

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
also acting on behalf of [REDACTED 2], [REDACTED 3],  
[REDACTED 4] and [REDACTED 5]  
represented by Erez Bernstein and by [REDACTED 2]

## **in re Account of Malwa Oplatka**

Claim Numbers: 401885/NB, 501800/NB

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (the “Claimant”) to the published account of Malwa Oplatka (the “Account Owner”), over which Hugo Oplatka (the “Power of Attorney Holder”) held power of attorney at the Zurich branch of the [REDACTED] (the “Bank”).<sup>1</sup>

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 two Claim Forms identifying the Power of Attorney Holder as her maternal uncle, Hugo Oplatka, and identifying the Account Owner as his wife, Malwa Oplatka. The Claimant stated that her uncle, who was born on 4 September 1886 in Czechoslovakia (now the Czech Republic), was married to Malwa Oplatka, who was born on 3 June 1891. The Claimant indicated that Hugo and Malwa Oplatka had one child, [REDACTED], who was born in 1921 in Vienna, Austria. The Claimant stated that her relatives, who were Jewish, resided in Vienna until 1938, when they moved to Prague, Czechoslovakia. The Claimant indicated that her uncle and her aunt were deported to Theresienstadt in 1941, and from there to Auschwitz on 16 October 1944, where they perished, along with their son. The Claimant indicated that her

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<sup>1</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”), Malwa Oplatka is listed as having two accounts and Hugo Oplatka is listed as having one account. Upon careful review, the CRT has determined that the Bank’s records evidence the existence of only one account owned by Malwa Oplatka, over which Hugo Oplatka held power of attorney.

uncle, who was the son of [REDACTED] and [REDACTED], née [REDACTED], had three siblings: [REDACTED] (the father of [REDACTED 5] and [REDACTED]); [REDACTED], née [REDACTED] (the mother of the Claimant and [REDACTED]); and [REDACTED].

In support of her claim, the Claimant submitted copies of: (1) her family tree, which indicates that [REDACTED 1]'s mother, [REDACTED], née [REDACTED], was the sister of Hugo Oplatka, who was married to Malwa Oplatka; (2) her birth certificate, which indicates that [REDACTED 1] was the daughter of [REDACTED], née [REDACTED]; (3) two pages of testimony submitted to the Yad Vashem Memorial in Israel on 30 September 1999 by the Claimant, which indicate that [REDACTED 1]'s uncle, Hugo Oplatka, was born in 1885, that he was married to [REDACTED 1]'s aunt, Malwa Oplatka, who was born in 1890 in Hungary, that their permanent residence was Vienna, Austria, that they moved to Prague, Czechoslovakia in 1938, and that they perished in the Holocaust during the war; (4) copies of two Austrian census forms, numbered 13477 and 13478, completed by the Claimant's uncle and aunt, which indicate that Hugo Oplatka and Malwa Oplatka, née Böhmer, were married, and that they resided in Vienna, Austria at the time they declared their assets with the Nazi authorities on 15 July 1938 (these records are described in more detail below); and (5) transport cards, numbered 48492 and 48493, which indicate that Hugo Oplatka was born on 4 September 1886, that Malwa Oplatka was born on 3 June 1891, that they resided in Prague, that they were deported to Theresienstadt in 1941, and from there to Auschwitz on 16 October 1944.

The Claimant indicated that she was born on 24 July 1907 in Vienna, Austria. The Claimant is representing her daughter, [REDACTED 2], born on 7 January 1944 in London, the United Kingdom; her niece (the daughter of her brother [REDACTED]), [REDACTED 3], née [REDACTED], who was born on 7 April 1950 in London; her cousin's son (the son of [REDACTED 5]), [REDACTED 5], Junior, who was born on 22 January 1951 in Prague, Czechoslovakia; and her cousin's wife (the wife of [REDACTED]), [REDACTED 4], née [REDACTED], who was born on 16 August 1917, in Liverpool, the United Kingdom.

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

The Bank's records consist of a power of attorney form, dated 9 August 1937, printouts from the Bank's database, documents from the Swiss Federal Archives pertaining to the 1945 freeze of assets deposited in Switzerland by nationals of Germany and of the territories incorporated into the Reich (the "1945 Freeze"), and documents related to an internal survey of dormant accounts ordered by the Swiss Federal Decree of 20 December 1962 (the "Federal Decree"), which obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (the "1962 Survey").

According to these records, the Account Owner was *Frau* (Mrs.) Malwa Oplatka, who resided at 3 Flora Uzka, in Prague, Czechoslovakia, and the Power of Attorney Holder was Hugo Oplatka, the Account Owner's husband. The records show that the last contact the Bank had with the Account Owner was in 1939.

The records indicate that the Account Owner held one demand deposit account, frozen in the 1945 Freeze of German Assets, which as of 17 February 1945 had a balance of 122.08.00 Pound Sterling (“£”), which was equivalent to 1,468.80 Swiss Francs (“SF”).<sup>2</sup> The records further indicate that the account was unfrozen on 19 July 1955, when it had a balance of £ 113.2.6 (the equivalent of SF 1,334.90), which had decreased to £ 105.16.00 by 1959. According to these records, the demand deposit account was considered for the 1962 Survey but ultimately was not registered. The records do not indicate why the account was not registered. The documents prepared in the course of the 1962 Survey show a balance of SF 1,120.00 on 12 December 1963. The records further indicate that the account was closed to fees on 13 October 1983 with a negative balance of £ 2.10.

### **Information Available from the Austrian State Archive**

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Hugo Oplatka, numbered 13477, and the assets of Malwa Oplatka, numbered 13478.

These records indicate that Malwa Oplatka was married to Hugo Oplatka, who was born on 4 September 1886, that they resided in Vienna, Austria, and that they were of Czechoslovakian nationality. According to these documents, Malwa and Hugo Oplatka registered with the Nazi authorities that Malwa Oplatka owned monetary assets worth 7,400.00 Reichsmark (“RM”), that Hugo Oplatka owned monetary assets worth RM 38,240.00, a life insurance worth RM 2,400.00 and various valuables worth RM 1,640.00. The records numbered 13477 also contain a note from the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (“*Vermögensverkehrsstelle* or “VVSt.”) dated 26 July 1939, stating that Hugo Oplatka moved from Austria to another country. These records make no mention of assets held in a Swiss bank account.

### **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 Claimant in one proceeding.

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<sup>2</sup> The CRT uses official exchange rates when making currency conversions.

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant's relatives' names, city and country of residence match the published names, city and country of residence of the Account Owner and the Power of Attorney Holder. The Claimant also identified the marital status between the Account Owner and the Power of Attorney Holder, which matches unpublished information about the Account Owner and the Power of Attorney Holder contained in the Bank's records.

In support of her claim, the Claimant submitted documents, including copies of transport cards, providing independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same name and resided in the same city recorded in the Bank's records as the name and city of residence of the Account Owner and of the Power of Attorney Holder.

The Claimant also submitted a sample of her aunt's signature, affixed on the Austrian Census records, numbered 13478, which matches the signature of the Account Owner on the power of attorney form contained in the Bank's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes the name Hugo Oplatka, and indicates that his date of birth with 4 September 1886, which matches the information about Power of Attorney Holder 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 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 and the Power of Attorney Holder were Victims of Nazi Persecution. The Claimant stated that the Account Owner and the Power of Attorney Holder were Jewish, living in Nazi-controlled Austria, that they were deported to Theresienstadt and from there to Auschwitz, where they perished.

As noted above, a person named Hugo Oplatka were included in the CRT's database of victims. Furthermore, the CRT notes that the Account Owner and the Power of Attorney Holder were forced to declare all of their assets to the Nazi authorities in the 1938 Census.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner and the Power of Attorney Holder by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's great-aunt.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records, and that the Claimant also identified information

which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted 1938 Census Records for Malwa and Hugo Oplatka. The CRT notes that it is plausible that these documents are documents, which most likely only a family member would possess. The CRT further notes that the Claimant submitted copies of transport cards, which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner and that they resided in Prague. 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 Claim Form.

There is no information to indicate that the Account Owner and the Power of Attorney Holder have surviving heirs other than the parties whom the Claimant is representing.

#### The Issue of Who Received the Proceeds

The Bank's records indicate that the account was closed to fees on 13 October 1983.

#### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant, represented party [REDACTED 3] and represented party [REDACTED 5], Junior. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that she was the Account Owner's niece, and that represented parties [REDACTED 3] and [REDACTED 5], Junior are the great-niece and the great-nephew of the Account Owner, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

Further, the CRT notes that the Claimant, as the Account Owner's niece has a better entitlement to the award than represented party [REDACTED 2], as the Account Owner's great-niece, and that represented party [REDACTED 5], Junior, as the Account Owner's great-nephew, has a better entitlement to the account than represented party [REDACTED 4], née [REDACTED], as the Account Owner's relative by marriage.

#### Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that its value as of 17 February 1945 was £ 122.08.00, which was equivalent to SF 1,468.80. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. 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 26,750.00.

### Division of the Award

According to Article 23(1)(d) 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 by representation. In this case, the Claimant is representing her daughter, [REDACTED 2], her niece [REDACTED 3], née [REDACTED], her first cousin's son, [REDACTED 5] Junior, and the wife of her first cousin, [REDACTED 4], née [REDACTED ]. Accordingly, the Claimant is entitled to one-fourth of the total amount, represented party [REDACTED 3] is entitled to one-fourth of the total amount, and represented party [REDACTED 5], Junior, is entitled to one-half of the total award amount. As noted above, represented party [REDACTED 2] and represented party [REDACTED 4], née [REDACTED ], are not entitled to share in the award.

### **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 claims 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  
26 November 2008