

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants Shmuel Oren and Friedrich Hornung  
represented by Ralph Züger

### **in re Account of Josef Peter Hornung**

Claim Numbers: 223219/ME, 223222/ME

Award Amount: 9,960.00 Swiss Francs

This Certified Award is based upon the claims of Shmuel Oren (formerly Samuel Hornung) (“Claimant Oren”) and Friedrich Hornung (“Claimant Hornung”) (together the “Claimants”) to the account of Josef Hornung (the “Account Owner”) at the St. Gallen 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 has been redacted.

### **Information Provided by the Claimants**

The Claimants each submitted a Claim Form identifying the Account Owner as their paternal uncle, Josef Hornung, who was born in 1897 in Bullowits, Poland, was raised in Kenty, Poland, and was married to Sophie Hornung in the 1920s in Zywiec, Poland. According to the information provided by the Claimants, their uncle, who was Jewish, owned and operated a paint store in Zywiec from 1930 until 1939. The Claimants stated that their uncle often traveled to Switzerland and was planning to send his daughter to study at the University of Bern, Switzerland, along with one of the Claimants’ cousins, who had studied there before the Second World War. According to the information provided by the Claimants, their uncle and his family were persecuted by the Nazis beginning in the Fall of 1939, and the entire family was killed by the Nazis in 1942. Claimant Oren indicated that he was born 30 January 1926 in Kenty, and Claimant Hornung indicated that he was born 27 February 1927 in Kenty.

The Claimants each previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting their entitlement to a Swiss bank account owned by their uncle Leo Hornung, Josef Hornung’s brother. In a letter attached to the IQ, the Claimants stated that their uncles were well-respected merchants in Bielitz-Bielo (Silesia), and that one of their cousins studied at the University of Bern before the beginning of the Second World War.

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

The bank record consists of a list of Account Owners who were considered for a survey of dormant accounts. According to this record, the Account Owner was Josef Peter Hornung, whose domicile was unknown. His account was considered for the 1962 survey to identify assets in Switzerland of foreigners or stateless persons who had been victims of racial, religious and political persecution. The bank record indicates that the Account Owner held a savings/passbook account, numbered 7038, but does not indicate when the account was opened.

The account was transferred in 1953 to a suspense account, which is a grouping of open and dormant accounts, and ultimately was not included in the 1962 survey since the account balance was under 100.00 Swiss Francs. The amount in the account on the date of its transfer was 58.00 Swiss Francs. The account remains open and dormant today.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their uncle's name matches the published name of the Account Owner. The CRT notes that the Claimants filed IQs with the Court in 1999 asserting their entitlement to a Swiss bank account owned by Leo Hornung, the brother of Josef Hornung, prior to the publication in February 2001 of the list of accounts determined by Independent Committee of Eminent Persons to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimants have based their 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 their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Josef Hornung, and indicates that his place of residence was Zywiec, Poland and that he was a Polish national, which matches the information about the Account Owner provided by the Claimants. 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 filed to this account.

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

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish and that he was killed by the Nazis. As noted above, a person named Josef Hornung was included in the CRT's database of victims.

### The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents including a family tree demonstrating that the Account Owner was their uncle. 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 the account was transferred to a suspense account where it remains open and dormant today.

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owner was their 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 savings/passbook account. The bank records indicate that the value of the savings account on the date of its transfer in 1953 was 58.00 Swiss Francs. According to Article 29 of the Rules, if the amount in a savings account 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 the balance as determined by Article 29 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.

### Division of the Award

According to Article 23 of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares of representation. In this case, the claimants are both nephews of the Account Owner and are therefore each entitled to one-half of the total award amount.

**Scope of the Award**

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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 4, 2003