

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
acting on behalf of [REDACTED]

**in re Account of Hersch Teicher**

Claim Number: 220931/EZ

Award Amount: 174,110.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Hersch Teicher (the “Account Owner”) at the Lausanne 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 Hersch Teicher who was the spouse of [REDACTED], the latter having nominated and appointed the Claimant as Executrix under her Last Will and Testament (the “Will”). The Claimant stated that Hersch Teicher, who was also known as Hermann, was born in May 1889, in Poland, and married [REDACTED] in Austria in 1922. The Claimant stated that Hersch Teicher was Jewish and lived in Vienna, Austria, from 1922 until 1939 when he fled and emigrated to the U.S.A.

The Claimant stated that Hersch Teicher died in 1968, and she provided a copy of his will, which indicated that [REDACTED] was his sole heir. The Claimant also stated and provided the Tribunal with documents indicating that [REDACTED] died in 1993.

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

The bank records consist of a registry card. According to these records, the sole Account Owner was Hersch Teicher. The bank records indicate that the Account Owner resided in Vienna and held a demand deposit account (the “Demand Deposit Account”) and a custody account (the “Custody Account”).

The bank records indicate that the accounts were opened at the Lausanne branch of the Bank. The Custody Account was opened on 10 July 1937 and closed on 1 October 1938. The Demand Deposit Account was closed on 28 January 1939. The bank documents do not indicate who closed the accounts or the balance of the accounts as of the dates of closure.

### **Information Available from the Austrian State Archives**

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance) are documents concerning the assets of Hersch Teicher. These records indicate that Hersch Teicher, who was born on 5 May 1889 and was married to [REDACTED], was subject to German confiscation laws. However, these records do not specify the assets confiscated by the Nazis.

### **The Tribunal's Analysis**

#### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The claimed Account Owner's name matches the published name of the Account Owner. The Claimant indicated that Vienna was the Account Owner's place of residence, which matches unpublished information about the Account Owner contained in the bank documents.

#### 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 lived in Nazi-controlled Austria until 1939, when he fled to the United States.

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

The Claimant has plausibly demonstrated that she is legally related to the Account Owner by submitting documents showing that the Account Owner's wife was his only heir. The Claimant is the Executrix of the Account Owner's wife's Will. The Claimant also provided the Account Owner's will, which demonstrates that his wife was his only heir. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning her relationship to the Account Owner.

#### The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account was paid to the Account Owner or his 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 Owner or his family, as is apparently the case here as described below, there is a substantial likelihood that the funds went to the Nazis or to the Swiss bank.

Although the Tribunal cannot determine with certainty who received the proceeds of the accounts, the Tribunal concludes that a plausible showing has been made that neither the Account Owner nor his heirs received the proceeds.<sup>1</sup> The application of confiscatory laws in Austria by the Nazi Regime after the *Anschluss* of March 1938, as described in more detail in footnote 1 below, makes it unlikely that the Account Owner received the proceeds himself. Since the closure of both of the accounts took place after the date on which the Nazis occupied Austria, at which time Jews were forced to register their assets with the Nazi authorities, it is plausible that neither the Account Owner nor his heirs received the proceeds. 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 an account was closed after the date of occupation of the country residence of the Account Owner, the Tribunal shall presume that neither the Account Owner nor his heirs received the proceeds of the claimed account. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

#### Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant, who is acting on behalf of the Account Owner's spouse's estate. First, the claim is admissible in accordance with the criteria contained in Article 23 of the Rules. Second, the Claimant has demonstrated that the Account Owner's spouse was his sole heir and that the Claimant is the Executrix of the Account Owner's spouse's estate, a relationship which justifies an Award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

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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 Austria, German laws were extended to apply there as well, and these laws applied to foreign assets of Austrian citizens as a result of a law promulgated on 23 March 1938. Although many of the laws were facially non-discriminatory, the Nazi Regime 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 the Reich and special confiscatory taxes for emigrants who wished to flee. After the occupation of Austria, wholesale and systematic Nazi expropriations of Jewish assets held in Swiss banks and elsewhere were widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date 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).

### Amount of the Award

Pursuant to Article 35 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 present 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, and the average value of a custody account was 13,000.00 Swiss Francs, giving a total 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.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid claims, claimants shall receive an initial payment of 35% of the total award amount. In this case, the value of the accounts at issue is based on the Article 35 presumptions. 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.

### Division of the Award

The Claimant is acting on behalf of [REDACTED]'s Estate (the "Estate") in these proceedings. According to Article 29 of the Rules, the Estate is entitled to receive the full amount of any payment made to the Claimant.

### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which the Estate 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).

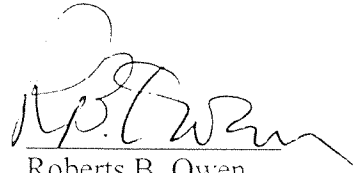
### **Certification of the Award**

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 plausible 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 account will be forthcoming. Articles 37(3)(a) and (b) of the Rules provide that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the certified Award, and the claimant may receive a second payment of up to 65% of the certified Award when so determined by the Court. Thus, the Rules instruct and require the Tribunal to certify and recommend an initial 35% payment in Awards submitted for Court approval in particular cases where either the Tribunal has used the

value presumptions of Article 35 of the Rules or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal has used the value presumptions of Article 35 to calculate the account value. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

20 March 2002  
Date

  
Roberts B. Owen  
Senior Claims Judge