

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1],

to Claimant [REDACTED 2],

and to Claimant [REDACTED 3]

## **in re Account of Joseph Goldberg**

Claim Numbers: 786164/RS;<sup>1</sup> 203616/RS; 000836/RS<sup>2</sup>

Award Amount: 42,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the account of Joseph Goldberg; the claim of [REDACTED 2], née [REDACTED 2], (“Claimant [REDACTED 2]”) to the account of Joseph Goldberg; and the claim of [REDACTED 3] (“Claimant [REDACTED 3]”) (together the “Claimants”) to the account of Yitzhak Klener. This Award is to the unpublished account of Joseph Goldberg (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”).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 claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

## **Information Provided by the Claimants**

### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted an Initial Questionnaire (“IQ”) identifying the Account Owner as his maternal grandfather, Joseph Goldberg, who was born in 1875, and who was

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<sup>1</sup> Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG-0629-159 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 786164.

<sup>2</sup> In a decision released 8 March 2006, the CRT treated the claim of Claimant [REDACTED 3] (“Claimant [REDACTED 3]”) to the accounts of Yitzhak Klener, Shaul Klener, and Bella Kellner.

Jewish. Claimant [REDACTED 1] indicated that his grandfather resided in Radomsko, Poland until 1942, when he was deported to Treblinka concentration camp, where he perished. Claimant [REDACTED 1] indicated that he was born on 15 December 1915.

Claimant [REDACTED 2] and Claimant [REDACTED 3]

Claimant [REDACTED 2] and Claimant [REDACTED 3], who are married, submitted claim forms identifying the Account Owner as Claimant [REDACTED 2]'s father and Claimant [REDACTED 3]'s father-in-law, Joseph Goldberg, who was the son of [REDACTED] and [REDACTED]. Claimant [REDACTED 2] indicated that Jacob Goldberg, who was Jewish, married [REDACTED], née [REDACTED], and the couple had two children, namely Claimant [REDACTED 2], and her brother [REDACTED]. According to Claimant [REDACTED 2], the family resided in Kaunas, Lithuania and Klaipeda (Memel), Lithuania, prior to the Second World War.

According to Claimant [REDACTED 2], in 1938, she and her family left Klaipeda and spent approximately two years living in Kaunas, before being sent to the Kaunas ghetto; the family spent the years 1941 through 1944 in the Kaunas ghetto, and in 1945, the family was deported to concentration camps, including Stutthof. Claimant [REDACTED 2] indicated that she was the only member of her family to survive the Holocaust.

In support of her claim, Claimant [REDACTED 2] submitted her Israeli identification card, indicating that [REDACTED 2] was the daughter of Joseph and [REDACTED], that she was married to [REDACTED 3], and that she was born in Lithuania.

Claimant [REDACTED 2] indicated that she was born on 13 December 1925 in Kaunas, Lithuania, and Claimant [REDACTED 3] indicated that he was born on 9 September 1921 in Poland.

Claimant [REDACTED 2] and Claimant [REDACTED 3] each previously submitted an IQ to the Court in 1999, asserting their respective entitlements to Swiss bank accounts held by their families.

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

The CRT notes that 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 report an account belonging to Joseph Goldberg during their investigation of the Bank. The documents evidencing accounts belonging to Joseph Goldberg were obtained from archival sources in Switzerland and are further described below.

## **Information Available in the Swiss Federal Archive**

By Federal Decree of 20 December 1962 (the “Federal Decree”), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution (“the 1962 Survey”). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Joseph Goldberg, numbered 434.

These records consist of a reporting form prepared by the Bank regarding these accounts, memoranda regarding the accounts, and lists of dormant accounts. According to these records, the Account Owner was Joseph Goldberg; the records do not indicate the Account Owner’s domicile, and indicate that the Bank was not aware of his domicile. The records further indicate that the Account Owner had visited the Bank in 1938, and that that was the last correspondence the Bank had had from the Account Owner. The records also indicate that the Bank had received correspondence from an unnamed, private party, indicating that the Account Owner had been deported to a concentration camp.

According to the records from the Swiss Federal Archive, the Account Owner had originally opened a safe deposit box at the Bank; as a result of the 1962 Survey investigations, the Bank forcibly opened the safe deposit box, and found the box to contain a camera and a diamond ring. The records indicate that following the regulations existing at the time, the Bank sold the diamond ring, for which it received a sum of 1,000.00 Swiss Francs (“SF”). The records indicate that the Bank then deducted its accrued fees and costs from these proceeds, and transferred the remaining balance as of 1 September 1963 of SF 647.00 to a demand deposit account that it opened in the Account Owner’s name. The records do not indicate the whereabouts or fate of the camera that was originally contained in the safe deposit box.

According to these records, in March 1967 the Basel guardianship authorities appointed Dr. Heinz Häberlin, of Weinfelden, Switzerland, as guardian over these assets. Finally, the records indicate that on or about 3 August 1970, the remaining balance of the demand deposit account, namely SF 571.80, was transferred to the Swiss federal government’s fund for dormant accounts.

The records do not indicate whether the Account Owner’s safe deposit box or demand deposit accounts were ultimately closed.

## **The CRT’s Analysis**

### Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), claims to the same or related accounts may be joined in one proceeding at the CRT’s discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

## Identification of the Account Owner

Claimant [REDACTED 1]'s grandfather's name, Claimant [REDACTED 2]'s father's name, and Claimant [REDACTED 3]'s father-in-law's name, all match the unpublished name of the Account Owner. The Claimants also identified the fact that the Account Owner had been detained in a concentration camp, which matches unpublished information contained in the records from the Swiss Federal Archive.

In support of her claim, Claimant [REDACTED 2] submitted documents, including her Israeli identification card, providing independent verification that the person who is claimed to be the Account Owner had the same first name recorded in the records from the Swiss Federal Archive as the name of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by Claimant [REDACTED 1]'s uncle, which indicates that Josef Goldberg was born in 1875, that he resided in Radom, Poland, that he was married to [REDACTED], that he was a watchmaker, and that he perished in Treblinka in 1942, which matches and supplements the information about the Account Owner provided by Claimant [REDACTED 1]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The database also includes a page of testimony submitted by Claimant [REDACTED 2] in April 1999, which indicates that Josef Goldberg, who was the son of [REDACTED] and [REDACTED], was born in 1901, lived in Kaunas, Lithuania, was a tailor, was married to [REDACTED], was interned in the Kaunas ghetto, and perished in Dachau concentration camp, which matches and supplements the information about the Account Owner provided by Claimant [REDACTED 2] and Claimant [REDACTED 3].

The CRT notes that Claimant [REDACTED 1]'s relative, and Claimants [REDACTED 2] and [REDACTED 3]'s relative are not the same person. However, given that the Claimants have identified all published and unpublished information about the Account Owner that is available in the records from the Swiss Federal Archive; that the information provided by each claimant supports and in no way contradicts any information available in the records from the Swiss Federal Archive; that there is no additional information in the records from the Swiss Federal Archive which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other equally plausible claims to these accounts, the CRT finds that the Claimants have each plausibly identified the Account Owner.<sup>3</sup>

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<sup>3</sup> As detailed in the section entitled "Information Available in the Swiss Federal Archive," very little information is available concerning the Account Owner in this case. Usually, in determining whether a claimant has identified an account owner as his or her relative, the CRT considers such factors as an account owner's city or country of residence, profession, nationality, and/or names of family members. Since such information about the account owner is not available in this case, the CRT considers other, more detailed and nuanced factors. Such factors include, but are not limited to, whether a claimant identified an exact spelling of the account owner's name; whether the claimant was able to provide documentation linking his or her surname to that of the account owner, thereby demonstrating a familial relationship to a person with the same name as the account owner; whether a claimant identified the account owner's name prior to its publication, or despite the fact that the name was never published; and/or whether the fate of the claimant's relative is consistent with the disposition of the claimed account. Based

### Status of the Account Owner as a Victim of Nazi Persecution

The Claimants have made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, that he resided in Poland, and that he was deported in 1942 to Treblinka concentration camp, where he perished. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that he was interned in the Kaunas ghetto, and that he perished in a concentration camp.

As noted above, persons named Josef Goldberg were included in the CRT's database of victims.

### The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant [REDACTED 1]'s grandfather; and Claimant [REDACTED 2] and Claimant [REDACTED 3] have plausibly demonstrated that they are related to the Account Owner by submitting specific information and, in Claimant [REDACTED 2]'s case, a document, demonstrating that the Account Owner was Claimant [REDACTED 2]'s father and Claimant [REDACTED 3]'s father-in-law. The CRT notes that the Yad Vashem records indicate that the Claimants may have other surviving relatives, but that because they are not represented in the Claimants' claims, the CRT will not treat their potential entitlement to the Account Owner's accounts in this decision.

The CRT further notes that the Claimants identified unpublished information about the Account Owner as contained in the records from the Swiss Federal Archive; and that the Claimants also identified information which matches information contained in the Yad Vashem records. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimants as a family member, and all of this information supports the plausibility that the Claimants are related to the Account Owner, as they have asserted in their Claim Forms.

### The Issue of Who Received the Proceeds

The records from the Swiss Federal Archive indicate that some of the contents of the Account Owner's safe deposit box were sold, and the proceeds of the sale transferred to a demand deposit account, the balance of which was ultimately transferred to the Swiss government's fund for dormant accounts. These records do not specifically indicate that the accounts were closed.

### Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1] and Claimant [REDACTED 2]. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his grandfather, and Claimant [REDACTED 2] has

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upon these considerations, matches between this account and less plausible claims were disconfirmed, and those claims were excluded from this decision.

plausibly demonstrated that the Account Owner was her father, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Further, the CRT notes that Claimant [REDACTED 2], as the Account Owner's daughter, has a better entitlement to the account than Claimant [REDACTED 3], the Account Owner's son-in-law.

#### Amount of the Award

In this case, the Account Owner held one safe deposit box, some of the contents of which were sold and the proceeds deposited in a demand deposit account. The records from the Swiss Federal Archive indicate that the safe deposit box also contained a camera which was not sold by the Bank, and the records do not indicate the current location of that item.

Accordingly, for the purposes of this award, the CRT will treat the Account Owner as holding one safe deposit box and one demand deposit account. The records from the Swiss Federal Archive indicate that the value of the demand deposit account as of 1 September 1963 was SF 647.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1963. Consequently, the adjusted balance of the demand deposit account at issue is SF 932.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. Similarly, if the value of an account is unknown, as is the case with the safe deposit box containing the camera, 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 investigation carried out pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a safe deposit box was SF 1,240.00. Thus, the combined 1945 average value for the two accounts at issue is SF 3,380.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 42,250.00.

#### Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant or group of Claimants has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] is entitled to one-half of the Award amount, and Claimant [REDACTED 2] is entitled to one-half of the Award amount.

As noted above, Claimant [REDACTED 3] is not entitled to share in the award.

**Certification of the Award**

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

Claims Resolution Tribunal  
3 June 2009