

# 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 Symcha Rubinstein**

Claim Number: 214786/HS<sup>1</sup>

Award Amount: 57,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Symcha Rubinstein (the “Account Owner”) at the St. Moritz branch of [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 identifying the Account Owner as his half-brother, Symcha Rubinstein, who was Jewish, and was born some time before 1922 in Starachowice, Poland. The Claimant stated that his half-brother, his father’s son from his first marriage, was in business with the Claimant’s uncle. The Claimant further stated that his half-brother lived in several places in Europe, including Poland, Italy, Switzerland, and possibly Austria. According to the Claimant, his half-brother had dual citizenship, which he believed to be Polish and Italian, and he traveled to Switzerland on business. The Claimant explained that he believes that his half-brother perished in the Holocaust, since he disappeared in 1941 and was never heard from again.

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<sup>1</sup> The Claimant submitted additional claims to the accounts of [REDACTED], [REDACTED], [REDACTED], and [REDACTED], which are registered under the Claim Numbers 214786, 214787, and 214807. The CRT did not locate accounts belonging to the Claimant’s relatives, [REDACTED], [REDACTED], [REDACTED], or [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). The Claimant should be aware that the CRT will carry out further research on his claims to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

In a telephone conversation with the CRT on 4 February 2004, the Claimant stated that his half-brother left Poland sometime before 1935 and that he does not possess any documents relating to him. The Claimant submitted copies of his own passport and birth certificate, indicating that his surname is [REDACTED] (or [REDACTED]), and that he was born on 22 February 1922 in Starachowice, Poland.

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

The Bank's record consists of a customer card. According to this record, the Account Owner was Symcha Rubinstein who resided in Merano, Italy. The Bank's record indicates that the Account Owner held a demand deposit account which was opened on 19 December 1936 and closed on 30 April 1947; and two safe deposit boxes, numbered 41r and 16r, which were opened in February 1937 and closed on 21 January 1939 and 30 November 1942, respectively. The amount in the demand deposit account and the contents of the safe deposit boxes on the dates of their closures are unknown. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

### **The CRT's Analysis**

#### Identification of the Account Owner

The Claimant's half-brother's name matches the published name of the Account Owner. The Claimant stated that his half-brother resided in Italy, which matches published information about the Account Owner contained in the Bank's record. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name and city of residence. While the Claimant did not identify the exact city of residence of the Account Owner, the CRT notes that, at the time the Claimant's half-brother left Poland, the Claimant was only 13 years old, and it is plausible that he would not know the city of residence of his sibling at such a young age. The CRT notes that the other claim to these accounts was disconfirmed because of inconsistent country of residence information provided by that claimant. Taking all these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that he perished in the Holocaust.

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

The Claimant has plausibly demonstrated that he is related to the Account Owner by providing specific information demonstrating that the Account Owner was his half-brother. Furthermore, the Claimant submitted copies of his passport and his birth certificate, indicating that he has the same surname as the Account Owner.

### The Issue of Who Received the Proceeds

With respect to the safe deposit box, numbered 41r, which was closed on 21 January 1939, the CRT notes that for the purposes of the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), since Italy formed an alliance with Germany on 25 October 1936, it is considered that from this date there existed the possibility of oppression. Accordingly, an asset closed between 25 October 1936 and 10 June 1940 will only be considered as closed prior to Axis occupation if there is evidence that the asset was paid to the account owner or an authorized party. In this case, the original Bank documents record only the closure date of the account, and give no information as to the circumstances surrounding the closure of the asset. Accordingly, given that there is no record of the payment of the Account Owner’s account to her; that the Account Owner and his 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 (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (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.

As for safe deposit box, numbered 16r and the demand deposit account, which were closed on 30 November 1942 and 30 April 1947, respectively, given that the Account Owner disappeared before the closure date of these accounts; that the demand deposit account remained in existence after the Second World War; that there is no record of payment of the Account Owner’s accounts to him or his heirs; that the Account Owner and his heirs would not have been able to obtain information about his 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, as amended (the “Rules”) (see Appendix A), the CRT concludes that it is plausible that the accounts proceeds were not paid to the Account Owner or his heirs.

### 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 his half-brother, and that relationship justifies 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 and two safe deposit boxes. 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 ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”) and the average value of a safe deposit box was SF 1,240.00. Thus, the total 1945 average value of the accounts at issue was SF 4,620.00. 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 57,750.00.

### **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 his claim 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  
10 December 2004