

# 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 Elias Höxter**

Claim Numbers: 741870/SJ, 783628/SJ, 783629/SJ<sup>1</sup>

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the accounts of Elias Höxter and [REDACTED].<sup>2</sup> This Award is to the published account of Elias Höxter (the “Account Owner”), over which Simon Höxter (the “Power of Attorney Holder”) held power of attorney, at the Zurich 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 Initial Questionnaires (“IQs”) identifying the Account Owner as her paternal great-uncle, Elias Höxter, and the Power of Attorney Holder as her father’s brother, Simon Höxter. The Claimant state that Elias Höxter, who was born on 8 September 1862 and who resided at Schusterstrasse 15 in Mainz, Germany. According to the Claimant, Elias Höxter, who was Jewish, was a prominent businessman in Mainz. The Claimant stated that her father’s brother was in business with his uncle Elias, and that they deposited funds in a Swiss bank. The Claimant indicated that Elias Höxter was deported to the concentration camp at Theresienstadt,

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<sup>1</sup> [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted Initial Questionnaires (“IQs”), numbered SPA 0023 025, ENG 0536 067 and ENG 0536 068, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those IQs which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). These IQs were forwarded to the CRT and have been assigned claim numbers 741870, 783628 and 783629, respectively.

<sup>2</sup> The CRT did not locate an account belonging to the Claimant’s relative, Simon Höxter, in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The Claimant should be aware that the CRT will carry out further research on her claims to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

where he perished on 18 January 1942 and that Simon Höxter was deported to Buchenwald, where he perished on 10 August 1942. Finally, the Claimant indicated that her father, [REDACTED], the nephew of Elias Höxter and the brother of Simon Höxter, fled Germany to Buenos Aires, Argentina, where he died in 1973.

The Claimant indicated that she was born on 29 October 1925.

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

The Bank's records consist of a power of attorney form dated 2 September 1930 and printouts from the Bank's database. According to these records, the Account Owner was Elias Höxter, who resided in Mainz, Germany, and the Power of Attorney Holder was Simon Höxter. The Bank's records indicate that the Account Owner held an account, the type of which is not indicated.

The Bank's records indicate that the account was closed on 8 April 1933. The Bank's records do not indicate the amount in the account on the date of closure. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

### **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 three claims of the Claimant in one proceeding.

#### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's paternal great-uncle's name and city and country of residence match the published name and city and country of residence of the Account Owner. Furthermore, the Claimant's paternal uncle's name matches the published name of the Power of Attorney Holder.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Elias Höxter, and indicates that he was born on 8 September 1862 and that he resided in Mainz, 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 CRT notes that the name Elias Höxter appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of victims of Nazi persecution (the “ICEP List”).

The CRT further notes that the Claimant filed IQs with the Court in 1999 asserting her entitlement to a Swiss bank account owned by either Elias Höxter or Simon Höxter, prior to the publication in February 2001 of 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 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 and that he was deported to Theresienstadt, where he perished.

As noted above, a person named Elias Höxter was included in the CRT’s database of victims.

#### 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 demonstrating that the Account Owner was the Claimant’s great-uncle. The CRT notes that the Claimant identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant filed IQs with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her IQs.

#### The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until his deportation to Theresienstadt, and would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner’s account to him; that the Account Owner’s heirs would not have been able to obtain information about the 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; given the application of Presumptions (a), (h) and (j),

as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”) (see Appendix A and Appendix C<sup>3</sup>), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder, or their 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 the Account Owner was her great-uncle, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owner held one account of 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 investigation carried out pursuant to the instructions of ICEP (the “ICEP Investigation”), in 1945 the average value of an account of unknown type was 3,950.00 Swiss Francs (“SF”). The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

### **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  
15 July 2005

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<sup>3</sup> Appendix C appears on the CRT II website - [www.crt-ii.org](http://www.crt-ii.org).