

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

Claimant [REDACTED]  
represented by [REDACTED]

### **in re Account of Nelly Mueller**

Claim Numbers: 401628/RS; 401679/RS<sup>1</sup>

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the “Claimant”) to the account of Emma Müller. This Award is to the published account of Nelly Müller (the “Account Owner”) at the Biel branch of the [REDACTED] (the “Bank”).<sup>2</sup>

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 Owner as his mother, Nelly Müller, née Tobler, who was born on 22 September 1906 in Poland to Swiss parents who were originally from Zurich, Switzerland. The Claimant indicated that his mother married [REDACTED], and that they lived in Kalisz, Poland, and had two sons. The Claimant stated that his family owned a large textile factory in Kalisz, which was ultimately appropriated by the Nazis. The Claimant further stated that his family spent many summers at a family summer home in Switzerland.

According to the Claimant, his father’s family were “non-practicing Jews,” and during the Second World War, they assisted practicing Jews by sheltering and hiding them in their home and factory as part of an “underground” movement. The Claimant explained that towards the

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<sup>1</sup> Claimant [REDACTED] (the “Claimant”) submitted nine additional claims, which are registered under the Claim Numbers 401632, 401634, 401645, 401649, 401650, 401654, 401685, 401701, and 401705. In decisions released on 14 September 2007, the CRT treated the Claimant’s claim to the account of Emma Beinert, Emma Muller, Klara Muller, Hugo Muller, Herta Muller and Wilhlem Muller. The CRT will treat all remaining claims in separate determinations.

<sup>2</sup> The CRT notes that on the List of Account Owners Published in 2005 (the “2005 List”), the name N. Mueller also appears. Upon careful review, the CRT has determined that N. Mueller is not the same person addressed in the current decision and, consequently, the Claimants did not identify this other account owner as their relative.

end of the War, the German Gestapo in Poland interrogated his father on a regular basis, possibly regarding his involvement in sheltering Jews hiding from the Nazis. According to the Claimant, shortly before the end of the War, his family, fearing discovery by the Gestapo, fled Poland, and spent five years in displaced persons' camps in Germany awaiting passage to America. The Claimant stated that following the War and during their time in the camps, his parents divorced and he and his mother ultimately came to America, where she was remarried to [REDACTED].

In support of his claim, the Claimant submitted copies of: (1) his own birth certificate, indicating that [REDACTED] was born on 14 December 1935 in Kalisz, Poland, and that his parents were [REDACTED] and Nella Gertruda Tobler; (2) a copy of his mother's death certificate, indicating that Nelly Szajner, née Tobler, was born on 22 September 1906 in Poland to [REDACTED], who was Swiss, and died on 6 February 2000, and that she was survived by her son [REDACTED]; and (3) a copy of his mother's obituary, indicating that his mother had been a homemaker for 69 years.

The Claimant indicated that he was born on 14 December 1935 in Kalisz.

### **Information Available in the Bank's Record**

The Bank's record consists of a printout from the Bank's database of suspense accounts. According to this record, the Account Owner was Nelly Mueller. The Bank's record does not indicate the Account Owner's domicile.

The Bank's record indicates that the Account Owner held one account, the type of which is not indicated, and that the Bank had had no contact from the Account Owner since 4 March 1940. The Bank's record indicates that the account was suspended on 28 February 1977, when it had a balance of 6.40 Swiss Francs ("SF"). The account remains suspended today.

### **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 two claims of the Claimant in one proceeding.

#### Identification of the Account Owner

The Claimant's mother's name matches the published name of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name.

In support of his claim, the Claimant submitted documents, including his birth certificate, and his mother's death certificate, providing independent verification that the person who is claimed to

be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

The CRT notes that the name Nelly Mueller appears only once on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons to be probably or possibly those of victims of Nazi persecution ("ICEP" or the "ICEP List").

The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

#### Status of the Account Owner as a Victim or Target 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 married to a Jewish man, who was regularly interrogated by the Gestapo during the War. According to the Claimant, the Account Owner was forced to flee Poland with her husband for fear of Nazi persecution, and was then forced to live in displaced persons' camps following the War.

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

Claimant [REDACTED] has plausibly demonstrated that he is related to the Account Owner by submitting specific biographical information and documents, demonstrating that the Account Owner was his mother. These documents include his birth certificate and his mother's death certificate. The CRT notes that the Claimant indicated that he has other surviving relatives, but that because they are not represented in the Claimant's claims, the CRT will not treat their potential entitlement to the Account Owner's account in this decision.

#### The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred on 28 February 1977 to the Bank's suspense account, where it remains today.

#### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his mother, and that relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor her heirs received the proceeds of the claimed account.

#### Amount of the Award

In this case, the Account Owner held one account of an unknown type. The Bank's record indicates that the value of the account as of 28 February 1977 was SF 6.40. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 495.00, which reflects standardized bank fees charged to the account between 1945 and 1977. Consequently,

the adjusted balance of the account at issue is SF 501.40. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. 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 49,375.00.

### **Scope of the Award**

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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  
16 October 2008