

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants Jolanta Varisella, represented by Dr. Marek Jarzynski,  
and Krystyna Wasserman, also acting on behalf of Elizabeth Kaszubski

## **in re Account of Josef Jerzy Richter**

Claim Numbers: 211458/MBC and 220102/MBC<sup>1</sup>

Award Amount: 51,250.00 Swiss Francs

This Certified Award is based upon the claim of Jolanta Varisella, née Richter, (“Claimant Varisella”) to the account of Josef Jerzy Richter (the “Account Owner”) and the claim of Krystyna Wasserman (“Claimant Wasserman”) (together the “Claimants”), to the account of Rebeka Wolk.<sup>2</sup> This Award is to the account of Josef Jerzy Richter (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

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

## **Information Provided by the Claimants**

Claimant Varisella submitted a Claim Form identifying the Account Owner as her father, Josef Jerzy Richter, who was born on 5 November 1886 in Lodz, Poland, and was married to his first wife, Halina Machlajd, on 27 November 1919 in Warsaw, Poland. Claimant Varisella stated that her parents were divorced on 7 May 1925. Claimant Varisella stated that Josef Jerzy Richter, who was Jewish, lived in Cannes and Nice, France, in the 1930s until approximately 1938, when he moved to Krupowki 57 in Zakopane, Poland. Claimant Varisella stated that her father was an industrialist. Claimant Varisella stated that the Nazis imprisoned her father in Pawiak Prison in Warsaw, and that the entire family was imprisoned in camps at Pruszkow and Smolen. Claimant Varisella stated that, due to mental anguish while imprisoned in Smolen, Josef Jerzy Richter took his own life on 26 November 1944.

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<sup>1</sup> The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 220120 and 220659. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 220102.

<sup>2</sup> The CRT will treat the claims to this account in a separate decision.

In support of her claim, Claimant Varisella submitted her birth certificate, identifying Josef Jerzy Richter as her father; her father's birth and death certificates; Rebeka Wolk Richter's death certificate; and her father's inheritance certificate, which names Claimant Varisella and Rebeka Wolk Richter as beneficiaries. Claimant Varisella stated that she was born on 24 September 1920 in Lodz, Poland.

Claimant Wasserman submitted a Claim Form identifying Josef Jerzy Richter as her uncle. Claimant Wasserman stated that Josef Jerzy Richter's second wife, Rebeka Richter, née Wolk, whom he married in Cannes in approximately 1930, was her maternal aunt and was Jewish.

The Claimants stated that during the Second World War, Josef Jerzy Richter and Rebeka Richter hid from the Nazis and were forced to move from Zakopane to Warsaw in order to escape Nazi persecution. The Claimants stated that when the family lived in Warsaw, Claimant Wasserman and her mother were forced to hide in Josef Jerzy Richter's apartment until the Warsaw Uprising in 1944, at which point their home was destroyed. The Claimants stated that after the Warsaw Uprising, the family was forced to hide in fields where the Germans and Poles were fighting. The Claimants stated that Rebeka Wolk Richter never remarried and lived in Poland until her death in 1966.

In support of her claim, Claimant Wasserman submitted her birth certificate; her sister Elizabeth Kaszubski's birth certificate; and Rebeka Wolk Richter's death certificate. Claimant Wasserman stated that she was born on 10 August 1937 in Lodz. Claimant Wasserman is representing Elizabeth Kaszubski, her sister, who was born in 1950 in Lodz.

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

The Bank's records consists of a list of accounts included in an internal bank survey of Polish assets, a list of dormant accounts, documentation from the Swiss Clearing Office, and printouts from the Bank's database. According to these records, the Account Owner was Josef Jerzy Richter who resided at 57, Krupowki in Zakopane, Poland. The Bank's records indicate that the Account Owner held a demand deposit account.

The Bank's records indicate that the demand deposit account was opened on 12 January 1938, and that the Bank's last contact with the Account Owner was in 1939. These records also show that the demand deposit account had a balance of 4,085.00 Swiss Francs when it was included on a list of accounts held in Switzerland by citizens of Germany and territories incorporated into the Third Reich, which were frozen on 17 February 1945. The Bank's records indicate that the account was unfrozen on 17 August 1955, at which time it had a balance of 3,950.00 Swiss Francs. The Bank's records further indicate that the account was included on a list of dormant accounts held by Polish citizens in 1955. These records indicate that the account was closed, but the records do not show when the account was closed or to whom the proceeds were paid.

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’s records that the Account Owner or his 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 claims of Claimant Varisella and Claimant Wasserman in one proceeding.

### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Claimant Varisella’s father’s name matches the published name of the Account Owner, and Claimant Wasserman’s uncle’s name matches the published name of the Account Owner. Claimant Varisella identified her father’s street address, which matches unpublished information about the Account Owner contained in the Bank’s records. In support of her claim, Claimant Varisella submitted her own birth certificate, identifying Josef Jerzy Richter as her father. The CRT notes that the name Josef Jerzy Richter appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. The CRT further notes that the other claim to this account was disconfirmed due to inconsistent middle name information submitted by the other claimant. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

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

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish, that he and his wife were forced to hide from the Nazis, and that he was imprisoned in camps until he committed suicide as a result of Nazi persecution.

### The Claimants’ Relationship to the Account Owner

Claimant Varisella has plausibly demonstrated that she is related to the Account Owner by submitting documents, including her birth certificate, demonstrating that the Account Owner was her father. Claimant Wasserman has plausibly demonstrated that she is related to the Account Owner by submitting documents, including Rebeka Wolk Richter’s death certificate, demonstrating that the Account Owner

was married to her mother's sister. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

The CRT notes that it is possible that, if the accounts were still open after 1949, they could have been transferred to the Polish government pursuant to an agreement between Switzerland and Poland entered into in June 1949, whereby unclaimed assets held by Polish citizens in Swiss banks were to be transferred to the Polish government in return for compensation for Swiss property nationalized by Poland's communist regime. Given this possible disposition of the account; the persecution of Jews in Poland and the confiscation of Jewish assets during the War; the Account Owner's suicide on 26 November 1944; the freezing of the Account Owner's account on 17 February 1945, unfrozen on 17 August 1955 and then closed on an unknown date, all of this account activity having occurred after the Account Owner's death; the residence of the Account Owner's heirs in a Communist country in Eastern Europe after the Second World War, resulting in their inability to receive the proceeds of the account; there is no record of the payment of the Account Owner's account to him or his heirs; the Account Owner's heirs would not have been able to obtain information about his 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; and given the application of Presumptions (a), (h), (i) and (j) as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his 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 Claimant Varisella. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants, Claimant Varisella and Claimant Wasserman, have plausibly demonstrated that the Account Owner was their father and uncle, respectively, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owner held one demand deposit account. The Bank's records indicate that the value of the demand deposit account as of 17 February 1945 was 4,085.00 Swiss Francs. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of 15.00 Swiss Francs, which reflects standardized bank fees charged to the account between 1 January 1945 and 17 February 1945. Consequently, the adjusted balance of the account at issue is 4,100.00 Swiss Francs. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce the total award amount of

51,250.00 Swiss Francs.

#### Division of the Award

According to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents, the award will provide for distribution among any beneficiaries named in the will or inheritance documents who have submitted a claim. Claimant Varisella submitted her father's inheritance documents, which indicate that he left his Estate to her and that his wife, Rebeka Wolk Richter, would have a life estate interest in one-half of his Estate. Accordingly, after the death of Rebeka Wolk Richter, her interest passed to Claimant Varisella. Thus, Claimant Varisella is entitled to the entire award amount, whereas Claimant Wasserman is not entitled to any share of the award amount.

#### **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).

#### **Certification of the Award**

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

Claims Resolution Tribunal  
31 December 2003