

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants Eli Muller,

[REDACTED 2],

[REDACTED 3],

and [REDACTED 4]

## **in re Account of El. Mueller**

Claim Numbers: 203029/MBC; 217415/MBC; 400321/MBC;<sup>1</sup> 400473/MBC

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Eli Muller (“Claimant Eli Muller”) to the accounts of Bertha and Zalman Muller;<sup>2</sup> the claim of [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”) to the account of Vilmos Timföld;<sup>3</sup> the claim of [REDACTED 3], formerly [REDACTED], née [REDACTED] (“Claimant [REDACTED 3]”) to the account of Oskar Silberknopf;<sup>4</sup> and the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) (together the “Claimants”) to the account of Eugen Müller.<sup>5</sup> This Award is to the unpublished account of El. Mueller (the “Account Owner”) at the Lugano branch of the Eli Muller(the “Bank”).<sup>6</sup>

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<sup>1</sup> Claimant [REDACTED 4] (“Claimant [REDACTED 4]”) submitted one additional claim, which is registered under the Claim Number 217416. The CRT did not locate an account belonging to Vilmos (Vilmus, Viliam) Timfold (Timföld), Etel Timfold (Timföld), or *Schindler & Co.* in the Account History Database (“AHD”) 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”).

<sup>2</sup> The CRT did not locate an account belonging to Zalman Muller in the AHD. The CRT will treat the claim to the accounts of Bertha Muller in a separate determination.

<sup>3</sup> See note 1, *supra*.

<sup>4</sup> In a separate decision, the CRT treated Claimant [REDACTED 4]’s claim to the account of Eugen Müller. See *In re Account of Eugen Müller* (approved on 24 April 2007).

<sup>5</sup> In a separate decision, the CRT awarded the accounts of Oskar Silberknopf and Hans Silberknopf to Claimant [REDACTED 3]. See *In re Accounts of Oskar Silberknopf and Hans Silberknopf* (approved on 29 March 2006). In an additional decision, the CRT awarded the account of Fritz Müller to Claimant [REDACTED 3]. See *In re Account of Fritz Müller* (approved on 30 May 2007).

<sup>6</sup> The CRT notes that 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 names Else Mueller, Helene Mueller, Elsa Mueller, Else Müller, and Helene Müller appear. Upon careful review,

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 Claimants**

#### Claimant E. Muller

Claimant E. Muller submitted a Claim Form and Initial Questionnaire identifying himself as the Account Owner. Claimant E. Muller stated that he was born on 22 October 1927 in Gonice (Ganica), Czechoslovakia (possibly now Ganichi, the Ukraine) to [REDACTED] and [REDACTED], née [REDACTED]. Claimant E. Muller further indicated that his family, which was Jewish, resided in Gonice (Ganica), that he was one of eight siblings, and that his parents owned Swiss bank accounts. According to Claimant E. Muller, his family's assets were looted by the Nazis in April 1944 and he, his parents, and his siblings were deported to concentration camps, where his parents and siblings all perished. Claimant E. Muller stated that he was the only member of his family to survive the Holocaust.

#### Claimant [REDACTED 2] and Claimant [REDACTED 4]

Claimant [REDACTED 2] and Claimant [REDACTED 4], who are siblings, submitted Claim Forms and Initial Questionnaires identifying the Account Owner as their mother Elena (Helena, Ilona) Müller, née Lövy (Lövy), who was born on 7 March 1900 in Kotmanova, Czechoslovakia (now Slovakia), and was married to [REDACTED] on 25 March 1928 in Banska Bystrica Czechoslovakia (now Slovakia). These Claimants indicated that their family, which was Jewish, resided in Banska Stiavnica, Czechoslovakia (now Slovakia), where their father owned a large textile factory as well as a tavern and grocery store. These Claimants further indicated that their father's factory was aryanized in 1942 and that the family moved to nearby Huta, Czechoslovakia (now Slovakia). According to these Claimants, their family's property was looted by the Nazis in 1943 and they and their parents spent the remainder of the Second World War in hiding in various places in Slovakia. These Claimants further indicated that their extended family members perished in the Holocaust. Finally, these Claimants indicated that after the War, they and their parents emigrated to Israel and then to Canada, that their father died in 1992 in Toronto, Canada, and that their mother died in 1997, also in Toronto.

These Claimants submitted copies of documents in support of their claims, including: 1) their parents' marriage certificate, indicating that Elena Lövy was born on 7 March 1900 in Kotmanova and that she was married to [REDACTED]; 2) Claimant [REDACTED 4]'s birth certificate, indicating that [REDACTED 4] was born on 2 December 1929 in Banska Stiavnica and that his parents were [REDACTED] and Elena Müller, née Lövy; 3) Claimant [REDACTED 2]'s birth certificate and passport, indicating that [REDACTED 2] was born on 24 March 1934 in Banska Stiavnica and that her parents were [REDACTED] and Helena Müller, née Lövy; 4) a register, dated 16 October 1942, indicating that their father's factory was aryanized; 5) their

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the CRT has determined that none of these individuals is any of the persons addressed in the current decision and, consequently, none of the Claimants has identified any of these other account owners as his or her relative.

family's Czechoslovakian citizenship certificate, dated 1947, indicating that [REDACTED] was married to Elena Lowy and that their children were [REDACTED 4] and [REDACTED 2]; 6) Claimant [REDACTED 2]'s marriage certificate, indicating that [REDACTED 2], who was Jewish, was married to [REDACTED] on 11 April 1956 in Tel-Aviv-Jaffo, Israel; 7) their parents' joint will, indicating that the heirs of [REDACTED] and Helen Müller, née Löwy, are their children, Claimant [REDACTED 4] and Claimant [REDACTED 2], in equal shares; and 8) memorial certificates recording their parents' respective deaths in 1992 and 1997.

### Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owner as her mother, Elsa Müller, née Müller, who was born on 15 May 1882 in Vienna, Austria, and was married to [REDACTED]. Claimant [REDACTED 3] indicated that her parents, who were Jewish, resided in Vienna and that they had three children: [REDACTED 3](Claimant [REDACTED 3]), [REDACTED], and [REDACTED]. Claimant [REDACTED 3] stated that her father died on 18 July 1933 in Vienna. According to Claimant [REDACTED 3], her brother [REDACTED] perished in Auschwitz during in 1944, and her mother and her brother [REDACTED] both died in 1968 in the United States.

In additional correspondence with the CRT, Claimant [REDACTED 3] indicated that she and her mother fled Vienna to the United States in 1940, after the incorporation of Austria into the Third Reich in March 1938 (the "*Anschluss*").

Claimant [REDACTED 3] submitted copies of documents in support of her claim, including: 1) her own birth certificate, indicating that she was born on 25 November 1921 in Vienna, that her parents were [REDACTED] and Elsa Müller, née Müller, and that the family was Jewish; 2) a receipt passage by ship from the Netherlands to the United States for Claimant [REDACTED 3] and her mother, dated 1 March 1940, indicating that Elsa Müller was a 57 year old widow, that [REDACTED 3] was 18 years old, and that they both resided in Vienna; 3) her mother's Certificate of Naturalization as a United States citizen, dated 20 November 1950, indicating that Else Mueller was born on 15 May 1882 in Austria; and 4) her mother's death certificate, indicating that Else Mueller died on 19 June 1968 in New York, the United States.

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

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was El. Mueller. The Bank's record does not indicate the Account Owner's domicile. The Bank's record indicates that the Account Owner held an account, the type of which is not indicated, which was suspended by the Bank and which contained a balance of 100.00 Swiss Francs ("SF") as of an unspecified date. The account remains open and dormant.

## **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 four claims of the Claimants in one proceeding.

### Identification of the Account Owner

Claimant E. Muller's name and the remaining Claimant's relatives' names match the unpublished name of the Account Owner.<sup>7</sup> The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than the abbreviated first name and surname.

In support of their claims, the Claimants submitted documents. Claimant [REDACTED 2] and Claimant [REDACTED 4] submitted their parents' marriage certificate and citizenship certificate, and Claimant [REDACTED 3] submitted her own birth certificate and her mother's Certificate of Naturalization and death certificate. These documents provide independent verification that the person who is claimed to be the Account Owner had the same beginning letters of the first name and same surname recorded in the Bank's record as the abbreviated first name and surname of the Account Owner. The CRT notes that Claimant E. Muller did not claim his own account. However, given that Claimant E. Muller was a child at the time that the account would have been opened and that his parents and siblings were killed during the Holocaust, the CRT considers it plausible that a family member opened the account in his name without his knowledge.

The CRT notes that Claimant E Muller, Claimant [REDACTED 2]'s and Claimant [REDACTED 4]'s relative, and Claimant [REDACTED 3]'s relative are not the same person. However, given that the Claimants have identified all information about the Account Owner that is available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there were no other claims to this account, the CRT finds that the Claimants have each plausibly identified the Account Owner.

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

Claimant E. Muller has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant E. Muller stated that he is Jewish, that he was imprisoned in a concentration camp during the War, and that his parents and siblings perished in the Holocaust.

Claimant [REDACTED 2] and Claimant [REDACTED 4] have also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. These Claimants stated that the

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<sup>7</sup> The CRT notes that the Germanic character "ü" is equivalent to "ue" and that it is plausible that Claimant E. Muller no longer used the umlaut over the "u" in his surname after emigrating to the United States.

Account Owner was Jewish, that she resided in Nazi-occupied Czechoslovakia, and that she survived the War in hiding. These Claimants also submitted documents indicating that their family was Jewish and that their father's factory was aryanized in 1942. According to these Claimants, many of the Account Owner's relatives perished in the Holocaust. The CRT notes that persons responding to the Account Owner's family members, including her mother and siblings, were included in a database containing the names of Victims of Nazi Persecution. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Claimant [REDACTED 3] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 3] stated that the Account Owner was Jewish, that she resided in Austria after the *Anschluss*, and that she fled to the United States in 1940. Claimant [REDACTED 3] further stated that the Account Owner's family members, including her son [REDACTED], perished in the Holocaust. The CRT notes that a person named [REDACTED], corresponding to the Account Owner's son, was included in its database of victims.

#### The Claimants' Relationships to the Account Owner

As stated above, Claimant E. Muller has plausibly demonstrated that he is the Account Owner.

Claimant [REDACTED 2] and Claimant [REDACTED 4] have plausibly demonstrated that they are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was these Claimants' mother. These documents include these Claimants' birth certificates, indicating that their mother was Elena (Helena) Müller. There is no information to indicate that the Account Owner has other surviving heirs.

Claimant [REDACTED 3] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 3]'s mother. These documents include her own birth certificate, indicating that her mother was Elsa Müller. There is no information to indicate that the Account Owner has other surviving heirs.

#### The Issue of Who Received the Proceeds

The Bank's record indicates 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant E. Muller has plausibly demonstrated that he is the Account Owner; Claimant [REDACTED 2] and Claimant [REDACTED 4] have plausibly demonstrated that the Account Owner was their mother and Claimant [REDACTED 3] has plausibly demonstrated that the Account Owner was her mother, and those relationships justify an Award. Third, the CRT has

determined that neither the Account Owner nor his or her heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's record indicates that the value of the account as of an unspecified date was SF 100.00. Because the known balance is undated, it is treated as an account of unknown balance. According 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 the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of an account of unknown type was SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount in this case is SF 49,375.00.

### Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each group of Claimants has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant E. Muller, Claimant [REDACTED 2] and Claimant [REDACTED 4], and Claimant [REDACTED 3] are each entitled to one-third of the Award amount.

With respect to portion of the Award designated to Claimant [REDACTED 2] and Claimant [REDACTED 4], according to Article 23(2)(a) of the Rules, the CRT will provide for distribution as set forth in the Account Owner's will. Consequently, these Claimants are each entitled to one-half of this portion of the Award, or one-sixth of the total Award amount.<sup>8</sup>

### **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).

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<sup>8</sup> The CRT notes that this division would be the same in the absence of inheritance documents. See Article 23(1)(c) of the Rules.

**Certification of the Award**

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
15 November 2007