

# CLAIMS RESOLUTION TRIBUNAL

---

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

## **Certified Award**

to Claimant [REDACTED]

## **in re Accounts of Hermann Teller**

Claim Number: 300035/LK<sup>1</sup>

Award Amount: 227,916.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Hermann Teller (the “Account Owner”) 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 to the Holocaust Claims Processing Office (“HCPO”) and a Claim Form to the CRT identifying the Account Owner as her father, Hermann Teller, who was born on 18 March 1896 in Lodz, Poland, and was married to Olga Teller, née [REDACTED], on 31 May 1925 in Vienna, Austria. The Claimant stated that the couple had two children: the Claimant, who was born on 5 June 1930 in Vienna, and her brother, [REDACTED], who was born on 8 May 1926 also in Vienna. The Claimant further stated that her father was a businessman who owned *Kleiderhaus Teller* at 88-90 Landstrasser-Hauptstrasse and lived at Hainburgerstrasse 20 in Vienna before he fled to London, England in December 1938. According to the Claimant, the Nazis took away her father’s business and Austrian bank accounts because he was Jewish. The Claimant stated that her father died on 17 August 1994 in Vienna. In support of her claim, the Claimant submitted her father’s will, her parents’ birth and marriage certificates, and her father’s death certificate noting his name and street address in Vienna.

---

<sup>1</sup> The Claimant submitted a claim, numbered B-02006, on 2 September 1999, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT.

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

The bank records consist of an account opening card, a power of attorney form signed in Vienna on 25 July 1934, a list of securities, and printouts from the Bank's database. According to these records, the Account Owner was Hermann Teller and the Power of Attorney Holder was Frau Olga Teller, the Account Owner's wife, who resided at Hainburgerstrasse 20/18 in Vienna, Austria. The bank records indicate that the Account Owner held a custody account, numbered 38436, and a demand deposit account, also numbered 38436, that were opened in 1934. The opening card in the bank records lists the addresses of Hainburgerstrasse 20 in Vienna and Landstrasse-Hauptstrasse 88-90 in Vienna, which are crossed out, with a notation that absolutely no correspondence should be sent to Vienna. The opening card indicates an alternative address of *Firma Geza Steiner a Spol*, König Alexanderstrasse 5 in Bratislava, Czechoslovakia. The bank records indicate that the custody account was transferred to an unknown party on 30 March 1938 and was labeled closed by the Bank on 31 March 1938. At the time of the transfer, the custody account had a balance of 12,600.00 Swiss Francs. The bank records also indicate that the demand deposit account had a balance of 6,393.00 Swiss Francs, which was transferred to an unknown party on 30 March 1938. The demand deposit account was also closed in 1938. There is no evidence in the bank records that the Account Owner, the Power of Attorney Holder, or their heirs closed the accounts and received the proceeds themselves.

## **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), there are documents concerning the assets of Hermann Teller, numbered 40815. The records indicate that Hermann Teller was a businessman who lived at Hainburgerstrasse 20 in Vienna III and was born on 18 March 1896. The records also indicate that Hermann Teller was married to Olga Teller, née [REDACTED], and that he had a men's clothing store at Landstrasse-Hauptstrasse 88 in Vienna III. These records also note that he owned insurance policies, that his assets were "aryanized," that he was forced to pay the "flight tax" (*Reichsfluchtsteuer*), and that he fled to London. These records make no mention of assets held in a Swiss bank account.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her parents' names and city of residence match the published names and city of residence of the Account Owner and the Power of Attorney Holder. The Claimant identified her father's work and home address, which matches unpublished information about the Account Owner contained in the bank records. In support of her claim, the Claimant submitted documents, including her parents' birth and marriages certificates and her father's death certificate.

### 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, that his assets were confiscated by the Nazis, and that he fled Vienna for London in 1938 to escape Nazi persecution.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Hermann Teller, and indicates that his date of birth was 18 March 1896 and place of birth was Poland, which matches the information about the Account Owner provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that he was her father. The CRT notes that the Claimant's brother, [REDACTED], is also entitled to a portion of the award to the accounts of Hermann Teller. As of the date of this award, the Claimant's brother has not submitted a claim to these accounts.

### The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and, within the same year, their accounts are closed unknown to whom or are transferred to Nazi-controlled banks. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis, the indication in the bank records that the Account Owner's accounts were transferred to a third party in March 1938, after the *Anschluss*, the indication in the Austrian State Archives records that the Account Owner's assets were "aryanized" and that he was forced to pay a flight tax, and the application of Presumptions (a) and (j) contained in Appendix A,<sup>2</sup> the CRT concludes that it is plausible that the account proceeds in this case were not paid to the Account Owner or her heirs. Based on its precedent and the Rules Governing the Claims Resolution Process (the "Rules"), the CRT applies presumptions to assist in determining whether or not Account Owners or their heirs received the proceeds of their accounts.

### 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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

---

<sup>2</sup> An expanded version of Appendix A appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

### Amount of the Award

With regard to the demand deposit account, the bank records indicate that the value of the account as of 30 March 1938 was 6,393.00 Swiss Francs. The present value of this amount is determined by multiplying the balance as determined by Article 35 by a factor of 12, in accordance with Article 37(1) of the Rules, to produce an award amount of 76,716.00 Swiss Francs for this account.

With regard to the custody account, the bank records indicate that the value of the account as of 30 March 1938 was 12,600.00 Swiss Francs. The present value of this amount is determined by multiplying the balance as determined by Article 35 by a factor of 12, in accordance with Article 37(1) of the Rules, to produce an award amount of 151,200.00 Swiss Francs for this account.

Accordingly, the total award amount in this case is 227, 916.00 Swiss Francs.

### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 25 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

December 27, 2002

## APPENDIX A

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:<sup>1</sup>

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;<sup>2</sup>
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.<sup>3</sup>

---

<sup>1</sup> See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); *see also* Independent Committee

---

of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

<sup>2</sup> See Bergier Final Report at 443-44, 446-49; *see also* ICEP Report at 81-83.

<sup>3</sup> As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, *see Albers v. Credit Suisse*, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, *see* Bergier Final Report at 450 -51, and possibly Romania as well, *see* Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. *See* Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." *Id.* at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. *See In re Holocaust Victim Asset Litig.*, 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).