

# 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]

### **in re Accounts of Otto Rubensohn and Frieda Rubensohn**

Claim Numbers: 501177/AV; 501186/AV

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (the "Claimant") to the published accounts of Otto Rubensohn ("Account Owner Otto Rubensohn") and Frieda Rubensohn ("Account Owner Frieda Rubensohn") (together the "Account Owners") 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 owners, and the bank have been redacted.

### **Information Provided by the Claimant**

The Claimant submitted two Claim Forms, identifying Account Owner Otto Rubensohn as his maternal grandfather, Professor Otto Rubensohn, who was born to [REDACTED] and [REDACTED], née [REDACTED], on 24 November 1867 in Kassel, Germany. The Claimant also identified Account Owner Frieda Rubensohn as his maternal grandmother, Frieda Rubensohn, née Oppler, who was born to [REDACTED] and [REDACTED], née [REDACTED], on 19 April 1878 in Fuerth, Germany. The Claimant stated that Otto Rubensohn and Frieda Oppler were married on 30 March 1909 in Berlin, Germany. The Claimant indicated that his grandparents had one daughter, [REDACTED], née [REDACTED], the Claimant's mother, who was born on 29 July 1914 in Hildesheim, Germany.

According to information obtained by the CRT, Professor Otto Rubensohn was a renowned archeologist and philologist who published numerous books on Hellenistic culture. In 1901 he

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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 possibly or probably those of Victims of Nazi Persecution (the "ICEP List"), Otto Rubensohn and Frieda Rubensohn are indicated as having two accounts each. Upon careful review, the CRT has concluded that the Bank's record evidences the existence of two accounts, which were held jointly by Otto Rubensohn and Frieda Rubensohn.

was appointed director of papyrus research for the Berliner Museums in Egypt, then director of the Pelizaeus Museum in Hildesheim in 1909, and he later taught at the Basler Seminar in Basel, where he co-founded the Association of Friends of Ancient Art (1956). As a specialist in Hellenistic Egypt, Rubensohn conducted numerous excavations on behalf of the German Institute of Archeology and is credited with unearthing the sanctuary of Apollo and Asclepius on the island of Paros (1899), the library of Taurinos in El-Aushmunein, Egypt (1905) and the Elephantine Papyri on the island of Elephantine (1907), believed to contain the oldest surviving description of a Passover Seder in history.<sup>2</sup>

The Claimant indicated that his grandparents, who were Jewish, lived at Scharzhofbergerstrasse 2 in Berlin-Lankwitz until April 1939, when they fled to Basel, Switzerland. The Claimant stated that his grandfather died on 9 August 1964 in Hoechenschwand, Germany, that his grandmother died on 3 October 1971 in Basel, and that his mother died on 9 December 1998, also in Basel.

The Claimant submitted several documents in support of his claim, including a registration form filed by his grandfather with the German Embassy in Basel, dated 16 May 1939, indicating that Otto Israel Rubensohn was Jewish, that he was a professor and held the title of doctor of philosophy, and that he lived at Scharzhofbergerstrasse 2 in Berlin-Lankwitz, Germany, before arriving in Switzerland on 19 March 1939. The Claimant also submitted a Swiss immigration questionnaire filled out by his grandfather in Basel, dated 8 August 1940, indicating that Otto Rubensohn was married to Frida Rubensohn, née Oppler, who was also from Berlin, and with whom he had a daughter named [REDACTED]. This document further indicates that Otto Rubensohn fled Germany because Nazi persecution rendered the continuation of his scientific research there impossible. Furthermore, this document indicates that Otto Rubensohn held an account with a balance of 800.00 Swiss Francs (“SF”) at the Basel branch of the Bank. In addition, the Claimant submitted a receipt from the Basel branch of the Bank, dated 25 April 1939, indicating that the Bank received a payment of SF 4,058.17 from the *Dresdner Bank* in Berlin to the order of Prof. Dr. Otto Rubensohn, whose address at the time was in Basel.

The Claimant also submitted documents concerning the assets of his grandfather and grandmother as registered in a census of Jewish-owned assets decreed by the Nazi regime on 26 April 1938. These documents are described in detail below.

In addition, the Claimant submitted correspondence between his grandparents and the *Dresdner Bank* and the *Deutsche Bank* in Berlin, and between his grandparents and German government officials. These letters indicate that the Claimant’s grandparents were forced to sell some of their securities in order to satisfy their atonement tax and flight tax assessments. The letters further show that, in connection with Otto Rubensohn’s state pension payments, the Nazi authorities granted the Claimant’s grandparents permission to move their residence to Basel and undertook to pay Otto Rubensohn’s pension, as of 1 April 1939, into a “special account” at a domestic foreign currency bank (*Devisenbank*) and would do so indefinitely upon periodic proof being

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<sup>2</sup> See *Archäologenbildnisse: Porträts und Kurzbiographien von Klassischen Archäologen deutscher Sprache*, Reinhard Lullies and Wolfgang Schiering, ed. Mainz am Rhein, Verlag Philipp von Zabern, 1988, p.166-167; *Zur Geschichte des Deutschen Papyruskartells*, Oliver Primavesi, published in the *Zeitschrift für Papyrologie und Epigraphik* 114, Verlag Dr. Rudolf Habelt GmbH, Bonn, 1996.

furnished by Otto Rubensohn that he was dependent upon these payments to sustain himself abroad; however, none of this was to affect the validity of the foreign currency and flight tax regulations. Finally, these letters indicate that Otto Rubensohn used the title of *Prof. Dr.*

The Claimant further submitted his official family records (“*Familienbüchlein*”), indicating that [REDACTED], née [REDACTED], was the daughter of Otto Rubensohn and Frieda Rubensohn, née Oppler, and that she had two sons, [REDACTED 1] and [REDACTED 2].

The Claimant indicated that he was born on 10 March 1943 in Basel. The Claimant is representing his brother, [REDACTED 2], who was born on 30 March 1948 in Basel.

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

The Bank’s record consists of a customer card. According to this record, the Account Owners were *Prof. Dr. Otto Rubensohn* and *Frau* (Mrs.) *Frieda Rubensohn*, who resided in Berlin-Lankwitz, Germany. The Bank’s record indicates that the Account Owners held one custody account, numbered L 43368, which was opened on 15 May 1931 and closed on 21 December 1936. The Bank’s record further indicates that the Account Owners owned one demand deposit account, which was opened on 21 September 1931 and closed on 20 March 1934. The amounts in the accounts on the dates of their closures are unknown. There is no evidence in the Bank’s record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

### **Information Available in 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, and who held assets above a specified level to register all their assets (the “1938 Census”). The 1938 Census records of Frieda Rubensohn indicate that as of 27 April 1938, she owned securities worth 6,430.00 Reichsmark (“RM”) and jewelry worth RM 1,968.00. The 1938 Census records of Otto Rubensohn indicate that as of 27 April 1938, he owned real property worth RM 12,500.00, securities held at the *Deutsche Bank* and the *Dresdner Bank* worth RM 74,322.80, and precious metals worth RM 4,675.00. The records further show that the Claimant’s grandfather was assessed atonement tax (*Judenvermögensabgabe*) of RM 18,400.00 on 18 December 1938, and flight tax (*Reichsfluchtsteuer*) of RM 18,902.00 on 8 February 1939; an official notification, dated 25 February 1939, advised that this latter assessment had been reduced to RM 14,002.00, [following the decision by the Nazi authorities that the asset base on which flight tax was calculated should be net of the atonement tax], and that accordingly, securities equaling the amount of overpayment due to the earlier assessment were being returned to Otto Rubensohn’s account at the *Deutsche Bank*. These records make no mention of 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.

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's grandfather's and grandmother's names and country of residence match the published names and country of residence of the Account Owners.<sup>3</sup> The Claimant identified the Account Owners' city of residence and the title used by Account Owner Otto Rubensohn, which matches unpublished information about the Account Owners contained in the Bank's record. In addition, although the Account Owners' names were published separately, the Claimant indicated that they were married, which is consistent with their unpublished status as joint account owners.

In support of his claim, the Claimant submitted documents, including a registration form filed by his grandfather with the German Embassy in Basel, his grandfather's Swiss immigration questionnaire, his grandparents' 1938 Census records, his grandparents' death certificates, and official correspondence with the *Dresdner Bank*, the *Deutsche Bank*, and German government officials, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same town recorded in the Bank's record as the names and city of residence of the Account Owners. In addition, these documents provide independent verification that the person who is claimed to be Account Owner Otto Rubensohn used the same professional title recorded in the Bank's record as the professional title of Account Owner Otto Rubensohn.

The CRT notes that the names Otto Rubensohn and Frieda Rubensohn each appear only once 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"). Finally, the CRT notes that there are no other claims to these accounts.

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

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they lived in Nazi Germany until April 1939, when they fled to Basel. The Claimant also submitted Account Owner Otto Rubensohn's Swiss immigration questionnaire, which indicates that he entered Switzerland on 19 March 1939, and that he fled Germany because Nazi persecution rendered the

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<sup>3</sup> The CRT notes that the Claimant identified his grandmother as Frieda Rubensohn, and that some documents submitted by the Claimant identify his grandmother as Frida Rubensohn. The CRT further notes that these names are sufficiently similar to render it plausible that they refer to the same person.

continuation of his scientific research there impossible. In addition, the Claimant submitted the Account Owners' 1938 Census files, indicating that they were assessed atonement and flight taxes by the Nazi government. Moreover, the Claimant submitted correspondence indicating that the Account Owners were forced to liquidate assets to pay these taxes, and that they continued to make payments on them after they fled from Germany.

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

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimants' grandparents. These documents include his *Familienbüchlein*, which indicates that the Claimant was born to [REDACTED], [REDACTED], and identifies [REDACTED] as the daughter of Otto Rubensohn and Frieda Rubensohn, née Oppler. There is no information to indicate that the Account Owners have surviving heirs other than the party whom the Claimant represents.

#### The Issue of Who Received the Proceeds

Regarding the custody account and the demand deposit account held at the Zurich branch of the Bank, given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owners remained in Germany until 19 March 1939, and would not have been able to repatriate their accounts to Germany without losing ultimate control over their proceeds; that the accounts were closed on 10 March 1934 and 21 December 1936, respectively; that there is no record of the payment of the Account Owners' accounts to them; and given the application of Presumptions (a), (h) and (j) as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,<sup>4</sup> the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners 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.

The CRT notes that the Claimant submitted his grandfather's Swiss immigration questionnaire, dated 8 August 1940, indicating that Account Owner Otto Rubensohn held a bank account at the Basel branch of the Bank worth SF 800.00. The CRT further notes that a receipt from the Basel branch of the Bank indicates that the Bank received a payment of SF 4,058.17 from the *Dresdner Bank* in Berlin to the order of Account Owner Otto Rubensohn on 25 April 1939. The CRT notes that it is unclear whether the account evidenced by Account Owner Otto Rubensohn's Swiss immigration questionnaire and the account into which the payment from the *Dresdner Bank* was received are the same account. Nevertheless, given that Account Owner Otto Rubensohn was outside Nazi-dominated territory by 19 March 1939, the CRT determines that Account Owner Otto Rubensohn was able to access, manage, and close the aforementioned account or accounts and receive the proceeds from this account or accounts.

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<sup>4</sup> Appendix C appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his grandparents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

### Amount of the Award

This award is for a custody account and a demand deposit account. Pursuant 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 ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was SF 13,000.00, and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 15,140.00. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 189,250.00.

### Division of the Award

According to Article 23(1)(c) of the Rules, if the account owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the account owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his brother [REDACTED 2]. Accordingly, the Claimant and [REDACTED 2] are each entitled to one-half of the total award amount.

### **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 his claims to determine whether there are additional Swiss bank accounts to which he 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  
14 December 2005