

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
also acting on behalf of [REDACTED 2] and [REDACTED 3]

## **in re Account of Rudolf Ruberl**

Claim Number: 501377/TW

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the "Claimant") to the published account of Rudolf Ruberl (the "Account Owner") at the Lugano branch of the [REDACTED] (the "Bank").<sup>1</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 a Claim Form identifying the Account Owner as his maternal grandfather, Dr. Rudolf Ruberl, who was born on 14 June 1880 in Hostim, then Austria-Hungary, to [REDACTED] and [REDACTED]. According to the Claimant his grandfather was married to [REDACTED] on 5 April 1923, in Vienna, Austria, with whom he had two children: the Claimant's mother, [REDACTED 2] and the Claimant's aunt, [REDACTED 3]. The Claimant indicated that his grandfather, who was Jewish, was a businessman in Milan, Italy, and lived and worked at Via Alberto da Giussano 16, Milan. The Claimant further stated that his grandfather stayed in Italy until the Nazis invaded in September 1943, and then fled from Italy with his family to Switzerland, where they stayed as refugees. The Claimant stated that at the end of the Second World War, his grandfather and his family returned to Milan, where his grandfather died on 5 August 1971.

In support of his claim, the Claimant submitted his grandfather's death certificate, stating that he was born in Hostim on 14 June 1880, and that he died in Milan on 5 August 1971; the birth certificate of his mother, [REDACTED 2], stating that she was born to [REDACTED] and

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<sup>1</sup> The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), Rudolf Ruberl is indicated as having two accounts. Upon careful review, the CRT has concluded that the Bank's records evidence the existence of only one account.

Rudolf Ruberl on 2 January 1925 in Milan; the birth certificate of his aunt, [REDACTED 3], stating that she was born on 30 July 1926 to [REDACTED] and Rudolf Ruberl in Bressanone, Italy; and his grandfather's Swiss refugee identification papers, stating that his name was Dr. Rudolf Ruberl, and showing that he entered Switzerland as a refugee on 18 September 1943 and departed on 21 January 1944.

The Claimant stated that he was born on 20 October 1961 in Milan. The Claimant represents his mother [REDACTED 2], who was born on 2 January 1925 in Milan, and his aunt, [REDACTED 3], who was born on 30 July 1926 in Bressanone.

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

The Bank's records consist of extracts from the Bank's ledger and a list of customers. According to these records, the Account Owner was Dr. Rudolf Ruberl, who resided in Milan, Italy. The Bank's records indicate that the Account Owner held one account, the type of which is not indicated.

The records include a list of customers that includes the Account Owner's name and a date of 6 April 1939, but there is no indication regarding the significance of this date. In addition, there is a balance of 1,031.70 for the account, but the records do not show in which currency the account was held, nor do they include a date for the balance. The account is also included on a ledger upon which other banks, *Commerzbank Berlin* and *Deutsche Bank*, are listed, and the date 31 December 1945 is also written at the top of the ledger. However, the records do not explain the relationship between this account and *Commerzbank* or *Deutsche Bank*.

The Bank's records do not show when the account at issue was opened or closed. 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. There is no evidence in the Bank's records that the Account Owner or his heirs closed the account and received the proceeds themselves.

### **The CRT's Analysis**

#### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's grandfather's name, city and country of residence match the published name, city and country of residence of the Account Owner. The Claimant identified his grandfather's title, which matches unpublished information about the Account Owner contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including his grandfather's death certificate, showing that he died in Milan and his Swiss refugee identification papers, identifying

the Claimant's grandfather as Dr. Rudolf Ruberl, as well as the Claimant's mother's birth certificate, stating that she was born in Milan and that her father was Rudolf Ruberl, providing independent verification that the person who is claimed to be the Account Owner had the same name, title and resided in the same city recorded in the Bank's records as the name, title and city of residence of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Rudolf Ruberl, and indicates that his date of birth was 14 June 1880, and that he was a refugee in Switzerland, 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 CRT notes that the name Rudolf Ruberl appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the "ICEP List").

The CRT notes that there are no other claims to this account.

#### 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, and that he fled from Italy to Switzerland when the Nazis invaded Italy in 1943.

As noted above, a person named Rudolf Ruberl was included in the CRT's database of victims.

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

The Claimant has plausibly demonstrated that he and the parties he represents are related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's grandfather, and the father of the Claimant's mother and aunt.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records, and that the Claimant also identified information which matches information contained in the Yad Vashem records. The CRT further notes that the Claimant submitted a copy of his grandfather's Swiss refugee identification papers and his death certificate. The CRT notes that it is plausible that these are documents which most likely only a family member would possess. Finally, the CRT notes that the foregoing information is also of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

There is no information to indicate that the Account Owner has other surviving heirs, other than the parties which the Claimant is representing.

### The Issue of Who Received the Proceeds

Given that the Account Owner fled from Italy to Switzerland to escape Nazi persecution; that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; that the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), 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, 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's mother, [REDACTED 2], and his aunt, [REDACTED 3]. First, the claim is 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 aunt's father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that the Claimant's mother and aunt, as the Account Owner's daughters, have a better entitlement to the account than the Claimant, the Account Owner's grandson.

### Amount of the Award

In this case, the Account Owner held one account, the type of which is unknown. Pursuant to Article 29 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 current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was SF 3,950.00. The current value of this amount is calculated by multiplying it 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.

### Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his mother, [REDACTED 2], and his aunt, [REDACTED 3]. Accordingly, the Claimant's mother, [REDACTED 2], and his aunt, [REDACTED 3], are each entitled to half of the total award amount.

**Scope of the Award**

The Claimant should be aware that, pursuant to Article 20 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  
9 March 2005