

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

## **in re Accounts of Henriette Roos**

Claim Number: 770381/HB<sup>1</sup>

Award Amount: 182,226.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the account of Fritz Löwensberg. This Award is to the published accounts of Henriette Roos (the “Account Owner”), over which Fritz Löwensberg (“Power of Attorney Holder Löwensberg”) and Dr. [REDACTED] (“Power of Attorney Holder Roos”) (together the “Power of Attorney Holders”) held power of attorney, at the Basel 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 an Initial Questionnaire (“IQ”) identifying Power of Attorney Holder Löwensberg as her father, Fritz Löwensberg, who was born on 21 August 1878 in Mainz, Germany, and was married to [REDACTED], née [REDACTED]. In a telephone call with the CRT, the Claimant identified the Account Owner as her maternal grandmother, Henriette Roos, who was Jewish, who was married to [REDACTED], and who resided with her husband in Mainz. The Claimant also identified Power of Attorney Holder [REDACTED] as her maternal uncle, [REDACTED], who was a chemist, and who resided, according to the Claimant, both in Switzerland and in England.

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<sup>1</sup> [REDACTED] (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG-0016163, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 770381.

The Claimant indicated that her mother, [REDACTED], née [REDACTED], was born in Strasbourg, France, and died in April 1930 in Mainz.

According to the Claimant, her father Fritz, who was Jewish, resided in Mainz and owned an import/export hops business, several vineyards in Germany, as well as malt factories in both Nieder-Ingelheim and Kreuznacht, Germany.<sup>2</sup> The Claimant further stated that her father held a Swiss bank account in Basel or Zurich, Switzerland.

The Claimant explained that she resided in Mainz until 1939, when she fled for Cambridge, England due to Nazi persecution in Germany. According to the Claimant, in approximately 1940 or later, her father was deported to Theresienstadt, where he perished. The Claimant stated that her grandmother Henriette Roos was also deported to a concentration camp, where she perished. The Claimant stated that her extended family, which resided in Mainz, perished in various concentration camps, and that she is the sole survivor of her extended family.

The Claimant indicated that she was born on 12 September 1919 in Mainz.

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

The Bank's records consist of three Power of Attorney Forms, and two notarized reports of the Bank's forced opening of a safe deposit box.

According to these records, the Account Owner was *Frau* (Mrs.) Henriette Roos, née Kaufmann, who resided at Peterstrasse 12 in Mainz, Germany; the Power of Attorney Holders were *Herr* (Mr.) Fritz Löwensberg, who resided at Rheinstrasse 71 in Mainz, and *Herr* Dr. [REDACTED], who resided at Gloriosastrasse 88 in Zurich.

The Bank's records indicate that the Account Owner held one safe deposit box, numbered 739, and one custody account numbered 39148, the latter of which was opened on 10 August 1933. The Bank's records also indicate that the Account Owner requested that the Bank not forward any but the most urgent correspondence to her.

These records further indicate that the safe deposit box was forcefully opened by the Bank within the presence of the Basel Public Notary, on 18 November 1938, and that at that time, it was found to contain the following securities:

- 4% *Kanton Basel-Stadt 1931* bonds with a face value of 1,000.00 Swiss Francs ("SF"), with attached coupons per 30 November 1937 forward;
- 5% *Bernische Kraftwerke A.-G. Bern 1928* bonds with a face value of SF 6,000.00;
- 5% *Grand-Duché de Luxembourg 1930* bonds with a face value of 1,000.00 Dutch Guilders ("Hfl."), with attached coupons per 1 March 1938 forward;

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<sup>2</sup> The CRT notes that the Claimant indicated that her father owned a malt factory in a place called "Kreuznacht". However, the CRT could not locate any city with that name. Upon careful review, the CRT has concluded that the Claimant probably meant the city of "Kreuznach", which is located only 30 kilometers away from Ingelheim, where her father owned another malt factory.

- 8 *Lonza Elektrizitätswerke und chemische Fabriken Aktiengesellschaft* shares with a face value of SF 200.00 per share, with coupons; and
- 6 *Celanese Corporation of America* common shares.

The Bank's records indicate that an employee of the Bank removed these securities from the safe deposit box at that time. The reports of the opening of the safe deposit box both bear the handwritten account number 39148, although they indicate that the number of the safe deposit box was 739.

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, the Power of Attorney Holders, or their heirs closed the accounts and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holders. The Claimant's maternal grandmother's name and city and country of residence match the published name and city and country of residence of the Account Owner; and the Claimant's father's name matches the published name of Power of Attorney Holder Löwensberg. The Claimant identified Power of Attorney Holder Löwensberg's city and country of residence, and the name and country of residence of Power of Attorney Holder [REDACTED], all of which match unpublished information about the Power of Attorney Holders contained in the Bank's records. In addition, the Claimant identified the existence of a familial relationship between the Account Owner and the two Power of Attorney Holders.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Henriette Roos, and indicates that she resided in Mainz, and perished on 24 February 1943 in Theresienstadt, which matches the information about the Account Owner provided by the Claimant. In addition, the same database includes a person named Fritz Loewensberg, and indicates that his date of birth was 21 August 1878 and place of birth was Mainz, and that he was deported to Theresienstadt, where he perished, which matches the information about Power of Attorney Holder Löwensberg 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 the name Henriette Roos appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List").

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Fritz Löwensberg, prior to the publication in February 2001 of the ICEP List. This indicates that the Claimant has based her claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relatives owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different country of residence or maiden name than the country of residence and the maiden name of the Account Owner. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner and the Power of Attorney Holders.

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

The Claimant has made a plausible showing that the Account Owner and Power of Attorney Holder Löwensberg were Victims of Nazi Persecution. The Claimant stated that the Account Owner and Power of Attorney Löwensberg were Jewish, and that they perished in concentration camps. The Claimant also indicated that she is the sole survivor of her extended family.

As noted above, persons named Henriette Roos and Fritz Löwensberg were included in the CRT's database of victims.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was her maternal grandmother, that Power of Attorney Holder [REDACTED] was her uncle, and that Power of Attorney Holder Löwensberg was her father. There is no information to indicate that the Account Owner has other surviving heirs.

The CRT further notes that the Claimant identified unpublished information contained in the Bank's records; that the Claimant filed an IQ with the Court in 1999, identifying the relationship between Power of Attorney Holder Löwensberg and the Claimant, prior to the publication in February 2001 of the ICEP List; and that the Claimant also identified information which matches information contained in the Yad Vashem records. 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.

#### The Issue of Who Received the Proceeds

Given that the Account Owner perished in the Holocaust; that there is no record of the payment of the Account Owner's accounts to her nor any record of a date of closure of the accounts; that

the Account Owner's heirs would not have been able to obtain information about her accounts 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 (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, the Power of Attorney Holders, or their 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 the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her maternal grandmother, and that relationship justifies an award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holders, nor their heirs received the proceeds of the claimed accounts.

#### Amount of the Award

In this case, the Account Owner held one custody account and one safe deposit account. The CRT notes that the Bank's records include reports of the opening of the safe deposit box, and that those reports bear the account number of the custody account, namely 39148. Accordingly, the CRT concludes that the security certificates contained in the safe deposit box were the securities whose value accrued to the custody account. Consequently, the CRT concludes that the security certificates contained in the safe deposit box can be used to equate the value of the Account Owner's custody account numbered 39148; in addition, given that there were no other items, other than the security certificates, found in the safe deposit box, the CRT concludes that it will not award a separate value for the safe deposit box, but rather will award only the value of the custody account, which can be ascribed the value of the security certificates which were physically held in the safe deposit box.

According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the face value of bonds not in default shall be awarded if the market value was below the face value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. The market value of bonds shall be awarded if that value was above the face value on the date the account owner is deemed to have lost control over the account. Stocks are valued at market value.

The Bank's records indicate that at the time the Account Owner's safe deposit box was opened, it contained the following securities:

- *4% Kanton Basel-Stadt 1931* bonds with a face value of SF 1,000.00. The CRT was unable to determine a market value for these bonds; however a similar tranche were of

good quality and were trading at 101.75% on 20 December 1944. Therefore, these bonds will be valued at their market value of SF 1,017.50;<sup>3</sup>

- 5% *Bernische Kraftwerke A.-G. Bern 1928* bonds with a face value of SF 6,000.00. These bonds were of good quality and were trading at 104.1% in November 1938, thus they will be valued at their market value of SF 6,246.00;<sup>4</sup>
- 5% *Grand Duché de Luxembourg 1930* bonds with a face value of Hfl. 1,000.00. These bonds were of good quality and were trading at 112.50% on 27 April 1938, thus they will be valued at their market value of Hfl. 1,125.00, which was equivalent to SF 2,705.63;<sup>5, 6</sup>
- 8 *Lonza Elektrizitätswerke und Chemische Fabriken Aktiengesellschaft* shares with a face value of SF 200.00 per share. These shares were trading at SF 495.00 each in November 1938, for a total market value of SF 3,960.00;<sup>7</sup> and
- 6 *Celanese Corporation of America* shares of common stock. These shares had a market value of 24.75 United States Dollars (“US \$”) each on 4 November 1938, for a total market value of US \$148.50, which was equivalent to SF 648.95.<sup>8</sup>

Thus, the total market value of these securities was SF 14,578.08. The current value of the amount of the award is determined by multiplying this value by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 182,226.00.

### 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 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).

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<sup>3</sup> The CRT was unable to determine a market value for these bonds, however a similar tranche, 4% *Kanton Basel-Stadt 1933*, were of good quality and were trading at 101.75% on 20 December 1944. The CRT has determined that the market value for this similarly situated bond is an appropriate substitute for the missing quote. The market value for this security was obtained from the *Kursblatt der Basler Effektenbörse*, 30 December 1944.

<sup>4</sup> The market value for this security was obtained from the *Kursblatt der Zürcher Effektenbörse*, 30 December 1938.

<sup>5</sup> The market value for this security was obtained from the Archive of the Regional Tax Office in Berlin (*Oberfinanzdirektion Berlin*). By decree on 26 April 1938, the Nazi Regime required all Jewish residents and non-resident nationals of the Reich who had assets worth at least 5,000.00 Reichsmarks, to declare the value of all they owned as of 27 April 1938 (the “1938 Census”). A number of the 1938 Census records still exist and serve as a source of contemporaneous market values for a number of securities. In a case such as this, a security’s market value may come from a 1938 Census declaration submitted by a person other than the account owner.

<sup>6</sup> The CRT uses official exchange rates when making currency conversions.

<sup>7</sup> The market value for this security was obtained from the *Kursblatt der Zürcher Effektenbörse*, 30 December 1938.

<sup>8</sup> The market value for this security was obtained from *The New York Times*, 4 November 1938.

**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