

# 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]

**in re Account of Erna Rotter**

Claim Number: 202225/AY

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Erna Rotter (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 maternal grandmother, Erna Rotter, née Walther, who was born on 29 March 1904 in Berlin, Germany, to [REDACTED] and [REDACTED], née [REDACTED], and was married to [REDACTED]. The Claimant further stated that his grandparents had one daughter, [REDACTED], née [REDACTED] (the Claimant’s mother), who was born on 18 August 1927 in Germany. The Claimant indicated that his grandmother, who was Jewish, was a housewife, who lived with her family in Germany until 1938, when they fled to Los Angeles, California. The Claimant explained that, before his grandparents fled Germany, they deposited their assets in a Swiss bank in order to plan for their retirement in Switzerland. The Claimant further explained that his grandparents lived in Los Angeles until 1956, when they moved to Munich, Germany. The Claimant stated that in 1965, his grandparents moved to Chiosso Del Conte 4 in Ascona, Switzerland, where they lived until 1984, when they moved to Via San Gottardo 8 in Muralto, Switzerland. The Claimant further stated that his grandfather died on 11 April 1984 in Ascona, that his grandmother died on 25 September 1993, in Muralto, and that his mother died on 17 June 2000, in San Mateo, California.

In support of his Claim, the Claimant submitted his mother’s death certificate, identifying the Claimant’s mother as [REDACTED], née [REDACTED], who was born in Germany to Fritz and Erna Rotter; Erna Rotter’s death certificate, indicating that she was born in Berlin, Germany, on 29 March 1904 to [REDACTED] and [REDACTED] and that she was the widow of

[REDACTED], who passed away on 11 April 1984; Erna Rotter's will, dated 31 August 1985, which was handwritten and signed by Erna Rotter and identifies the Claimant's mother, [REDACTED], as Erna Rotter's daughter; and a notary document, dated 25 September 1993, which specifies changes to the will of Erna Rotter, née Walther, refers to the death of Erna Rotter's daughter, [REDACTED], and indicates that Erna Rotter's estate should be equally divided between her grandchildren, [REDACTED] (the Claimant's brother) and [REDACTED] (the Claimant). The Claimant indicated that he was born on 25 January 1953 in Los Angeles.

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

The Bank's record consists of a customer card. According to this record, the Account Owner was *Frau* (Mrs.) Erna Rotter who resided in Berlin, Germany. The Bank's record indicates that the Account Owner held one demand deposit account, which was opened on 30 November 1932 and closed on 20 August 1933. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record 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. His maternal grandmother's name matches the published name of the Account Owner. The Claimant stated that his grandmother resided in Berlin, Germany, which matches unpublished information about the Account Owner contained in the Bank's record. The Claimant also submitted his mother's death certificate, identifying her as [REDACTED], née [REDACTED], and indicating that Erna Rotter was her mother; Erna Rotter's will, dated 31 August 1985, which identifies the Claimant's mother, [REDACTED], as Erna Rotter's daughter; and a notary document, dated 25 September 1993, which specifies changes to the will of Erna Rotter, née Walther, refers to the death of Erna Rotter's daughter, [REDACTED], and indicates that Erna Rotter's estate should be equally divided between her grandchildren, the Claimant and his brother. The CRT notes that there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

#### 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 that she resided in Germany until 1938, when she fled Nazi Germany to the United States.

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

The Claimant has plausibly demonstrated that he is related to the Account Owner. The Claimant submitted specific biographical information and documents, which demonstrate that the Account

Owner was his maternal grandmother. These documents include his mother's death certificate, identifying her as [REDACTED], née [REDACTED], and indicating that Erna Rotter was her mother; Erna Rotter's will, dated 31 August 1985, which identifies the Claimant's mother, [REDACTED], as Erna Rotter's daughter; and a notary document, dated 25 September 1993, which specifies changes to the will of Erna Rotter, née Walther, refers to the death of Erna Rotter's daughter, [REDACTED], and indicates that Erna Rotter's estate should be equally divided between her grandchildren, the Claimant and his brother. The CRT notes that the Claimant's brother did not submit a Claim Form to the CRT.

### The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of flight taxes and other confiscatory measures including confiscation of assets held in Swiss Banks; that the account was closed on 20 August 1933; that the Account Owner remained in Germany until 1938 and would not have been able to repatriate her account to Germany without its confiscation prior to that time; that there is no record of the payment of the Account Owner's account to her; that the Account Owner's heirs would not have been able to obtain information about the 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 (a), (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>1</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.

### 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 Owner was his maternal grandmother, 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 claimed account.

### Amount of the Award

In this case, the Account Owner held one demand deposit account. 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 investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 26,750.00 Swiss Francs.

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<sup>1</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(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing his brother. Accordingly, the Claimant and his brother are each entitled to one-half of the total award amount.

### **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  
20 May 2004