

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED 1],
represented by [REDACTED]

to Claimant [REDACTED 2],

to Claimant [REDACTED 3],

and to Claimant [REDACTED 4]

in re Account of Gamliel Appel

Claim Numbers: 000789/MBC; 208199/MBC; 223705/MBC; 709188/MBC;¹
709189/MBC;² 731521/MBC³

Award Amount: 906,681.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the published account of Gamliel Appel and the claims of [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”), [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”), and [REDACTED 4], née [REDACTED] (“Claimant [REDACTED 4]”) (together the “Claimants”) to the account of Hermann Appel.⁴ This Award is to the published account of Gamliel Appel (the “Account Owner”),⁵ over which

¹ [REDACTED 3], née [REDACTED] (“Claimant [REDACTED 3]”), did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered GER-0024082, 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 IQs 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 709188.

² [REDACTED 2], née [REDACTED] (“Claimant [REDACTED 2]”), did not submit a Claim Form to the CRT. However, in 1999 she submitted an IQ, numbered GER-0024083, to the Court in the United States. The IQ was forwarded to the CRT and has been assigned claim number 709189.

³ [REDACTED 4], née [REDACTED] (“Claimant [REDACTED 4]”), did not submit a Claim Form to the CRT. However, in 1999 she submitted an IQ, numbered HUN-0101093, to the Court in the United States. The IQ was forwarded to the CRT and has been assigned claim number 731521.

⁴ The CRT will treat the claims to the account of Hermann Appel in a separate determination.

⁵ The Account Owner’s surname appeared on the List of Account Owners Published in 2005 (the “2005 List”) as “Appell.” However, the records from the Swiss Federal Archive indicate that the Account Owner’s surname was spelled “Appel.”

[REDACTED] (the “Power of Attorney Holder”) held power of attorney, 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 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 three claim forms identifying the Account Owner as her father, Gamliel Appel, who was born on 3 June 1883, and was married to [REDACTED], née [REDACTED]. In telephone conversations with the CRT, Claimant [REDACTED 1] also identified the Power of Attorney Holder as her paternal uncle Hermann Appel. According to information provided by Claimant [REDACTED 1] and her son, [REDACTED], Claimant [REDACTED 1]’s parents, who were Jewish, had eight children ([REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED 1]), and the family lived in Salistea de Sus, in the Maramures region of Romania. Claimant [REDACTED 1] explained that her father was killed in Auschwitz, where he was a subject of “medical experiments” by Dr. Josef Mengele, and that aside from her brother [REDACTED] who joined the cavalry in the Hungarian army, her family was confined to the ghetto in Tirgu Mures, Romania, for several months, before being deported to Auschwitz in 1944. Claimant [REDACTED 1] stated that she and her sisters [REDACTED] and [REDACTED], née [REDACTED], were the only children of Gamliel Appel to survive the Holocaust and the Second World War. [REDACTED] stated that [REDACTED] died in Israel in 1980 without issue. Claimant [REDACTED 1] indicated that in December 2000 she and her late sister, [REDACTED], received a payment from the Swiss Confederation for dormant bank assets belonging to her father.

Claimant [REDACTED 1] stated that her uncle, Hermann Appel, was born in Maramures and lived in Budapest, Hungary, where he owned a textile factory. Claimant [REDACTED 1] further stated that her uncle, who was Jewish, was killed in 1944 on his way to Switzerland. Claimant [REDACTED 1] further stated that her uncle had a daughter, [REDACTED], who perished in a concentration camp.

In support of her claim, Claimant [REDACTED 1] submitted documents, including:

- (1) certificates from the local authorities of Salistea de Sus, dated 1 July 1996, indicating that Gamliel Appel, who was born on 3 June 1883, and [REDACTED], who was born 2 February 1890, were married on 11 August 1931, and that [REDACTED 1], who was born on 30 September 1931 in Salistea de Sus, is their daughter;

- (2) a claim form previously submitted to the Knesset Committee for the Return of Jewish Assets, dated in 1997, in which Claimant [REDACTED 1] indicated that her father deposited money in a Zurich bank over the course of many years until 1944;
- (3) an extract from a list entitled *Registration Decree of 1962 - Fund for "Unclaimed Assets," Publication of Names of Asset Owners and their Representatives*, published in November 1998 by the Swiss Government and listing residence data of owners of dormant accounts opened before 1939, which indicates that Gamliel Appel of Romania held unspecified assets, over which Hermann Appel of Budapest held power of attorney, worth more than 1,000.00 Swiss Francs ("SF"); and
- (4) correspondence from the Swiss Department of Foreign Affairs, dated 24 November 2000, containing the Swiss authorities' positive decision regarding Claimant [REDACTED 1]'s and [REDACTED]'s claims to the assets of Gamliel Appel. According to this correspondence, SF 108,996.00 belonging to Gamliel Appel was deposited in the Heirless Assets Fund in two instalments (a deposit of SF 14,996.00 on 2 August 1973 and a deposit of SF 94,000.00 on 13 August 1973). Additionally, the correspondence explains that the funds deposited into the Heirless Asset Fund consisted of cash from a safe deposit box located at the Zurich branch of the Bank. According to this correspondence, the Department of Foreign Affairs conducted extensive research into Claimant [REDACTED 1]'s claim, and a representative of the Swiss Embassy in Bucharest, Romania, drove to Salistea de Sus in order to conduct local research. Based upon this research, Claimant [REDACTED 1] and [REDACTED] were granted restitution in the amount of SF 279,180.00, based on the original sum of SF 108,996.00 that had been transferred to the Heirless Assets Fund (*Fonds "Erblose Vermögen"*) in August 1973, and adjusted for interest for the period between August 1973 and December 2000. According to the correspondence, this amount was to be transferred to Claimant [REDACTED 1] and [REDACTED] in equal parts on 14 December 2000.

Claimant [REDACTED 1] indicated that she was born on 30 September 1931 in Salistea de Sus.

Claimant [REDACTED 1] previously submitted an Initial Questionnaire ("IQ") to the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Gamliel Appel.

Claimant [REDACTED 2] and Claimant [REDACTED 3]

Claimant [REDACTED 2] and Claimant [REDACTED 3], who are sisters, each submitted an IQ identifying the Power of Attorney Holder as their paternal uncle, [REDACTED], who was Jewish and lived in Budapest. According to a report from their paternal aunt [REDACTED], recounted by Claimant [REDACTED 2] and Claimant [REDACTED 3], [REDACTED] received official permission to leave Hungary and planned to travel to Switzerland, but he was shot and killed at the Budapest airport in late 1943. In a letter to the CRT, Claimant [REDACTED 2] and Claimant [REDACTED 3] further indicated that their paternal uncle was born between 1885 and 1893 in Viseul de Sus, Romania, and that he traded securities and foreign currency

professionally. Claimant [REDACTED 2] indicated that she was born on 22 May 1926. Claimant [REDACTED 3] indicated that she was born on 15 October 1917.

Claimant [REDACTED 4]

Claimant [REDACTED 4] submitted an IQ identifying the Power of Attorney Holder as her father, [REDACTED], who was Jewish, and who was born on 25 May 1891, lived at Vasváry Pál Utca in Budapest, and was deported on an unknown date. Claimant [REDACTED 4] indicated that she was born on 21 August 1921.

Information Available in the Bank's Records

The auditors who carried out the investigation of this bank to identify the accounts of Victims of Nazi Prosecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") did not report any account held by Gamliel Appel during their investigation of the Bank. The documents evidencing an account belonging to Gamliel Appel, which are further described below, were obtained from the Swiss Federal Archive.

Information Available from the Swiss Federal Archive

The records from the Swiss Federal Archive contain documents relating to the 1962 survey of assets held by foreigners or stateless persons who were known or presumed to be, victims of racial, religious or political persecution (the "1962 Survey").⁶ According to these records, the Account Owner was Gamliel Appel of Salistea de Sus (Iselistji, Zselistji), Romania⁷ and the Power of Attorney Holder was the Account Owner's brother, [REDACTED], who resided at Woswarjipal-Gasse 3 in Budapest. The records indicate that the Account Owner owned a safe deposit box, numbered 293.

The records of the Swiss Federal Archive also contain four receipts for payment of rental of a safe deposit box numbered T469. These receipts, dated between 1935 and 1937, indicate that the Account Owner, who resided in Iselistji, paid rent for safe deposit box T469 until 30 March 1938. Each of these receipts also bears the annotation "*Ktr. No. 2996.*"

With respect to safe deposit box 293, the records from the Swiss Federal Archive indicate that the Account Owner's last known address was "Zselistji (Rumänien) Post Dragamerfalva

⁶ By Federal Decree of 20 December 1962, 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").

⁷ The Swiss Federal Archive records refer to the Account Owner's residence by several different names, including Salistea de Sus, Zselistji, and Iselistji. All these are names for the same town, known in Yiddish as Silisht, located in Maramures, Romania. The Account Owner also instructed the Bank to send his mail to the post office in Dragomerfalva (now Dragomiresti) in Maramures, Romania, which is located only a few kilometers from Salistea de Sus. See *ENCYCLOPAEDIA OF JEWISH COMMUNITIES IN ROMANIA*, Vol. II (eds. Dr. Jean Ancel & Dr. Theodore Lavi, published by Yad Vashem). Available at http://www.jewishgen.org/yizkor/pinkas_romania/pinkas_romania2.html. See also <http://www.shtetlinks.jewishgen.org/poienile/Maramures.htm>.

(Marmaros),” that the last recorded contact with the Account Owner was a communication from Zselistji on 5 July 1939, and that there had been no contact between the Power of Attorney Holder and the Bank.

According to a 1962 Survey registration form submitted by the Bank on 27 February 1964, as of 1 September 1963 safe deposit box 293 contained United States Dollars (“US \$”) 22,150.00 in bank notes and SF 148.50 in notes and coins, as well as various files, letters, and Hungarian newspaper articles. The form further notes that the safe originally contained US \$22,300.00, of which SF 480.00 had been used to cover safe repairs and rental. The records from the Swiss Federal Archive indicate that the Bank opened the safe deposit box on 4 December 1963 and recorded its content as submitted on its form. The records show that the safe was subsequently opened several times again. According to these records, on 17 April 1964, the Bank moved the contents to a new safe deposit box, numbered 7004, converted US \$50.00 into Swiss Francs, and removed SF 160.00 for safe rental for the period 30 March 1962 to 30 March 1966, leaving US \$22,100.00 in bank notes and SF 203.50 in notes and coins. On 27 May 1966, the safe was opened in the presence of an official from the Swiss authorities and the contents from 17 April 1964 were verified. At that time, the Bank removed SF 66.00 for safe rental and recording costs. Thus, according to the records, by 27 May 1966 a total of SF 706.00 had been deducted by the Bank from the original US \$22,300.00: SF 226.00 for safe rental and SF 480.00 for safe repair on an unspecified date prior to December 1963. Finally, the records indicate that the Bank closed safe deposit box 7004 on 24 May 1973 and transferred the bundle of papers in it to the Federal Accounting Authority (*Eidgenössisches Kassen- und Rechnungswesen*) in Bern. As noted above, the cash safe 7004 contained was transferred to the Heirless Assets Fund (*Fonds “Erblose Vermögen”*) in August 1973. There is no evidence in the records from the Swiss Federal Archive that the Account Owner, the Power of Attorney Holder or their heirs received any of the contents of safe deposit boxes 293 and 7004 themselves.

The documents contained in the safe deposit box show that Hermann Appel, the Power of Attorney Holder, paid several visits to Zurich, where he conducted banking business for a number of other persons. Correspondence, mainly in Yiddish and partly in German, indicates that he may have been one of the many contact persons/couriers moving funds to safety from Eastern Europe.⁸ The bundle of papers, which contains, among other things, bills from the boarding house where he stayed, also contains one bill to a Mr. Appel with an address in Selistye Rumania, indicating that the Account Owner may have been in Zurich in May 1936.

⁸ The records in the Swiss Federal Archive also include postcards, receipts, and various notes, indicating that Hermann Appel, who was the Account Owner’s brother and Power of Attorney Holder, stayed in Zurich at *Pension Jvria* at Löwenstrasse 12 on at least two occasions in 1936 and 1937, when he conducted business with lawyers and a bank in Zurich. The records of the Swiss Federal Archive do not contain any evidence of accounts held by Hermann Appel during the Second World War.

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 six claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1] has plausibly identified the Account Owner. Claimant [REDACTED 1]'s father's name matches the published name of the Account Owner. Claimant [REDACTED 1] identified the Account Owner's city and country of residence, which match unpublished information about the Account Owner contained in the records of the Swiss Federal Archive.

Additionally, all of the Claimants have plausibly identified the Power of Attorney Holder. The Power of Attorney Holder's unpublished name and city of residence match the name and city of residence of the father of Claimant [REDACTED 4] and the uncle of Claimant [REDACTED 2], Claimant [REDACTED 1], and Claimant [REDACTED 3]. Additionally, Claimant [REDACTED 4] identified her father's street address, which matches unpublished information about the Power of Attorney Holder contained in the records of the Swiss Federal Archive.⁹

In support of her claim, Claimant [REDACTED 1] submitted certificates from the local authorities in Salistea de Sus, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the records of the Swiss Federal Archive as the name and town of residence of the Account Owner. Additionally, Claimant [REDACTED 1] submitted an award decision from the Swiss Federal Department of Foreign Affairs indicating that the Department sent a researcher to Salistea de Sus before determining that Claimant [REDACTED 1] and her late sister [REDACTED] were entitled to compensation for the cash in the Account Owner's safe deposit box.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a page of testimony submitted by Claimant [REDACTED 1] in 1999, which indicates that her father Gamliel Appel, a merchant who resided in Salistea de Sus, perished in Auschwitz in May 1944. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. Finally, the CRT notes that there are no other claims to this account.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim

⁹ Claimant [REDACTED 4] gave her father's address as Vasváry Pál Utca, whereas the Power of Attorney Holder's address appears as Woswarjipal-Gasse in the Swiss Federal Archive records. These addresses match, since "Vasváry Pál" is pronounced identically or nearly identically to "Woswarjipal" and *utca* is the Hungarian word for street, while *gasse* is the German word for lane.

of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, and that he and his family were confined to the Tirgu Mures ghetto before being deported to Auschwitz, where he was a subject of Dr. Mengele's experiments and where he perished.

The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific information and certificates from the local authorities in Salistea de Sus, demonstrating that the Account Owner was Claimant [REDACTED 1]'s father and Claimant [REDACTED 2], Claimant [REDACTED 3], and Claimant [REDACTED 4]' uncle. There is no information to indicate that the Account Owner has surviving heirs other than the Claimants.

The Issue of Who Received the Proceeds

With respect to safe deposit boxes 293 and 7004, the records in the Swiss Federal Archive indicate that the Bank opened box 293 and transferred its contents to box 7004 on 17 April 1964. The letter from the Swiss Department of Foreign Affairs submitted by Claimant [REDACTED 1] indicates that the cash in the Account Owner's safe deposit box was transferred to the Heirless Assets Fund in August 1973. Additionally, as described above, the award decision of the Department of Foreign Affairs indicates that the amount of cash held in the Account Owner's safe deposit box and transferred to the Fund was adjusted for interest and transferred to Claimant [REDACTED 1] and her late sister [REDACTED] on 14 December 2000.

As for safe deposit box T469, there is no information about this account after 1937 in the records available from the Swiss Federal Archive. The CRT notes that the Swiss Federal Archive records, taken together with award decision of the Swiss Department of Foreign Affairs, indicate that the Account Owner held only one safe deposit box, the contents of which increased from US \$22,300.00 (which was equal to SF 96,336.00)¹⁰ in 1963 to SF 108,996.00 in 1973. The CRT adopt the Department's account information for the purpose of this award, considering that the Swiss Federal Department of Foreign Affairs indicated that it conducted extensive research before awarding the account and because the gaps in the available records render more exact determinations impossible.

Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1]. 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 her father, and that relationship justifies an Award. Third, although Claimant [REDACTED 1] received a payment for the Account Owner's account from the Swiss Federal Department of Foreign Affairs on 14 December 2000, the amount she received is considerably less than she is entitled to under the Rules.

¹⁰ The CRT uses official currency exchange rates as of the balance date.

The CRT notes that Claimant [REDACTED 1], as the Account Owner's daughter, has a better entitlement to the account than Claimant [REDACTED 2], Claimant [REDACTED 4], and Claimant [REDACTED 3], who are the Account Owner's nieces.

Amount of the Award

The CRT shall adjust the award amount of SF 279,180.00 that Claimant [REDACTED 1] and her late sister, [REDACTED], received for this account from the Swiss Government in December 2000 to reflect the amount that they would have received under the Rules.

As mentioned above, Claimant [REDACTED 1] submitted an award decision from the Swiss Department of Foreign Affairs indicating that the balance in the account had increased from from US \$22,300.00, which was equivalent to SF 96,336.00, in 1963, to SF 108,996.00 in 1973, when it was transferred to the Heirless Assets Fund. This increase would have been due to interest credited to the account as officially required under the *Meldestelle* rules. For the purposes of calculating the award amount, the balance closest to 1945 is used, namely the 1963 balance of SF 96,336.00. In accordance with Article 31(1) of the Rules, the CRT shall increase this amount by SF 475.00, which reflects standardized bank fees charged to a safe deposit box between 1945 and 1963. Consequently, the adjusted 1945 balance of the account at issue is SF 96,811.00.

As noted above, in December 2000, Claimant [REDACTED 1] and her late sister [REDACTED] received an award in the amount of SF 279,180.00. On 12 November 2001, when the first set of Deposited Assets awards were made under the Settlement Agreement in *In re Holocaust Victim Assets Litigation*, 1945 values were adjusted to current values by using an adjustment factor of 11.5. Accordingly, the CRT uses that factor to determine the 1945 value that corresponds to the payment of SF 279,180.00 to reach an amount of SF 24,276.52 (SF 279,180.00 divided by 11.5 equals SF 24,276.52). That amount is subtracted from the adjusted 1945 balance of the account (as calculated above) for a total amount of SF 72,059.48 that has yet to be restituted (SF 96,811.00, which is the total 1945 value of the account, minus SF 24,276.52, which is the 1945 value of the payment received in December 2000, equals SF 72,534.48, which is the 1945 value yet to be restituted). The current value of this amount is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 906,681.00.

Division of the Award

As indicated above, Claimant [REDACTED 1] has a better entitlement to the account than Claimant [REDACTED 2], Claimant [REDACTED 4], and Claimant [REDACTED 3]. 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. Accordingly, Claimant [REDACTED 1] is entitled to the total award amount.

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
26 November 2008