

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Mendel Weinblum

## **in re Account of Noa Weinblum**

Claim Number: 004009/AH

Award Amount: 25,680.00 Swiss Francs

This Certified Award is based upon the claim of Mendel Weinblum (the “Claimant”) to the account of Noa Weinblum (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

## **Information Provided by the Claimant**

The Claimant submitted a Claim Form and an Initial Questionnaire with the Court in 1999, identifying the Account Owner as his father, Noa Weinblum, who was born in 1879 in Grotyisk-Mawoietzky, Poland, to Abraham Weinblum and was married to Rivka Frimet Weinblum in Grotyisk-Mawoietzky. The Claimant stated that the couple lived in Warsaw, Poland and had seven children: Mendel, Munisch-Schalom, Miriam, Rachel, Schlomo, Sara, and Jehoschua. The Claimant submitted a family tree, which indicated that his father had one brother by the name of Simcha Weinblum. The Claimant further indicated that in 1926, his parents moved to Cernowitz, Romania, and that his family lived in Albertinnengasse Street or in Dimitri Ounciul Street, 12, in Cernowitz. His father owned a factory in Cernowitz, *Trinaco*, that employed 300 workers. The Claimant stated that his father, who was Jewish, managed the factory until 1940, when he was deported to the Cernowitz Ghetto, where he perished in 1944. The Claimant stated that his mother, brothers and sisters survived the Holocaust, but died subsequently, and that he is the only surviving heir of his parents. The Claimant submitted photos of his family and an affidavit confirming that he is the son of Noa Weinblum, who perished in Cernowitz in 1944, and of Rivka Frimet Weinblum, who died in 1951, in Ramat Gan, Israel. In the Initial Questionnaire he filed with the Court in 1999 and in his claim to the Swiss Banking Ombudsman, the Claimant repeated the above details about his father, and stated that the account was opened by his father in Zurich, Switzerland. The Claimant indicated that he was born on 1 February 1920, in Warsaw, Poland.

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

The bank records consist of a letter sent to the Account Owner regarding the opening of the account and a printout from the Bank's database of claims to assets of possible victims of persecution made to the Bank since 1977. This printout indicates a claim was submitted by the Account Owner's son and includes details about the Account Owner.<sup>1</sup> According to the bank records, the Account Owner was Noa Weinblum from Cernowitz, Romania. The bank records indicate that on 10 February 1938, the Account Owner opened a demand deposit account in Pounds Sterling at the Zurich branch of the bank. The records further indicate that the Account Owner was born in 1876, was of Polish nationality, was domiciled in Romania, and was married to Rivka Weinblum-Frimet. The bank records do not show if or when the account at issue was closed, or to whom it was paid, nor do these records indicate the value of 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.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. His father's name and city and country of residence match the published name and city and country of residence of the Account Owner. Moreover, the Claimant provided his mother's first, maiden, and family names, and identified the relationship between her and the Account Owner, all of which matches unpublished information contained in the bank documents.

In addition, the CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and submitted a claim to the Swiss Banking Ombudsman, asserting his entitlement to a Swiss bank account owned by Noa Weinblum, prior to the publication in February 2001, of the list of accounts determined by the ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that a person identified on the ICEP List as owning a Swiss bank account bearing the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List.

### 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. The Claimant stated that his father managed his business until 1940, at which time he was deported to the Cernowitz

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<sup>1</sup> The CRT notes that the bank records indicate a claim made to the Bank by a Dr. Dan-Menachem Weinblum of Zurich. However, the Bank records indicate that said claim may have been made to another Account Owner with a similar name. Dr. Dan-Menachem Weinblum has not submitted a claim to the CRT, HCPO, or ATAG Ernst & Young, nor did he file an Initial Questionnaire. Accordingly, the CRT will not determine the rights of Dr. Dan-Menachem Weinblum to the account of Noa Weinblum.

Ghetto, where he died in 1944. Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Noa Weinblum, and indicates that he lived in Cernowitz, Romania, 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 he is related to the Account Owner by submitting documents demonstrating that the Account Owner was his father. The Claimant submitted a family tree, a copy of his identity card, photos of his father's grave stone, and a legally certified affidavit, all confirming that he is the son of Noa Weinblum, who died in Cernowitz in 1944, and Rivka Frimet Weinblum, who died in 1951 in Ramat Gan. The Claimant stated that his mother, brothers, and sisters have died, and he is his parents' only surviving heir. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

Given the persecution of Jews in Romania and the confiscation of Jewish assets during the War, the communist dictatorial regime after the War, and the application of Presumptions (h), (i), and (j), contained in Appendix A,<sup>2</sup> 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 Governing the Claims Resolution Process (the "Rules"), the CRT applies presumptions to determine whether 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 his father, 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 account.

### 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. The present value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 37(1) of the Rules, to produce a total award amount of 25,680.00 Swiss Francs.

### Initial Payment

In this case, the Claimant is age 75 or older and is therefore entitled to receive payment of 100% of the total award amount.

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

**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 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

23 January 2003

## 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>

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<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

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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).