

# 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 Stefania Gross, [REDACTED 2] and [REDACTED 3]

## **in re Accounts of Stephanie (Stephani) and Henri Gross**

Claim Numbers: 600028/AC<sup>1, 2</sup>

Award Amount: 554,312.50 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the accounts of [REDACTED].<sup>3</sup> This Award is to the published accounts of Stephanie (also Stephani) Gross (“Account Owner S. Gross”) and Henri Gross (“Account Owner H. Gross”) (together the “Account Owners”) at 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 to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owners as his parents, Henri Gross and Stefania (Stefanie, Stephanie) Gross, née Lindenbaum. According to the Claimant, his father was born on 27 April 1910 in Paris, France, his mother was born on 9 October 1911 in Budapest, Hungary, and they were married in 1934 in France. The Claimant indicated that his parents, who were Jewish, resided in Paris until the Second World War, when he and his parents went into hiding in southwestern France, and that his maternal grandfather, [REDACTED], was deported to a concentration camp, where he died in 1944. According to the Claimant, he and his parents survived the Second World War, and his parents continued to reside in Paris, where his father died on 21 November 1996. The Claimant submitted documents in support of his claim, including: (1) a copy of his

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<sup>1</sup> The Claimant submitted a claim, numbered B-00966, on 13 May 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 600028.

<sup>2</sup> The Claimant submitted additional information, which was then registered under the Claim Number 601474. The CRT is treating Claim Numbers 600028 and 601474 under consolidated Claim Number 600028.

<sup>3</sup> In a separate decision, the CRT awarded these accounts to the Claimant. See *In re Accounts of [REDACTED]* (approved on 20 May 2004).

father's death certificate, indicating that Henri Gross was born on 27 April 1910 in Paris, where he later resided with his wife, Stefania Lindenbaum, at 41 Boulevard Lannes, that he was the son of [REDACTED] and [REDACTED], and that he died on 21 November 1996; (2) a copy of a notarized statement, dated 19 February 1997, indicating that Henri Gross, who was born on 27 April 1910 in Paris, where he later resided at 41 Boulevard Lannes, and who was married to Stéfania Lindenbaum, died on 21 November 1996, and that he left the maximum tax deductible amount to his wife, with any residue going to his son, [REDACTED 1]; and (3) a copy of his own birth certificate, indicating that his name is [REDACTED 1], that he was born on 5 April 1938, that his parents were Henri Gross and Stefania Lindenbaum, who resided at 41 Boulevard Lannes in Paris.

The Claimant indicated that he was born on 5 April 1938 in Paris. The Claimant is representing his mother, Stefania Gross, his maternal aunt, [REDACTED 2], and [REDACTED 3], the widow of his maternal uncle, David Linden (formerly Lindenbaum).

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by [REDACTED].

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

The Bank's records consist of a numbered account closing register, excerpts from the Bank's lists of account holders, and a printout from the Bank's database. According to these records, the Account Owners were Mr. Henri Gross and *Frau* (Mrs.) or *Mme.* (Mrs.) Stephanie (or Stephani) Gross, who resided at 41 Boulevard Lannes in Paris 16. The Bank's records indicate that the Account Owners held one demand deposit account and two accounts of unknown type.

According to these records, the demand deposit account was a numbered account, identified by the number 70106, which was opened on an unknown date. These records indicate that account 70106 had a balance of 22,147.00 Swiss Francs ("SF"), and 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") indicated that this balance was as of 31 December 1937, and that a later balance of SF 36,445.00 included in the Bank's records for the account was as of 15 October 1938. The Bank's records indicate that correspondence for this account was to be sent to a person with the surname Lindenbaum in London. These records also indicate that the account was transferred to an agent in New York by an unknown party on 23 April 1940.

Pursuant to Article 6 of the Rules, the CRT requested the voluntary assistance of the Bank to obtain additional information about these accounts ("Voluntary Assistance"). The Bank provided the CRT with an additional document. This document consists of a customer card, and indicates that correspondence relating to *Conto* 70106 was to be sent in French.

The Bank's records indicate that one of the accounts of unknown type was also a numbered account, identified by the number 70160. The other account of unknown type was opened by

1938. The Bank's records do not show when the two accounts of unknown type were closed, or to whom they were paid, nor do these records indicate the value of these accounts.

The auditors who carried out the ICEP Investigation did not find these three accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945.

There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owner. The Claimant's parents' names, city, and country of residence match the published names, city, and country of residence of the Account Owners. The Claimant identified the Account Owners' street address, which matches unpublished information about the Account Owner contained in the Bank's records. Furthermore, the CRT notes that the Claimant indicated that the Account Owners were married, although they were published separately, and that the Claimant indicated that his mother's maiden name was Lindenbaum, which matches the unpublished name of the contact person contained in the Bank's records.

In support of his claim, the Claimant submitted documents, including: (1) a copy of his father's death certificate; (2) a copy of a notarized statement regarding his family; and (3) a copy of his own birth certificate, providing independent verification that the persons who are claimed to be the Account Owners had the same names and resided in the same city recorded in the Bank's records as the names and city of residence of the Account Owners.

The CRT notes that the name Stephanie Gross 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 CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999, an ATAG Ernst & Young claim form in 1998, and an HCPO claim form in 1998, asserting his entitlement to a Swiss bank account owned by [REDACTED], 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.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants provided a different first names or country of residence than the first names and country of residence of the Account Owners, and those claimants failed to identify both Account Owners.

#### Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that they resided in Nazi-occupied France, and that they went into hiding during the Second World War to avoid further persecution.

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

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's parents. These documents include: (1) a copy of a notarized statement, dated 19 February 1997, indicating that Henri Gross, who was married to Stefania Lindenbaum, had a son named [REDACTED 1]; and (2) a copy of his own birth certificate, indicating that his parents were Henri Gross and Stefania Lindenbaum. There is no information to indicate that the Account Owners have surviving heirs other than the parties whom the Claimant is representing.

#### The Issue of Who Received the Proceeds

The Bank's records indicate that demand deposit account 70106 was transferred on 23 April 1940 to an agent in New York by an unknown party, and that numbered account 70160 of unknown type and an additional account of unknown type were closed to unknown parties.

Given that the Account Owners resided in Nazi-occupied France, and that they were in hiding in France for the duration of the Second World War; that they did not have ties to New York, nor did they travel to New York during the Second World War, and it cannot be determined what happened to account 70106 after its transfer to New York; that there is no record of the payment of the Account Owners' accounts to them nor any record of a date of closure of the accounts; that the Account Owners and their heirs would not have been able to obtain information about their 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 (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 Owners or their 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 and his mother, Stefania Gross, whom he represents. 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 Owners were his parents, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

Further, the CRT notes that represented party Stefania Gross and the Claimant, as Account Owner H. Gross's wife and son, and as Account Owner S. Gross and her son, have a better entitlement to the accounts than represented parties [REDACTED 2] and [REDACTED 3], Account Owner S. Gross's sister and sister-in-law, and the sister and sister-in-law of Account Owner H. Gross's wife.

### Amount of the Award

In this case, the Account Owners held one demand deposit account, numbered 70106, and two accounts of unknown type, one of which was numbered 70160. With respect to the two accounts of unknown type, 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, for a combined balance of SF 7,900.00 for two accounts of unknown type.

With respect to demand deposit account 70106, the Bank's records indicate that the value of the demand deposit account was SF 36,445.00 as of 15 October 1938, for a combined value of SF 44,345.00 for the three accounts at issue. 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.

Consequently, the total Award amount in this case is SF 554,312.50.

### Division of the Award

According to Article 25(1) of the Rules, if an account is a joint account and Claimants related to each of the Account Owners have submitted claims to the Account, it shall be presumed that each Account Owner was the owner of an equal share of the account, which rule shall be applied even if one of the Account Owners is still alive. With respect to the share belonging to Account Owner S. Gross, in this case, the Claimant is representing his mother, Stefania Gross, who is Account Owner S. Gross, and is therefore entitled to the one-half of the accounts belonging to Account Owner S. Gross.

With respect to the share belonging to Account Owner H. Gross, according to Article 23(2)(a) of the Rules, if a claimant has submitted the Account Owner's will or other inheritance documents pertaining to the Account Owner, the award shall provide for distribution among any

beneficiaries named in the will or other inheritance documents who have submitted a claim. In this case, the Claimant has submitted a notarized statement indicating that his father, Account Owner H. Gross, left the maximum tax deductible amount allowed to his wife, Stéfania Lindenbaum, and that any residue was to fall to his son, [REDACTED 1]. The CRT is unable to determine the appropriate distribution under this provision, and has therefore determined that Account Owner H. Gross's portion shall be divided according to the CRT's principles of distribution in the absence of a will or other inheritance documents.

According to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. In this case, Account Owner H. Gross's spouse and son are sharing in the award. Therefore, represented party Stefanie Gross and the Claimant are each entitled to one-half of Account Owner H. Gross's share of the accounts.

Accordingly, the Claimant is entitled to one-fourth of the total Award amount, and his mother, Stefanie Gross, is entitled to three-fourths of the total Award amount. As noted above, represented parties [REDACTED 2], and [REDACTED 3] are not entitled to a share of the award.

### **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  
21 September 2005

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