

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Ilse Schwed

## **in re Account of Albert Mendel**

Claim Number: 000980/MD

Award Amount: 45,425.00 Swiss Francs

This Certified Award is based upon the claim of Ilse Schwed (the "Claimant") to the Account of Albert Mendel (the "Account Owner") at the [REDACTED] (the "Bank").

All awards are published, but where a claimant has not requested confidentiality, as in this case, only the name of the bank is redacted.

### **Information Provided by the Claimant**

The Claimant submitted a Claim Form in which she stated that the Account Owner, Albert Mendel, was her father who was born in 1875 in Germany and who lived in Cologne, Germany, prior to the Second World War. Further, the Claimant stated that her father married Dora Aronstein, with whom he had two daughters: Ruth and the Claimant. The Claimant stated that her father, who was Jewish, was deported to the concentration camp in Theresienstadt in 1941, where he perished. His wife perished in Auschwitz.

In support of her Claim, the Claimant attached a letter written by her father to her in 1935. The letter has a stamp *Schweizerischer Bankverein* on the letterhead.

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

According to the bank documents, the Account Owner was Albert Mendel who lived in Cologne, Germany. The Power of Attorney Holder was Miss Ruth Mendel. The type of the account is not known. The bank documents indicate that the account was opened in 1929 and closed on 27 July 1939. The bank documents do not contain the value of the account held, and they do not show to whom (if anyone) the account was paid. Additionally, the bank records indicate that the Account Owner held a safe deposit box in the period from 1930 to 1936. The bank documents contain a sample of Account Owner's signature.

The bank documents also contain a letter dated 1956 from the Claimant in which she asked the Bank for information about her father's account, including its connection with her father's business and its turnover. In its response to the Claimant's letter, the Bank disingenuously stated that due to Swiss law, which did not require banks to keep business records for more than 10 years, such information was not available. In fact,

the Bank confirmed internally that the Account had existed but failed to provide the Claimant with that information.

## **The Tribunal's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. She provided information regarding her father's exact address in Cologne which matches the unpublished information about the Account Owner in the bank records. Further, the Claimant provided a sample of her father's signature which is similar to the signature of the Account Owner. Additionally, the bank file contains a letter written by the Claimant in 1956 asking the bank for information about her father's account.

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

The Claimant has provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that her father, who was Jewish, was deported to the concentration camp in Theresienstadt, where he perished.

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

The Claimant has plausibly shown that the Account Owner was her father by providing information about him which matches unpublished information about the Account Owner contained in the bank records.

The Claimant has further provided documents (including a letter from her father and her father's obituary) indicating her relationship to the Account Owner. Information submitted by the Claimant indicates that her mother perished in the Holocaust, that her sister died without issue in 1995, and that she is the only surviving child of the Account Owner. The credibility of other information provided by the Claimant gives the Tribunal no basis for questioning the information that the Claimant is the only surviving heir of the Account Owner.

### The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account was paid to the Account Owner or his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the "ICEP Investigation") demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still

other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Moreover, Swiss banks were authorized, under certain conditions, to forcibly open safe deposit boxes in order to recover unpaid rental fees. Thus, if the funds were not in fact paid to the account owners or their family, as is apparently the case here as described below, there is a substantial likelihood that the funds in this case went to the Nazis.

With respect to the account of unknown type that was opened in 1929 and was closed on 27 July 1939, although the Tribunal cannot determine with certainty who received the proceeds of that account, the Tribunal concludes that it is plausible that neither the Account Owner nor his heirs received the proceeds.<sup>1</sup> The Tribunal notes that after 20 January 1939 travel by German Jews to Switzerland was restricted, making it unlikely that the Account Owner came to Switzerland to receive the proceeds in July 1939. The Tribunal's conclusion is also required by Article 34(a) of the Rules Governing the Claims Resolution Process (the "Rules"), which provide that where an account has been closed after the imposition of Swiss visa requirements on 20 January 1939, and before 1945, the Tribunal shall presume that neither the Account Owner nor his heirs received the proceeds of the claimed account. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

With respect to the safe deposit box closed in 1936, the Tribunal will defer a decision, pending further considerations as to whether or not the Account Owner or his heirs received the proceeds of the safe deposit box.

#### Basis for the Award

The Tribunal 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. Second, the Claimant has plausibly demonstrated that the Account Owner was her father and that relationship justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner nor his family received the proceeds of the account of unknown type.

#### Amount of the Award

Pursuant to Article 35 of the Rules, when the value and type of an account is unknown, as is the case here, the average value of such account shall be 3,950.00

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<sup>1</sup> In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. Although some of these laws were promulgated before the Nazis came into power, and although many of the laws were facially non-discriminatory, the Nazi Regime increasingly enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside Germany and special confiscatory taxes for emigrants who wished to flee Germany. Until 1937, the laws generally did not explicitly target Jews, although in practice the laws were enforced more stringently against Jews. Over the course of 1937, however, the spoliation process became increasingly wholesale and systematic and Nazi expropriations of Jewish assets held in Swiss banks and elsewhere became widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, [www.crt-ii.org](http://www.crt-ii.org).

Swiss Francs. The present value of this amount is calculated by multiplying the balance by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 45,425.00 Swiss Francs.

According to Article 37(3) of the Rules, in cases when the amount in the account is not known, claimants shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this instance, 35% of the total award amount is 15,898.75 Swiss Francs.

### **Scope of the Award**

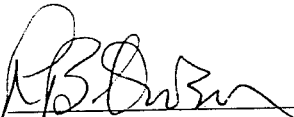
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he and his brother might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

### **Certification of the Award**

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a strong case for entitlement to an Award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same accounts will be forthcoming. The Special Masters appointed by the Court to supervise the Claims Resolution Process for Deposited Assets Claims have stressed the importance of moving ahead quickly to begin to make awards to Holocaust victim claimants or their heirs. They have therefore instructed the Tribunal that in particular cases where the Tribunal is satisfied that the currently identified claimant has a strong claim and that the risk of future competing claims is low, the Tribunal should prepare an award to that claimant and submit it to the Court for approval. This is such a case.

In this case, the Tribunal is of the opinion that the Claimant has presented a strong claim to the Account, thus substantially reducing the likelihood of competing claims. On this basis, and taking into account the instructions of the Special Masters, the Tribunal recommends approval of the present Award by the Court for payment by the Special Masters in accordance with Article 37(3) of the Rules.

24 Jan. 2002  
Date

  
Roberts B. Owen  
Senior Claims Judge