

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to the Estate of Claimant [REDACTED]<sup>1</sup>

**in re Account of Herscu Schuler**

Claim Numbers: 753498/WI;<sup>2</sup> 783401/WI<sup>3</sup>

Award Amount: 42,541.88 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published account of Herscu Schuler (the “Account Owner”), over which Jeny Schuler (the “Power of Attorney Holder”) held power of attorney 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 an Initial Questionnaire (“IQ”) identifying the Account Owner as his maternal grandfather, Herscu Schuler (Suleru), who was born on 22 August 1886 in Bacau, Romania, and was married to [REDACTED] on 19 June 1919 in Bucharest, Romania. The Claimant indicated that his grandfather, who was Jewish, resided at Vasile Conta 3-5 and

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<sup>1</sup> The CRT notes that Claimant [REDACTED] died on 16 February 2000.

<sup>2</sup> Claimant [REDACTED] (“Claimant [REDACTED]”) did not submit a CRT Claim Form. However, in 1998 he submitted an ATAG Ernst & Young claim form (“ATAG Form”), numbered C-NYC-71-107-121-034, to the Claims Resolution Tribunal for Dormant Accounts in Switzerland (“CRT I”), which arbitrated claims to certain dormant Swiss bank accounts between 1997 and 2001. On 30 December 2004, the Court ordered that claims submitted to but not treated by either CRT I, the Independent Committee of Eminent Persons (“ICEP”), or ATAG Ernst & Young shall be treated as timely claims under the current Claims Resolution Process (the “CRT”) as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Order Concerning the Use of ICEP Claims as Claim Forms in the Claims Resolution Process for Deposited Assets (30 December 2004). The Claimant’s ATAG Form was forwarded to the CRT and has been assigned Claim Number 753498.

<sup>3</sup> Claimant Evian did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered ENG-0527-081, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned claim number 783401.

Vinatori 3 in Bucharest prior to the Second World War. The Claimant further identified the Power of Attorney Holder as his grandfather's only daughter, Jeni (Jeny) Schuler (the Claimant's mother), who was born 1 May 1920 in Bucharest and was married to [REDACTED] on 17 December 1941 in Bucharest. The Claimant did not indicate the fate of his relatives during the Second World War. Finally, the Claimant indicated that his grandfather died on 17 December 1965 in Bucharest, and that his mother died on 30 October 1988, also in Bucharest.

The Claimant submitted copies of: (1) his birth certificate, indicating that [REDACTED] was born on 7 August 1943 in Bucharest and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (2) his mother's birth certificate, indicating [REDACTED] was born on 1 May 1920 in Bucharest and that her parents were Herscu Schuler and [REDACTED]; (3) his mother's marriage certificate, indicating that [REDACTED] married [REDACTED] on 17 December 1941 in Bucharest; (4) change of name certificates for his father, indicating that [REDACTED] changed his name from [REDACTED] to [REDACTED]; (5) his mother's death certificate, indicating that [REDACTED] died on 30 October 1988 in Bucharest; (6) his grandfather's birth certificate, indicating that Herscu Schuler was born on 22 August 1886 in Bacau to [REDACTED] and [REDACTED], née [REDACTED], and that he was Jewish; (7) his grandfather's marriage certificate, indicating that Herscu Schuler married [REDACTED] on 19 June 1919 in Bucharest; (8) his grandfather's death certificate, indicating that Herscu Schuler died on 17 December 1965 in Bucharest; (9) his grandfather's inheritance certificate issued by the Romanian Ministry of Justice on 22 March 1966, indicating that Herscu Schuler's sole heir was his daughter, [REDACTED].

The Claimant indicated that he was born on 7 August 1943 in Bucharest.

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

The CRT notes that 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 report an account belonging to Herscu Schuler during their investigation of the Bank. The documents evidencing an account belonging to Herscu Schuler were obtained archival sources in Switzerland and are further described below.

### **Information Available in the Swiss Federal Archive**

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution ("the 1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Herscu Schuler, numbered 215.

These records indicate that the Account Owner was Herscu Schuler, and the Power of Attorney Holder was Jeny Schuler. According to these records, as of 1941 the Account Owner resided at Vanatori 31 bis in Bucharest, Romania. The Swiss Federal Archive records further indicate that the Account Owner held a demand deposit account with a balance of 3,103.35 Swiss Francs (“SF”) as of 27 February 1964. These records further indicate that the last contact with the Account Owner occurred before the end of the Second World War. The records show that the custodian was appointed in December 1966. The records do not contain information about the ultimate disposition of this account.

## **The CRT’s Analysis**

### Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), claims to the same or related accounts may be joined in one proceeding at the CRT’s discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owner and the Power of Attorney Holder. The Claimant’s maternal grandfather’s and mother’s names match the published names of the Account Owner and the Power of Attorney Holder. Furthermore, the Claimants grandfather’s city and country of residence, including the exact street address, match the published city and country of residence and the street address of the Account Owner.<sup>4</sup>

In support of his claim, the Claimant submitted documents, including: his mother’s birth certificate; his mother’s marriage certificate; his mother’s death certificate; his grandfather’s birth certificate; his grandfather’s marriage certificate; his grandfather death certificate; and his grandfather’s inheritance certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same town recorded in the Bank’s records as the name and city of residence of the Account Owner.

The CRT notes that the Claimant filed IQs with the Court in 1998 and 1999, asserting his entitlement to a Swiss bank account owned by Herscu Schuler, prior to the publication of the List of Account Owners determined by ICEP to be probably or possibly those of Victims of Nazi Persecution and published in 2005 (the “2005 List”). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the 2005 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 2005 List. It also indicates that the Claimant

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<sup>4</sup> The CRT notes that no information other than the Account Owner’s name was published on the List of Account Owners determined by ICEP to be probably or possibly those of Victims of Nazi Persecution and published in 2005 (the “2005 List”). However, specific information was available to the public from the “Registration Decree of 1962 - Unclaimed Assets - Publication of names of Assets’ Owners and their representatives,” which was published on 18 November 1998 in the Official Journal of Switzerland.

had reason to believe that his relative owned a Swiss bank account prior to the publication of the 2005 List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the name Herscu Schuler appears only once on the 2005 List. The CRT notes that the other claim to this account was disconfirmed because that claimant provided a different city of residence than the city of residence of the Account Owner.

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

The Claimants has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner and the Power of Attorney Holder were Jewish and that they resided in Nazi-allied Romania.

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

The Claimant has plausibly demonstrated that he is related to the Account Owner and to the Power of Attorney Holder by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's maternal grandfather and that the Power of Attorney Holder was the Claimant's mother.

These documents include: (1) his own birth certificate, indicating that [REDACTED]'s parents were [REDACTED] and [REDACTED], n e [REDACTED]; (2) his mother's birth certificate, indicating that [REDACTED]'s parents were Herscu Schuler and [REDACTED]; (3) his mother's marriage certificate, indicating that [REDACTED]'s parents were Herscu Schuler and [REDACTED] (4) his mother's death certificate, indicating [REDACTED]'s parents were Herscu Schuler and [REDACTED]; (5) his grandfather's marriage certificate, indicating that Herscu Schuler married [REDACTED] on 19 June 1919 in Bucharest; (6) his grandfather's inheritance certificate issued by the Romanian Ministry of Justice on 22 March 1966, indicating that Herscu Schuler's sole heir is his daughter, [REDACTED].

There is no information to indicate that the Account Owner has other surviving heirs

#### The Issue of Who Received the Proceeds

According to the records from the Swiss Federal Archive, the assets were registered in the 1962 Survey and the last recorded date of contact with the Account Owner was in 1941. Given that the Account Owner and the Power of Attorney Holder lived in Nazi-allied Romania and that after the War they lived behind the Iron Curtain until their deaths; that there is no record of the payment of the Account Owner's assets to him or to the Power of Attorney Holder; that the Account Owner, the Power of Attorney Holder and their heirs would not have been able to obtain information about his 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 (h), (i) 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 Owner, the Power of

Attorney Holder 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 claims are 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 grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed account.

#### Amount of the Award

In this case, the Account Owner held one demand deposit account. The Swiss Federal Archives records indicate that the value of the account as of 27 February 1964 was SF 3,103.35. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 300.00, which reflects standardized bank fees charged to a demand deposit account between 1945 and 1964. Consequently, the adjusted balance of the account at issue is SF 3,403.35. The current value of the amount of the award is determined by multiplying the adjusted balance by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 42,541.88.

#### **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 claims to determine whether there are additional Swiss bank accounts to which they 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  
19 December 2007