitted for Court approval in particular cases where either the Tribunal has used the value presumptions of Article 35 or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 of the Rules to calculate the account value and is of the opinion that the account at issue may be subject to later competing claims. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

8 May 2002  
Date

  
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Jason Scott Palmer  
Resident Claims Judge