

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

**in re Accounts of Olga Berlitzer  
and Olga Berlitzer, *Erben***

Claim Number: 501218/AX<sup>1</sup>

Award Amount: 1,015,860.63 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Olga Berlitzer, *Erben*. This Award is to the published account of Olga Berlitzer, *Erben* and to the unpublished accounts of Olga Berlitzer (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).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 a Claim Form identifying the Account Owner as her maternal great-aunt, Olga Berlitzer, née Fulda, who was born in 1866, and was married to Dr. [REDACTED]. The Claimant indicated that her aunt lived in Vienna III, Austria, at Reiserstrasse 32, and may have later moved to Währingerstrasse 33 in Vienna IX. The Claimant indicated that [REDACTED] was a lawyer, and her great-aunt, who was Jewish, was a housewife. According to the Claimant, on 16 October 1941, the evening before she was to be deported, her great-aunt and all her close relatives committed suicide in Vienna. In support of her claim, the Claimant submitted part of the 1938 Census of Jewish-owned assets declaration filed by her great-aunt in 1938, which indicates that Olga Berlitzer, who resided in Vienna, held two bank accounts at the Bank and that [REDACTED] (formerly [REDACTED]), claimed to be the heir to the Estate of Olga Berlitzer; and the will of [REDACTED], indicting that [REDACTED] is her daughter. The Claimant indicated that she was born on 8 November 1927 in Vienna.

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<sup>1</sup> The Claimant submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 501216. The CRT will treat the claim to this account in a separate decision.

## Information Available in the Bank's Records

The Bank's records consist of printouts from the Bank's database. According to these records, the Account Owner was Olga Berlitzer, *Erben* ("heirs of Olga Berlitzer") who was from Austria.<sup>2</sup> The Bank's records indicate that the heirs of Olga Berlitzer held one account, the type of which is not indicated. According to 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"), the account had a balance of 7,881.00 Swiss Francs ("SF"). These auditors did not find this account in the Bank's system of open accounts, and they therefore presumed that it was closed. The 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 heirs of Olga Berlitzer closed the account and received the proceeds themselves.

## Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Olga Berlitzer, numbered 10013, consisting mainly of Olga Berlitzer's 1938 Census form. According to this form, *Frau* (Mrs.) Olga Berlitzer, née Fulda, was born on 4 March 1866, was married to Dr. [REDACTED], who was born on 22 September 1859, and resided at Reiserstrasse 32 in Vienna III. The declaration further states that Dr. [REDACTED] was an attorney and Olga Berlitzer was a housewife and that they did not belong to any religious community. In her asset declaration, Olga Berlitzer listed a one-third share, valued at 5,033.34 Reichsmark ("RM"), in a rental property, located at Mittelsestrasse 24 in Offenbach, Germany, and large financial holdings, including two accounts at the Bank. In a letter dated 3 June 1938 and attached to her declaration, the Bank listed Olga Berlitzer's holdings as consisting of a custody account, numbered 44024, containing securities worth a total of SF 73,146.00 as of 27 April 1938 and a demand deposit account containing SF 241.85 as of the same date. The Bank's letter indicates that, due to the special handling of her case, the Bank charged her account a fee of SF 10.00. (*Für unsere speziellen Bemühungen, gestatten wir uns, Sie mit Fr. 10 – zu belasten.*) Olga Berlitzer noted on her asset declaration that the securities held at the Bank served as collateral for an overdraft, amounting to SF 14,297.00 on 27 June 1938, owed by Mr. Karl Dus, who resided in Vienna VI at Mariahilferstrasse 47.

The file further contains a letter from the Vienna Tax Office, dated 2 January 1942, which refers to Olga Berlitzer who, at this time, resided at Währingerstrasse 39 in Vienna IX. Finally, the file

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<sup>2</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"), *Erben* Olga Berlitzer is indicated as being from Bad Hofgastein, Austria. However, the CRT notes that the auditors who carried out the investigation of this bank occasionally used Bad Hofgastein as a default city of residence for a group of Account Owners from Austria. Accordingly, the CRT will use Austria as the country of residence of *Erben* Olga Berlitzer and disregard the city of residence indicated by the auditors.

contains an undated official note, stemming from the 1950s, which cites Olga Berlitzer's 1938 Census file number 10013 and which records that [REDACTED] (formerly [REDACTED]) registered looted assets with the Austrian government as Olga Berlitzer's heir.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. With respect to the account of unknown type, the Claimant's great-aunt's name and country of residence match the published name and country of residence of the Account Owner. The Claimant indicated that her great-aunt committed suicide in 1941 which is consistent with published information contained in the Bank's records, namely that the unknown type of account was held for the benefit of Olga Berlitzer's heirs. With respect to the custody account and demand deposit account, as stated previously, the Claimant submitted an excerpt from her great-aunt's 1938 Census form which included detailed, personal information about her great-aunt and showed that her great-aunt held two accounts at the Bank.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Olga Berlitzer, and indicates that she was from Austria, 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 there are no other claims to these accounts.

### 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, that she lived in Vienna until 1941, and that she committed suicide the night before she was to be deported.

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

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information, demonstrating that the Account Owner of the custody and demand deposit accounts was the Claimant's great-aunt and that she is the daughter of one of Olga Berlitzer's heirs. The CRT further notes that the Claimant submitted a copy of Olga Berlitzer's 1938 Census file, which includes a record showing that [REDACTED] (formerly [REDACTED]), as heir of Olga Berlitzer, filed a looted asset registration in her name in the 1950s; and [REDACTED]'s will, indicating that the Claimant is her daughter. 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 Claimant as a family member, and all this

information supports the plausibility that the Claimant is related to the Account Owner and to one of the heirs of Olga Berlitzer, as she has asserted in her Claim Form.

#### The Issue of Who Received the Proceeds

With respect to the custody account and demand deposit account, given that that the Account Owner reported the accounts in the 1938 Census; that the Account Owner committed suicide in 1941; that her heirs would not have been able to obtain information about her accounts 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 (d) and (h), 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 her 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.

With respect to the account of unknown type, which was held for the benefit of the heirs of Olga Berlitzer, given that Olga Berlitzer committed suicide in 1941, that there is no record of the payment of this account to her heirs, nor any record of a date of closure of the account; that Olga Berlitzer's heirs would not have been able to obtain information about their 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, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner's heirs.

#### 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 18 of the Rules. Second, the Claimant has plausibly demonstrated that, with respect to the custody and demand deposit accounts, the Account Owner was her great-aunt, and with respect to the unknown type of account, the Claimant has demonstrated that she is the daughter of one of Olga Berlitzer's heirs. These relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

#### Amount of the Award

In this case, the Account Owner held one custody account, one demand deposit account, and one account of unknown type. With respect to the custody account and demand deposit account, the 1938 Census indicates that as of 27 April 1938, the custody account contained securities worth a total of SF 73,146.00, and the demand deposit had a value of SF 241.85. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 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. In this case, the 1938 Census records contain a letter from the Bank clearly

indicating that the demand deposit account had a value of SF 241.85, which the CRT finds constitutes plausible evidence to the contrary that the amount in the account was SF 2,140.00. Thus, the total historical value of the accounts is SF 73,387.85. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules to produce an award amount of SF 917,348.13.

With respect to the account of unknown type, the auditors who carried out the ICEP Investigation indicated that the account had a balance of SF 7,881.00. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules to produce an award amount of SF 98,512.50.

Consequently, the total award amount in this case is SF 1,015,860.63.

### **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 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).

### **Certification of the Award**

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

Claims Resolution Tribunal  
31 March 2005