

# 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 Ernst Hess**

Claim Number: 600539/MBC<sup>1</sup>

Award Amount: 9,960.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account Ernst Hess (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 to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her father, Ernst (or Ernest) Hess, who was born on 17 December 1908 in Eisenstadt, Austria. The Claimant stated that her father, who was Jewish, was a tailor and that he was forced to flee Austria in 1938 after being beaten by the Nazis and warned to leave the country within one week. The Claimant stated that her father first fled to Milan, Italy, then to Zurich, Switzerland, and then to Stäfa, Switzerland, where he stayed in a crowded refugee camp and was forced to perform heavy labor, until he left Switzerland in 1939. The Claimant stated that her father’s mother sent him a ticket, and he was able to leave Switzerland to go to Shanghai, China. The Claimant stated that her father left his mother and his brother behind in Austria, and that his brother was imprisoned in Dachau. The Claimant further stated that on the boat to Shanghai, Ernst Hess met [REDACTED], whom he married in Shanghai on 24 November 1940. The Claimant stated that her father’s mother was able to flee Austria for Shanghai, and was reunited with her son there.

According to the Claimant, she and her parents, as well as her maternal grandparents, paternal grandmother, and aunt and uncle, all left Shanghai in 1949, going first to Israel and then back to Austria. The Claimant stated that her parents found it too depressing to remain in post-war

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<sup>1</sup> The Claimant submitted a claim, numbered B-00689, on 6 February 1998, 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 600539.

Austria, especially considering that everything they owned before the War had been taken from them. They consequently moved to Montreal, Canada and ultimately to New York, New York, where they settled in 1954. The Claimant further stated that her father continued working as a tailor, he always believed in saving money and she believes that her father would have wanted to safeguard money in a Swiss bank when he fled Switzerland for Shanghai.

The Claimant indicated that her mother died on 19 May 1957 and that her father died on 4 October 1990. The Claimant indicated that she is the only child of her parents, and that she was born in Shanghai on 14 November 1941.

In support of her claim, the Claimant submitted numerous documents, including her parents' marriage certificate, her birth certificate, and her father's death certificate. The Claimant also submitted several photographs of her father, including one of him performing hard labor in the fields in Stäfa as well as in the crowded refugee quarters in 1939.

The Claimant submitted an HCPO claim in February 1998, an ATAG Ernst & Young claim form in April 1998, and an Initial Questionnaire with the Court in 1999 asserting her entitlement to a Swiss bank account owned by Ernst Hess.

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

The bank records consist of a list of account owners' names with the balances of their accounts and printouts from the Bank's database. According to these records, the Account Owner was Ernst Hess. The bank records indicate that the Account Owner held a savings/passbook account. The account remains open and dormant with a balance, as of 1 January 1999, of 88.80 Swiss Francs.

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

#### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her father's name matches the published name of the Account Owner. The CRT notes that the bank records do not contain any specific information about the Account Owner other than his name. The CRT also notes that the Claimant filed an HCPO Claim in February 1998, an ATAG Ernst & Young claim in April 1998, and an Initial Questionnaire with the Court in 1999 asserting her entitlement to a Swiss bank account owned by Ernst Hess, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her 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 her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her 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 further notes that there are no other claims to this account.

#### 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, lived in Austria during the Second World War and was forced to flee Austria in order to avoid 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 documents, including copies of family photos, her parents' marriage certificate, her own birth certificate, and her father's and mother's death certificates, demonstrating that she is the daughter of Ernst Hess. There is no information to indicate that the Account Owner has other surviving heirs.

#### The Issue of Who Received the Proceeds

The bank records indicate that the account remains open and dormant.

#### 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 Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her father, 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 savings/passbook account. The bank records indicate that the value of the account as of 1 January 1999 was 88.80 Swiss Francs. According to Article 29 of the Rules, if the amount in a savings/passbook was less than 830.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 830.00 Swiss Francs. The present value of the amount of the award is determined by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 9,960.00 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 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  
April 1, 2003