

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

**in re account of Rudolf and Gisa Roubitschek**

Claim Number: 213410/SY

Award Amount: 174,110.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the account of Rudolf Roubitschek at the Zurich 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 a Claim Form asserting that the published Account Owner, Rudolf Roubitschek, was her paternal grandfather who was born on 20 June 1880 and died in France in 1945. The Claimant's grandfather was married to Gisa Roubitschek, née [REDACTED], who died in New York in 1964. The Claimant stated that she was born in New York on 9 July 1951 and that she is the only heir of her grandfather.

The Claimant identified her grandfather as a physician who lived in Berlin, Germany, and in Prague and Karlsbad, Czechoslovakia, before he fled to France where he resided from 1940 until his death in 1945. The Claimant stated that her grandfather fled to France with his wife after being given a Bolivian passport. In a telephone conversation with the Tribunal on 28 November 2001, the Claimant stated that, although she did not know the precise date on which her grandfather left Czechoslovakia, she was sure that it was not before the beginning of the Second World War.

In support of her claim, the Claimant provided various documents, including copies of her birth certificate, her father's death certificate, a letter in German written in Cannes on 6 January 1941, a photograph of Dr. Rudolf Roubitschek with his signature and a Czech registration document dated 23 August 1937 stating that the physician Dr. Rudolf Roubitschek has the right of abode in Karlsbad.

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

According to the bank records, Dr. Rudold Roubitschek and Frau Gisa Roubitschek from Karlsbad (the "Account Owners") jointly held a demand deposit account in Swiss Francs, a demand deposit account in foreign currency and a custody account. The audit file indicates that the demand deposit account in foreign currency was closed on 20 January 1935, the custody account identified by the number L40275 on 28 March 1939, and the demand deposit account in Swiss Francs on 31 March 1939. The bank documents do not contain the values of the accounts held, and they do not show to whom the proceeds of the accounts were paid.

## **Tribunal's Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant has provided her grandfather's precise name and profession which exactly matches the unpublished information contained in the bank documents, in particular the title "Dr.". Moreover, the name of the Claimant's grandfather's wife matches the unpublished name of the joint account owner shown in the bank documents. In light of this, the Tribunal determines that it is plausible that the Claimant's paternal grandparents were the Account Owners.

### Status of the Account Owners as Victims of Nazi Persecution

The Claimant has provided plausible evidence that the Account Owners were Victims of Nazi Persecution. The Claimant has shown that her paternal grandparents were Jewish and targets of Nazi persecution while living in Czechoslovakia and later in France during the Second World War.

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

The Claimant has plausibly shown that the Account Owners were her paternal grandparents by providing documentation including her birth certificate and her father's birth certificates showing the names of his parents, Rudolf Roubitschek and Gisa [REDACTED]. The Claimant stated that her paternal grandparents had no other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question this information.

### The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the accounts were paid to the Account Owners or their 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. 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 regard to the Account Owners' custody account and the demand deposit account in Swiss Francs, the Tribunal concludes that a plausible showing has been made that neither the Account Owners nor their heirs received the proceeds.<sup>1</sup> The bank files indicate that these accounts were closed on 28 and 31 March 1939. The Claimant stated that her grandparents did not flee from Czechoslovakia to France before the beginning of the Second World War. In light of this, it is plausible in this case that the custody account and the demand deposit account in Swiss Francs were confiscated by Nazis in March 1939 before the Account Owners left Czechoslovakia.<sup>2</sup> The Tribunal's conclusion is also required by Article 34(a) of the Rules Governing the Claims Resolution Process (the "Rules"), which provides that where the account was closed after the date of occupation of the country of residence of the account owner, and before 1945, the Tribunal shall presume that neither the account owners nor their heirs received the proceeds of the claimed account. Moreover, there is no evidence in the bank records suggesting that the Account Owners closed the accounts and received the proceeds themselves.

With respect to the demand deposit in foreign currency closed on 20 January 1935, the Tribunal has decided not to reach a decision at this time, pending further consideration as to whether or not the Account Owners received the proceeds of that account.

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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. After the annexation of the Sudetenland on 10 October 1938 and the incorporation of the remnants of the Czech lands into the Reich on 15 March 1939, German laws were extended to apply there as well, including with respect to foreign assets. 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. After the occupation of the Sudetenland and later the remnants of the Czech lands, wholesale and systematic Nazi expropriations of Jewish assets held in Swiss banks and elsewhere were widespread. Jews were required to register their assets, and 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).

<sup>2</sup> It is possible that the Claimant's statement regarding the beginning of the Second World War refers to the dates of occupation of Czechoslovakia rather than to 1 September 1939. Therefore, it is possible that the Account Owners closed their accounts themselves on their way to France. However, this possibility is too speculative to deprive the Claimant of the Article 34 presumption to which she is entitled under the Rules.

### Basis for the Award

As demonstrated above, 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 her grandparents were the Account Owners and their relationship justifies an award. Finally, the Tribunal has determined that it is plausible that the Account Owners or their heirs did not receive the proceeds of their custody account and demand deposit account in Swiss Francs.

### Amount of the Award

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, as determined based on the results of the investigation of Swiss banks by the Independent Committee of Eminent Persons and as required by Article 35 of the Rules, is used to calculate the present value of the account being awarded. In 1945, the average value of a custody account was 13,000.00 Swiss Francs, and the average value of a demand deposit account was 2,140.00 Swiss Francs, giving a 1945 total account value of 15,140.00 Swiss Francs. The present value of this amount is calculated by multiplying it by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 174,110.00 Swiss Francs.

The Claimant should note that according to Article 37(3) of the Rules, in cases where 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 case, 35% of the total award amount is 60,938.50 Swiss Francs.

### **Scope of the Award**

Pursuant to Article 25 of the Rules, the Tribunal will carry out further research on the Claimant's 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).

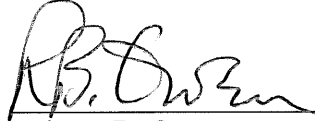
### **Certification of the Award**

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 accounts of the Account Owners, 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.

31 Jan. 2002  
Date

  
Roberts B. Owen  
Senior Claims Judge