

# 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 Accounts of Salli and Paula Levy**

Claim Number: 206891/LK

Award Amount: 1,839,900.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Salli and Paula Levy (the “Account Owners”) at the Lausanne 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 and an Initial Questionnaire identifying the Account Owners as her father-in-law and mother-in-law, Salli Levy and Pauline (Paula) Levy née [REDACTED], who were born on 3 July 1874 in Werden, Germany and on 18 March 1875 in Dulsburg, Germany, respectively, and were married in approximately 1900 in Werden. The Claimant stated that Salli and Paula Levy, who were Jewish, fled their home in Essen, Germany in 1934 because of Nazi persecution, and went to Luxembourg and then to Brussels, Belgium in 1937. The Claimant further stated that Salli Levy became ill and died in Brussels on 16 November 1939. According to the Claimant, when the Nazis invaded Brussels in May 1940, Paula Levy was not able to get in touch with any of her family members and she hanged herself on 16 May 1940 in Brussels. The Claimant explained that the family had a safe deposit box in Belgium that contained some of her mother-in-law’s jewelry and that the safe deposit box was looted by the Nazis.

The Claimant stated that Salli and Paula Levy had three children: [REDACTED], [REDACTED], and [REDACTED]. The Claimant asserted that her late husband, [REDACTED], who was born 19 November 1905 in Essen, was an amateur heavyweight champion whose friend helped him flee Germany by motorcycle during the night Hitler rose to

power, and that the Nazis subsequently ransacked his house. The Claimant further asserted that [REDACTED] eventually fled to Antwerpen, Belgium, where they married in 1935 and remained until 1938 or 1939, when the Nazis interned [REDACTED] and his brother [REDACTED], in the Saint-Cyprienne camp. According to the Claimant, she was able to free her husband after three or four months, for which she spent a night in prison. The Claimant stated that after her liberation from the Ampleteurs camp in France, she went into hiding, and then later, with help from nuns at a convent, she and her husband were able to meet in Perpignan, France, from which city they trekked over the border into Spain with their two children. The Claimant explained that they went to Madrid and then, by train, to Lisbon, Portugal. The Claimant further explained that they remained in Portugal for nine months before arriving in the United States in March 1941, having used "honeymoon" money that [REDACTED] had deposited in a New York bank in 1935, as their guarantee. The Claimant stated that [REDACTED] died on 30 May 1955 in Long Beach, New York.

The Claimant stated that [REDACTED], who was born in Essen, left for the United States via South America after escaping from the Saint Cyprienne camp and hiding from the Nazis, all with the help of two prostitutes who ran a "slave shop." According to the Claimant, [REDACTED] and his brother, [REDACTED], were reunited in the United States and changed their names to [REDACTED] and [REDACTED]. The Claimant identified that [REDACTED] died around 1951 in Arizona. The Claimant further explained that [REDACTED], who was born in Essen, was in hiding in Brussels during the Second World War and subsequently moved to Dusseldorf, Germany. The Claimant asserted that [REDACTED] married [REDACTED], had one son, and later divorced. The Claimant further asserted that the name [REDACTED] had previously been changed from [REDACTED]. According to the Claimant, [REDACTED] died a few years ago in Dusseldorf.

The Claimant stated that her husband and brother were well off, were happy in the United States, and thought they would go to Switzerland to try to retrieve their accounts when the situation in Europe calmed down after World War II and when they needed the money. The Claimant further stated that they both died unexpectedly relatively young and never needed to pursue this plan. The Claimant explained that [REDACTED] was somewhat supported by her ex-husband even after he had remarried, did not think much about money, and would not have known how to go about retrieving any funds in Switzerland. In support of her claim, the Claimant submitted documents, including her mother-in-law's and father-in-law's death certificates, her marriage certificate, a German newspaper article from 1938 denying German citizenship to [REDACTED] from Werden/Essen, and a legal notice regarding [REDACTED]'s name change. The Claimant indicated that she was born on 23 August 1914 in Neuwied, Germany.

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

The bank records consist of printouts from the Bank's database. According to these records, the Account Owner was Mr. Salli Levy, of Brussels, Belgium and Essen S/Ruhr, Germany. The bank records indicate that after the death of Salli Levy on 16 November 1939, his heirs, [REDACTED], [REDACTED], and Mme. [REDACTED] (or [REDACTED]) [REDACTED], succeeded to his interest in the account. The bank records indicate that they succeeded to a safe

deposit account and to an additional account of unknown type. According to the records, the Account Owners of the second account were Salli and Paula Levy. The bank records indicate that one or both of the Account Owners had died and that the balance in this unknown type of account was 152,055.00 Swiss Francs on 6 April 1946. The bank records do not show when the accounts at issue were closed, to whom they were paid, or the value of the safe deposit 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 these accounts in the Bank’s system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the bank records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

## **The CRT’s Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. Her father-in-law’s and mother-in-law’s names match the unpublished names of the Account Owners and her husband’s and his siblings’ names match the unpublished names of the heirs to the first account. The Claimant identified her relatives’ cities of residences, which also matches unpublished information about the Account Owners contained in the bank records. In support of her claim, the Claimant submitted documents, including her marriage certificate identifying [REDACTED], a legal notice noting the name change of [REDACTED] to [REDACTED], and her father-in-law’s and mother-in-law’s death certificates.

### 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 Owners were Jewish and had to flee Germany during the Second World War. The Claimant further stated that one of the Account Owners hanged herself upon panicking about the Nazi invasion into Brussels. According to the Claimant, two of the heirs to the first account, [REDACTED] and [REDACTED], were interned in concentration camps.

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

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting documents demonstrating that she is their daughter-in-law.

### The Issue of Who Received the Proceeds

The Account Owners died in 1939 and 1940 and plausibly did not receive the proceeds of their accounts. Although their children survived the Holocaust, the CRT concludes that it is plausible that they did not receive the proceeds of their parents’ accounts given the probability that the

Account Owners' heirs would not have been able to obtain information about their accounts from the Bank due to the Swiss banks' practice of withholding or misstating account information in response to inquiries by account owners or their heirs, and the application of Presumptions (h) and (j) contained in Appendix A.<sup>1</sup> 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 23 of the Rules Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owners were her parents-in-law, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

#### Amount of the Award

Pursuant to Article 35 of the Rules, when the value of an account is unknown, as is the case of the first account 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 a safe deposit account was 1,240.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount for the first account of 14,880.00 Swiss Francs. The bank records indicate that the value of the second account, of unknown type, as of 6 April 1946 was 152,055.00 Swiss Francs. In accordance with Article 37(1) of Rules, this amount is increased by an adjustment of 30.00 Swiss Francs, which reflects standardized bank fees charged to the account between 1945 and 6 April 1946. Consequently, the adjusted balance of the account at issue is 152,085.00 Swiss Francs. The present value of this amount is determined by multiplying the adjusted balance by a factor of 12, in accordance with Article 37(1) of the Rules, producing a total award amount for the second account of 1,825,020.00 Swiss Francs. The total award amount for both accounts is therefore 1,839,900.00 Swiss Francs.

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 65% of the Certified Award, and the claimant may receive a second payment of up to 35% of the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account value of the safe deposit box account and 65% of that award amount is 9,672.00 Swiss Francs.

The total initial payment to the Claimant is therefore 1,834,692.00 Swiss Francs.

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<sup>1</sup> An expanded version of Appendix A appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

**Scope of the Award**

The Claimant should be aware that, pursuant to Article 25 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  
October 3, 2002

## APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:<sup>1</sup>

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner was a child at the time of the Second World War;
- h) the Account Owners and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners and heirs because of the banks' concerns regarding double liability;<sup>2</sup>
- i) the Account Owners or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners or their heirs received the proceeds of the Account.<sup>3</sup>

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<sup>1</sup> See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia

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and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

<sup>2</sup> See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

<sup>3</sup> As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).