

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
represented by [REDACTED]

**in re Accounts of Alexandre Rado, Helene Rado and Geopress S.A.**

Claim Number: 207483/PY

Award Amount: 250,800.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], formerly known as [REDACTED] (the “Claimant”), to the accounts of Alexandre Rado. This Award is to the accounts of Alexandre Rado, Helene Rado, and *Geopress S.A.* (the “Account Owners”) at the Basel and New York branches 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 Owners as his maternal uncle, Alexandre (Sandor) Rado, who was born on 5 November 1899 in Ujpest, Hungary, and his aunt, Helene Rado, née [REDACTED], also known as [REDACTED], who was born in approximately 1906 in Germany. The Claimant identified the other Account Owner, *Geopress S.A.*, as a company owned by Alexandre Rado. The Claimant stated that Alexandre Rado and Helene Rado were married in 1930 in Berlin, Germany, and had two children, [REDACTED] and [REDACTED]. The Claimant stated that his uncle, who was Jewish, was a Hungarian citizen who conducted a clandestine intelligence operation on behalf of the Russians during the Second World War while based in Switzerland. The Claimant stated that between 1934 and 1943, his uncle was residing at 116 Rue de Lausanne in Geneva, Switzerland. The Claimant also stated that his uncle owned a company based in Geneva known as *Geopress S.A.*, which had been established in France before 1934, and was in the business of producing maps. According to the Claimant, his uncle maintained bank and safe deposit accounts with the Bank in Geneva and New York during this period, containing approximately 120,000.00 Swiss Francs in cash and valuables worth approximately 300,000.00 United States Dollars. The Claimant asserted that in addition to maintaining bank accounts in his own name in Switzerland, Alexandre Rado also opened bank accounts in Geneva in the names of his sister [REDACTED], née [REDACTED], also known as [REDACTED], his brother-in-law [REDACTED] (the Claimant’s father), and his

mother [REDACTED], née [REDACTED]. The Claimant added that his uncle told him in 1955 in Hungary that diamonds and a valuable stamp collection belonging to the Claimant's parents had been handed over to him, and that he had deposited them in his safe deposit box at the Rue de Cornavin branch of the Bank in Geneva. The Claimant stated that his father [REDACTED] perished in the Mauthausen concentration camp and that his mother was deported to Auschwitz in June 1944 and later liberated from Bergen-Belsen concentration camp in 1945.

The Claimant stated that Alexandre Rado's intelligence operation was exposed in 1943 and all the property in his apartment in Geneva was seized by the Swiss military police. The Claimant stated that his uncle had fled to France by this time. The Claimant added that his uncle was tried by a Swiss court in 1947 in absentia, sentenced to three years in prison and banned from entering Switzerland for fifteen years, and was therefore unable to return to retrieve his assets in Switzerland. The Claimant stated that Alexandre Rado was handed over to the Soviet authorities in 1945 by the British authorities in Egypt, where his uncle had tried to seek asylum, and was imprisoned by the Russian authorities until 1955 in Gulag for collaborating with the United States and Great Britain. The Claimant added that his uncle died in Budapest, Hungary around 1980, while his uncle's wife, Helene Rado, died in 1959, also in Budapest. The Claimant stated further that Alexandre and Helene Rado's two sons, [REDACTED], died in 1965 and 1980 respectively in France. In addition, the Claimant stated that he had submitted a claim to the accounts of his aunt and uncle to the Swiss Banking Ombudsman in 1999. The Claimant also submitted a letter dated 15 July 1997, to [REDACTED] (the Claimant's nephew and legal representative) in relation to the Holocaust Victims' Assets Class Action Lawsuit, in which the Claimant was a plaintiff. In support of his claim, the Claimant submitted his uncle's will, signed on 23 April 1945 when his uncle was in Zeitoun near Cairo, Egypt, in which he lists among his assets an account at the Cornavin branch of the Bank in Geneva, an account at the Bank at Nassau Street in New York, New York, and an account at the Geneva Post Office Bank. The will also states that Alexandre Rado's wife was Helene Rado, née [REDACTED], that his sister was [REDACTED], née [REDACTED], and that his brother-in-law was [REDACTED]. The Claimant also submitted his own birth certificate, which indicates that his parents were [REDACTED] and [REDACTED]. The Claimant indicated that he was born on 5 November 1922 in Ujpest, Hungary.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting his entitlement to a Swiss bank account owned by either Alexandre Rado, [REDACTED], or [REDACTED].

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

The bank records consist of an opening contract dated 29 April 1933 in Basel, a notice on the same date requesting all correspondence to be sent to Alexandre Rado at Vienna XIII, Wambacherstrasse 9, printouts from the Bank's database, and a letter dated 3 January 1944 from the state prosecutor in Bern, Switzerland to the Bank, requesting that all the accounts belonging to Alexander Rado, Helene Rado, and the company *Geopress S.A.* be blocked. According to these records, the Account Owners were Alexandre Rado and Helene Rado, née [REDACTED], who both resided at Vienna XIII, Wambacherstrasse 9, and a company named *Geopress S.A.*

The bank records indicate that Account Owners Alexandre and Helene Rado held a joint custody account numbered 39040, as well as an account of unknown type which they owned together with *Geopress S.A.* The account of unknown type held at the Basel branch of the Bank was frozen on 3 January 1944.

Moreover, the auditors included a memorandum to the file regarding Alexandre Rado identifying him as a Jewish Russian spy in Switzerland during the Second World War who was expelled from Switzerland around the time that his accounts were frozen and stating that he resurfaced behind the Iron Curtain in Hungary in 1955. The same memorandum also states that Alexander Rado held an account of unknown type at the Bank's New York branch, which was frozen in 1941.

The bank records do not show when the accounts at issue were closed or to whom they were paid, nor do these records indicate the value of these accounts. 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") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. The auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the bank 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 Owners. His aunt's and uncle's name match the published names of the Account Owners. The name of the company established and owned by his uncle, *Geopress S.A.*, and identified by the Claimant, matches the unpublished name of one of the Account Owners. The CRT also notes that the names of the Account Owners were published separately, and the Claimant identified the connection between them and stated that Alexandre Rado was married to Helene Rado, née [REDACTED]. The Claimant also identified one of the branches of the Bank where his uncle's accounts were located, which matches unpublished information about the Account Owners contained in the bank records.

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

The Claimant has made a plausible showing that the Account Owners were Victims or Targets of Nazi Persecution. The Claimant stated that Alexandre Rado was Jewish and that he was a Russian spy operating in Europe during the Second World War. As a Jewish person who was actively involved working for the defeat of the Nazis during World War II, the Account Owner clearly qualifies as a Victim or Target of Nazi persecution.

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

The Claimant has plausibly demonstrated that he is related to the Account Owners.

### The Issue of Who Received the Proceeds

The CRT is unaware of any legal process in Switzerland that deprived the Account Owner of his accounts. Given the application of Presumptions (h) and (j) as provided in Article 28 of the Rules Governing the Claims Resolution Process (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. 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 uncle, aunt and their company, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owner held a custody account and 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 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, while the average value of an account of unknown type was 3,950.00. As the Account Owners held one custody account and one account of unknown type, this makes a total of 20,900.00 Swiss Francs. The present 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 250,800.00 Swiss Francs.

### **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  
April 4, 2003

**ARTICLE 28 OF THE RULES GOVERNING THE CLAIMS RESOLUTION PROCESS  
(AS AMENDED)**

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:<sup>1</sup>

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;<sup>2</sup>
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.<sup>3</sup>

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<sup>1</sup> See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

<sup>2</sup> See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

<sup>3</sup> As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).