

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
also acting on behalf of [REDACTED], [REDACTED] and [REDACTED]

## **in re Account of Margarete Fuchs**

Claim Number: 221718/NF<sup>1</sup>

Award Amount: 156,000.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Margarete Fuchs (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 his aunt, Margarete [REDACTED], née Fuchs, who was born on 24 November 1906 in Berlin, Germany, and was married to [REDACTED] on 31 January 1958 in New York. The Claimant stated that his aunt, Margarete [REDACTED], née Fuchs, along with her siblings, [REDACTED], née Fuchs (the Claimant’s mother), and [REDACTED], née Fuchs, were the children of [REDACTED], a substantial businessman in Germany prior to the 1930s. The Claimant stated that his grandfather, [REDACTED], owned a business known as [REDACTED]. The Claimant added that his grandfather’s business owned one factory at Glasowstrasse 44-47, Neukölln, Berlin and another in Coswig-Anhalt, Germany. The Claimant stated that his grandfather resided with his family at Westfälischestrasse 59 in Berlin. The Claimant further stated that his grandfather had established Swiss bank accounts in his and his children’s name, including Margarete Fuchs because she was unmarried at the time.

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<sup>1</sup> The Claimant submitted additional claims to the accounts of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] which are registered under the claim numbers 221700, 221701, 221702, 221703, 221704, 221705, 221706, 221707, 221708. The CRT will treat the claims to these accounts in separate decisions.

The Claimant stated that first his grandfather was forced to sell his businesses under the Nazi's anti-Semitic laws, and then he and the Claimant's grandmother were transported from Berlin to the Theresienstadt concentration camp, where they were murdered in 1943 and 1944, respectively. The Claimant also stated that in 1939 his aunt was forced to flee Berlin to London, England. According to the Claimant, his aunt lived in Birmingham, England, until 1946, when she moved to New York. The Claimant's aunt died in New York on 4 October 1997. The Claimant indicated that he was born on 22 April 1942 in New York. The Claimant is representing his brother, [REDACTED], and his cousins, [REDACTED] and [REDACTED], the nieces of the Margarete Fuchs.

The Claimant previously submitted an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Margarete [REDACTED], née Fuchs.

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

The Bank's records consist of a printout from the Bank's database and correspondence between the Bank and a Nazi official regarding the account. According to the printout, the Account Owner was Margarete Fuchs, and her place of residence was Germany.

The Bank's records also include two letters. The first letter is from a Berlin lawyer, Herr Walter Maass, to the Bank, dated 5 August 1939. The letter states that Maass had been appointed by the District Court of Berlin as the executor of *The Estate of Fuchs*. The letter stated that Maass had located a letter, dated 29 September 1938, from the Bank addressed to the deceased, Fuchs, which indicated that the deceased held stocks and bonds with the bank at that time. In the letter, Maass requested that the Bank send information about the status of these stocks and bonds. The letter was written on Maass's letterhead, which bears the *National Socialist Lawyers' Association* insignia. The letter also included an authorization, dated 6 July 1939, from the District Court of Berlin to Maass, permitting him to act as the executor of the estate of *Frau Margarete Sara Fuchs*. Handwritten notes on the letter, presumably written by the Bank's officers, state "*Depot 41054 31.10.31*" and "*Depot 41053 31.12.36*." The second letter is a reply from the Bank and is dated 11 August 1939. The letter states that the Bank had not held assets in the name of *Fuchs* since 1931.

According to these letters, the Account Owner was Frau Margarete Sara Fuchs. The handwritten notations on the letter indicate that the Account Owner held at one time two custody accounts, numbered 41054 and 41053. The handwritten notations indicate that one of the accounts was closed on 31 October 1931 and the other was closed on 31 December 1936. The amount in the accounts on the date of their closure is unknown. Since the account closed in 1931 was not open during the Relevant Period (from January 1, 1933 to December 31, 1945), the CRT does not have jurisdiction over that account.

With respect to the account closed in 1936, 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") determined that the amount in the account had been paid to the Nazi authorities. There is no evidence in the

Bank's records that the Account Owner or her 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 stated that his aunt's name was Margarete Fuchs and that she lived in Berlin, Germany, which matches the published name and place of residence of the Account Owner. The Claimant stated that his aunt was unmarried at the time she left Berlin in 1939. While the letter of Herr Walter Maass refers to the Account Owner as *Frau* Margarete Fuchs, which normally indicates that the person was a married woman, the CRT finds the information contained in the Maass letter to be unreliable and apparently constitutes an attempt to confiscate the Account Owner's deposit. Maass was a member of the *National Socialist Lawyers' Association*, which provided legal services to the Nazi party. The CRT is aware that, beginning in 1933, the Nazi Party, with the assistance of Nazi Party lawyers, actively confiscated Jewish assets. Moreover, the CRT notes that the Claimant submitted documents in support of his claim, including inheritance documents and a copy of his driver's license.

In addition, the CRT notes that the Claimant filed an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Margarete [REDACTED], née Fuchs, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. Finally, the CRT notes that the other claim to this account was disconfirmed due to different countries of residence, a different maiden name and a different spouse, provided by the other claimant.

### 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 lived in Berlin between the years 1933 to 1939. The Claimant stated that the Account Owner was forced to flee her home in Germany to London. The Claimant also stated that the Account Owner's parents were sent to Theresienstadt, where they were murdered.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Margarete [REDACTED], née Fuchs, and indicates that her place of birth was Berlin, 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 Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting documents demonstrating that the Account Owner was his aunt. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

With respect to the custody account closed in 1936, given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of its Jewish nationals through the enforcement of flight taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; evidence in the Bank's records that the account was paid to Nazi authorities; the application of Presumptions (a), (d), (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,<sup>2</sup> 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.

In the case of the custody account closed in 1931, since the account was not open during the Relevant Period (from January 1, 1933 to December 31, 1945), the CRT does not have jurisdiction over that account.

### 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 Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was his aunt, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the account closed on 13 December 1936.

### Amount of the Award

In this case, the Account Owner held one custody accounts. In the case of the custody account closed in 1936, 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 present value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 156,000.00 Swiss Francs.

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<sup>2</sup> Appendix C appears on the CRT II website -- [www.crt.ii.org](http://www.crt.ii.org).

### Division of the Award

According to Article 23 of the Rules, if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his brother, [REDACTED], and his cousins, [REDACTED] and [REDACTED]. Accordingly, his brother and cousin are each entitled to receive one quarter of any payment made to the Claimant.

### **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  
June 3, 2003