

# CLAIMS RESOLUTION TRIBUNAL

---

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

## **Certified Award**

to Claimant [REDACTED]

## **in re Account of Josef Mosbacher**

Claim Number: 216033/KB

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Josef Mosbacher (the “Account Owner”) at the [REDACTED].

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 indicating that Josef Mosbacher was her grandfather’s cousin, who was born on 22 August 1875 in Kronach, Germany, and who married [REDACTED]. The Claimant identified [REDACTED] as the owner of a shoe factory who lived at Dennerstrasse 6 in Nürnberg, Germany. The Claimant stated that Josef Mosbacher, who was Jewish, was educated at Heidelberg.

The Claimant described how her grandfather, [REDACTED], met with his cousin Joseph Mosbacher in 1919, after they had both served for their respective countries in the First World War. The Claimant further described how in 1932 her grandfather travelled to Bavaria to investigate his inheritance under a will, but upon learning that to receive this inheritance he would need to renounce his U.S.A. citizenship, he transferred the inheritance to Josef Mosbacher. The Claimant detailed how the two cousins corresponded for many years, but that the letters from Joseph Mosbacher stopped in 1939. According to the Claimant, Joseph Mosbacher and his wife both perished in Theresienstadt in 1943. The Claimant stated that Joseph Mosbacher had no children.

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

According to the bank records, which consist of an account registry card, the Account Owner was Josef Mosbacher, who lived Kronach, Germany, and who held a current account that was closed on 31 August 1933 and a custody account that was closed on 17 October 1938. The bank documents do not contain the values of these accounts, nor do they show to whom the accounts were paid.

## **Tribunal's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. Her relative's name matches the published name of the Account Owner. The Claimant has also provided her relative's city of birth, which matches the unpublished city of domicile contained in the bank documents.

### Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has provided plausible evidence that the Account Owner was a Victim of Nazi Persecution. The Claimant has shown that the Account Owner, her grandfather's cousin, was Jewish and lived in Germany before perishing in the Holocaust.

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

The Claimant has plausibly shown that the Account Owner is her grandfather's cousin. As well as providing general historical family information, and specific information about the Account Owner, she has also provided a detailed family tree illustrating exactly how she is linked to the Account Owner.

### The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the accounts at issue were paid to the Account Owner or his heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the "ICEP Investigation") demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, if the funds were not in fact paid to the account owners or their family, as is apparently the case here in relation to the custody account closed on 17 October 1938 as described below, there is a substantial likelihood that the funds in this case went to the Nazis.

Although the Tribunal cannot determine with certainty who received the proceeds of the custody account closed on 17 October 1938, the Tribunal concludes that a plausible showing has been made that neither the Account Owner nor his heirs

received the proceeds.<sup>1</sup> The application of confiscatory laws by the Nazi Regime during the 1930s, as described in more detail in footnote 1 below, makes it unlikely that the Account Owner received the proceeds of the custody account closed in 1938 himself. Moreover, there is no evidence in the bank records suggesting that the Account Owner closed the account and received the proceeds himself.

With respect to the current account closed in 1933, the Tribunal has decided not to reach a decision at this time, pending further consideration as to whether or not the Account Owner or his heirs received the proceeds of that account.

#### Basis for the Award

The Tribunal 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 23 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her grandfather's cousin and that relationship justifies an award. Finally, the Tribunal has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the custody account closed on 17 October 1938.

#### Amount of the Award

Pursuant to Article 35 of the Rules Governing the Claims Resolution Process (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 present value of this amount is calculated by multiplying it by a factor of 11.5, in accordance with Article 37(1) of the Rules, to produce a total award amount of 149,500.00 Swiss Francs.

According to Article 37 of the Rules, in cases where the amount in the account is not known, claimants shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. 35% of the total award amount for the custody account is 52,325.00 Swiss Francs.

---

In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. Although some of these laws were promulgated before the Nazis came into power, and although many of the laws were facially non-discriminatory, the Nazi Regime increasingly enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside Germany and special confiscatory taxes for emigrants who wished to flee Germany. Until 1937, the laws generally did not explicitly target Jews, although in practice the laws were enforced more stringently against Jews. Over the course of 1937, however, the spoliation process became increasingly wholesale and systematic and Nazi expropriations of Jewish assets held in Swiss banks and elsewhere became widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, [www.crt-ii.org](http://www.crt-ii.org).

receive a subsequent payment of up to the remaining 65% of the total award amount. 35% of the total award amount for the custody account is 52,325.00 Swiss Francs.

### **Scope of the Award**

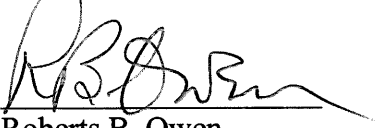
The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

### **Certification of the Award**

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a plausible case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same accounts will be forthcoming. The Special Masters appointed by the Court to supervise the Claims Resolution Process for Deposited Assets Claims have stressed the importance of moving ahead quickly to begin to make awards to Holocaust victim claimants or their heirs. They therefore have instructed the Tribunal that in particular cases where the Tribunal is satisfied that the currently identified claimant has a plausible claim and that the risk of future competing claims is low, the Tribunal should prepare an award to that claimant and submit it to the Court for approval. This is such a case.

In this case, the Tribunal is of the opinion that the Claimant has presented a plausible claim to the account. On this basis, and taking into account the instructions of the Special Masters, the Tribunal recommends approval of the present Award by the Court for payment by the Special Masters in accordance with Article 37(3) of the Rules.

24 Jan. 2002  
Date

  
Roberts B. Owen  
Senior Claims Judge