

# 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 J. Simon and *Josef Simon***

Claim Number: 735457/HB<sup>1</sup>

Award Amount: 251,103.75 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Józef Simon. This Award is to the published account of J. Simon (“Account Owner J. Simon”) and the accounts of *Josef Simon* (“Account Owner *Josef Simon*”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”).<sup>2</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 owner, and the bank have been redacted.

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

The Claimant submitted an Initial Questionnaire (“IQ”) identifying Account Owner J. Simon as her maternal grandfather, Józef Simon, and identifying Account Owner *Josef Simon* as her grandfather’s business. The Claimant indicated that her grandfather was born in approximately 1880, and was married to her grandmother. According to the Claimant, her grandfather, who was Jewish, resided in France.

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<sup>1</sup> [REDACTED], née [REDACTED], (the “Claimant”) did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered POL-0041-152, 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 735457. The Claimant submitted two additional claims, which are registered under the Claim Numbers 735456 and 752473. The CRT has treated these claims in separate letters, mailed to the Claimant on 3 September 2006 and 2 December 2006, respectively.

<sup>2</sup> The CRT notes that, 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”), Josef Simon from France is listed as an individual having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts belonging to the construction business *Josef Simon*.

In a telephone conversation with the CRT on 21 November 2006, the Claimant stated that her grandfather, together with his brother, owned a business. The Claimant further stated that during the Second World War her grandfather attempted to flee to Switzerland, where he had a bank account, but was denied entry. The Claimant stated that her grandfather and his daughter, the Claimant's mother, perished during the Second World War. The Claimant stated that she had no additional information regarding her grandfather, since she was just a child and suffered from tuberculosis and a heart disease during the time, and that she heard stories about her grandfather from her mother.

The Claimant indicated that she was born on 9 December 1927 in Poland. The Claimant previously submitted an IQ in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Josef Von Rohr.<sup>3</sup>

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

#### Account of J. Simon

The Bank's records consist of a list of accounts and a printout from the Bank's database. According to these records, Account Owner J. Simon was J. Simon, who resided in Blotzheim, France. The Bank's records indicate that Account Owner J. Simon held an account, numbered 3653, the type of which is not indicated. The Bank's records do not indicate the value of this account or a date of closure for this account.

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 this account in the Bank's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in the Bank's records that Account Owner J. Simon or his heirs closed the account and received the proceeds themselves.

#### Accounts of Josef Simon

The Bank's records consist of a customer information sheet and printouts from the Bank's database. According to these records, Account Owner *Josef Simon* was *Josef Simon, Baugeschäft* (construction business), located in Sankt Ludwig (Saint-Louis), France.

The Bank's records indicate that Account Owner *Josef Simon* held two accounts, a custody account and a demand deposit account, which were opened on 7 January 1931, with the instructions that the interest on the custody account should be deposited into the demand deposit account, which had an interest rate of 1 percent per annum. Additionally, there is a notation in the Bank's records indicating that as of 1937 the demand deposit account was no longer an interest-bearing account. The Bank's records indicate that the accounts remain open and

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<sup>3</sup> As stated above, the CRT treated these claims in letters mailed on 3 September 2006 and 2 December 2006.

dormant today, and that the demand deposit account had a value of 2,200.00 Swiss Francs (“SF”) as of 11 November 1998.

## **The CRT’s Analysis**

### Identification of the Account Owners

The Claimant’s grandfather’s name and country of residence match the published name and country of residence of Account Owner J. Simon and Account Owner *Josef Simon*.<sup>4</sup> The Claimant indicated that her grandfather owned a business, which matches unpublished information about Account Owner *Josef Simon* contained in the Bank’s records.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Józef Simon, prior to the publication of the February 2001 published list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (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 relative 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 the account of Account Owner J. Simon were disconfirmed because those claimants provided a different city or country of residence than the city and country of residence of Account Owner J. Simon. The CRT notes that the other claims to the accounts of Account Owner *Josef Simon* were disconfirmed because those claimants provided a different city or country of residence than the city and country, in which Account Owner *Josef Simon* was located. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

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

The Claimant has made a plausible showing that Account Owner J. Simon and the owner of Account Owner *Josef Simon* was a Victim of Nazi Persecution. The Claimant stated that her grandfather was Jewish, that he tried to flee to Switzerland during the Second World War, but was denied entry, and that he perished during the Second World War.

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<sup>4</sup> The CRT notes that Josef is the French variation of the name Józef. The CRT notes that the Bank’s records list the place of residence for J. Simon as Blotzheim, France, and the location of *Josef Simon* as Sankt Ludwig (Saint-Louis), France. The CRT further notes that these two towns are adjoining towns along the Swiss border in France, and that since 1949, a part of Blotzheim has been administered by the town of Saint-Louis. The CRT therefore concludes that it is plausible that the business *Josef Simon* was owned by Josef Simon, even though the accounts were not reported together by the auditors who investigated this bank pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP”).

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

The Claimant has plausibly demonstrated that she is related to Account Owner J. Simon and the owner of Account Owner *Josef Simon* by submitting specific biographical information, demonstrating that Account Owner J. Simon and the owner of Account Owner *Josef Simon* was the Claimant's grandfather. The CRT further notes that the Claimant filed an IQ with the Court in 1999, identifying the relationship between Account Owner J. Simon and the Claimant, prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner J. Simon and the owner of Account Owner *Josef Simon* was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to Account Owner J. Simon, as she has asserted in her IQ. There is no information to indicate that Account Owner J. Simon and the owner of Account Owner *Josef Simon* has other surviving heirs.

### The Issue of Who Received the Proceeds

With regards to the account of J. Simon, given that Account Owner J. Simon and his daughter perished during the Second World War; that there is no record of the payment of Account Owner J. Simon's account to him nor any record of a date of closure of the account; that Account Owner J. Simon 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 (f) (h), (i), 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 Account Owner J. Simon 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.

With regards to the accounts of *Josef Simon*, the Bank's records indicate that the accounts remain open and dormant today.

### 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 Account Owner J. Simon and the owner of Account Owner *Josef Simon* was her grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither Account Owner J. Simon and the owner of Account Owner *Josef Simon* nor his heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, Account Owner J. Simon held one account of unknown type, and Account Owner *Josef Simon* held one custody account and one demand deposit account. Pursuant to Article 29

of the Rules, when the value of an account is unknown, as is the case here with the account of unknown type and the custody account, 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 an account of unknown type was SF 3,950.00, and the average value of a custody account was SF 13,000.00.

The Bank's records indicate that the value of the demand deposit account as of 8 November 1998 was SF 2,233.30. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 905.00, which reflects standardized bank fees charged to the account between 1945 and 1998. Consequently, the adjusted balance of the account at issue is SF 3,138.30.

Thus the combined 1945 value of the three accounts is SF 20,088.30. 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 251,103.75.

### **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).

### **Certification of the Award**

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

Claims Resolution Tribunal  
27 February 2007