

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

**in re Accounts of Herszenberg M. Sz. Synowie Halberstadt Przemysl Welniany**

Claim Number: 212780/LV

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the published account of *Herszenberg, M. Sz.* (the “Account Owner”) at 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 as *Herszenberg and Halbersztad*, a textile factory owned by her father’s cousin, Moshe (Mosze or Mojzesz) Herszenberg. The Claimant stated that the factory was located in Lodz, Poland. The Claimant also stated that her father’s cousin, was born around 1890 in Poland and that he traveled frequently to other European countries, including Switzerland, on business. The Claimant further stated that in 1939 her father’s cousin was persecuted by the Nazi Regime. The Claimant indicated that she was born on 17 May 1926 in Lodz, Poland. The Claimant submitted her birth certificate which was issued in Lodz, identifying her parents as [REDACTED] and [REDACTED], née [REDACTED].

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

The Bank's records consist of a list of accounts from a 1950 Survey of assets held in Switzerland by Polish nationals (the “1950 Survey”); a list of accounts from a 1955 Survey of assets held in Switzerland by Polish nationals (the “1955 Survey”); a list of accounts from a 1959 Survey of dormant assets (the “1959 Survey”); a Survey of assets held in Switzerland by foreigners or stateless persons who were or who were believed to have been victims of racial, religious or political persecution conducted by Swiss banks pursuant to a Federal decree in 1962 (the “1962 Survey”); and print-outs from the Bank’s database.

According to these records, the Account Owner was the company, *M. Sz. Herszenberg Fa. Synowie i Halberstadt, Przemysl Welniany* (M. Sz. Herszenberg Co. Sons and Halberstadt,

Wool Industry), which was located at Al. Kosciuszki 3, Lodz, Poland. The Bank's records indicate that the Account Owner held a demand deposit account. The Bank's records also indicate that the account was opened on 16 June 1931 and that the account balance as of 31 May 1950 was 291.50 Swiss Francs ("SF"); that as of 30 June 1955 it was SF 266.00; that as of 1959 it was SF 246.00; and that as of 15 November 1963 it was SF 226.00. The Bank's records do not show 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" 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.

## **The CRT's Analysis**

### Identification of the Account Owner

The name and location of the company owned by the Claimant's father's cousin match the published name and location of the Account Owner.

The CRT notes that the name *Herszenberg M. Sz.* appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List"). Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Mosze Herszenberg, and indicates that his date of birth was 1 January 1890 and place of birth was Lodz, Poland, which matches the information about the owner of the company *Herszenberg M. Sz.* provided by the Claimant. The database also indicates that Mosze Herszenberg perished in 1943 in the Holocaust. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that there are no other claims to this account. 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 her cousin was Jewish and that he resided in Poland, where his company, the Account Owner, was located. As noted above, the database of victims of Nazi persecution indicates that the owner of the Account Owner perished in the Holocaust in 1943. Moreover, the CRT notes that the Bank considered the account for inclusion in numerous victim surveys, including the 1962 Survey, which indicates that the Bank considered the Account Owner to be a victim of Nazi persecution.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the company owned by the Claimant's cousin. In support of her claim, the Claimant

submitted her own birth certificate which states that she was born in Lodz, Poland, and identifies her parents as [REDACTED] and [REDACTED], née [REDACTED], which verifies that the Claimant's relatives bore the same last name and lived in the same city as the name and location of the Account Owner, as contained in the Bank's records. There is no information to indicate that the Account Owner had other successors in interest or that the Claimant's father's cousin has other surviving heirs.

#### The Issue of Who Received the Proceeds

The CRT notes that this account was included in a list of accounts from a 1955 survey of assets held in Switzerland by Polish nationals, and, that, while the Bank's records do not clearly indicate what happened to the account, it was likely transferred to the Polish government as part of a post-war agreement to compensate Swiss nationals for property in Poland that had been nationalized. Moreover, given that Germany invaded Poland on 1 September 1939; that from 1939 onward the Claimant's father's cousin was persecuted by the Nazi Regime; that the city of Lodz was part of the Polish territory incorporated into the Reich; that a majority of Jews residing in Lodz were forced to live in a ghetto established there in April 1940; that a decree to confiscate assets of Jews living in Lodz was enacted in September 1940; that a majority of the Jews residing in the Lodz ghetto either perished there or were deported to a killing center; that the owner of the Account Owner perished in the Holocaust in 1943; that there is no record of the payment of the account proceeds to the owner of the company *Herszenberg M. Sz.* or a record of a date of closure; that the Account Owner or its successors in interest would not have been able to obtain information about its 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), (i) 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 its successors in interest. 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 owned by her father's cousin, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor its successors in interest received the proceeds of the claimed account.

#### Amount of the Award

In this case, the Account Owner held a demand deposit account. The Bank's records indicate that as of 31 May 1950 the balance of the account was SF 291.50. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with

Article 31(1) of the Rules, to produce a total award amount of SF 26,750.00.

**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 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**

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
31 August 2004