

# CLAIMS RESOLUTION TRIBUNAL

---

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

## **Certified Award**

to Claimant [REDACTED]

## **in re Accounts of Hermann Zipper and Charlotte Zipper**

Claim Numbers: 211359/MBC; 211649/MBC

Award Amount: 414,720.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the accounts of Hermann Zipper and Charlotte Zipper (together the “Account Owners”) 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 two Claim Forms identifying the Account Owners as her maternal great-uncle and great-aunt, Hermann Zipper and Charlotte Zipper. The Claimant stated that Hermann Zipper was born in 1865 in Vienna, Austria, and died in 1940 in Merano, Italy, and that Charlotte Zipper was born on 7 September 1873 in Vienna, and perished in Auschwitz on 7 March 1944. The Claimant further stated that her great-uncle and great-aunt, who were Jewish, lived together at 9 Staffler in Merano prior to the Second World War. The Claimant stated that her great-uncle, who was a businessman, was a frequent visitor to her family’s home in Vienna. The Claimant stated that neither her great-uncle nor her great-aunt married or had descendants, and that she is their sole living heir.

In support of her claims, the Claimant submitted her birth certificate, an affidavit in lieu of a passport sworn by her mother, as well as a complete family tree showing the Claimant’s relationship to her great-uncle and great-aunt. The Claimant indicated that she was born on 22 August 1932 in Vienna.

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

The bank record consists of an account opening card. According to the bank record, the Account Owners were Herr Hermann Zipper and Fraulein Charlotte Zipper, who lived in Merano, Italy. 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 concluded that the Account Owners jointly held six accounts. The records indicate that the Account Owners held two custody accounts, one of which was opened on 15 July 1935 and the other opened on an unknown date. Both custody accounts were closed on 12 April 1939. The records also indicate that the Account Owners owned two demand deposit accounts in Swiss Francs, both of which were opened on 20 February 1932. Both of these demand deposit accounts were closed on 20 April 1939. The records also indicate that the Account Owners owned two demand deposit accounts in a foreign currency, one of which was opened on 20 February 1937 and the other on 21 February 1937. Both of these accounts were closed on 20 April 1939.

The bank record does not identify the values of the accounts at issue, nor to whom they were paid. There is no evidence in the bank record that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant stated that her great-uncle and great-aunt resided in Merano, Italy, before and during the Second World War, which matches unpublished information about the Account Owners contained in the bank record. In addition, the Claimant identified the Account Owners as siblings, and the bank documents reflect that relationship by referring to Charlotte Zipper as "Miss."

### Status of the Account Owners as a Victims 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 Owners were Jewish and that Charlotte Zipper perished in Auschwitz in 1944.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting documents demonstrating that Hermann Zipper and Charlotte Zipper are her great-uncle and great-aunt, that is, the siblings of her maternal grandfather, [REDACTED]. The Claimant stated that her great-uncle and great-aunt had no other surviving heirs.

## The Issue of Who Received the Proceeds

Given the application of Presumptions (a) and (j) contained in Appendix A,<sup>1</sup> the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners or their heirs. Based on its precedent and the Rules Governing the Claims Resolution Process (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.

## 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 Owners were her great-uncle and great-aunt, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

## 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 custody account was 13,000.00 Swiss Francs, and the average value of a demand deposit account was 2,140.00 Swiss Francs, giving a 1945 total account value of 34,560.00 Swiss Francs for two custody accounts and four demand deposit accounts. 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 414,720.00 Swiss Francs.

Article 37(3)(a) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, the initial payment to the claimant shall be 65% of the Certified Award, and the claimant may receive a second payment of up to 35% of the Certified Award when so determined by the Court. In this case, the CRT has used the value presumptions of Article 35 of the Rules to calculate the account values, and 65% of the total award amount is 269,568.00 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).

---

<sup>1</sup> An expanded version of Appendix A appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

**Certification of the Award**

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

Claims Resolution Tribunal  
October 24, 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).