

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Osnat Alon  
also acting on behalf of Gadi Gillai  
represented by Yuval Hen

## **in re Accounts of Georg Schwarz**

Claim Numbers: 150095/AX; 710664/AX<sup>1</sup>

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of Osnat Alon, née Freudenberg (the “Claimant”) to the published accounts of Georg Schwarz (the “Account Owner”) at the [REDACTED] (the “Bank”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

## **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as her maternal grandfather, Georg Schwarz, who was born on 8 September 1880 in Wartenburg, Germany, and was married to Ella Schwarz, née Neumark. The Claimant stated that Georg and Ella Schwarz had two children: Eva Freudenberg, née Schwarz (the Claimant’s mother) and Herbert Schwarz. The Claimant indicated that her grandparents resided in Wartenburg before the Second World War. The Claimant further indicated that her grandfather, who was Jewish, was in the coal business. According to the Claimant, her grandfather was forced to sell the business to the Nazis. The Claimant indicated that her grandfather was killed by the Nazis in Wartenburg, but does not remember the date of his death. The Claimant stated that Ella Schwarz died in 1956 in Israel and that her mother died in August 1982 in Israel. In a telephone conversation with the CRT on 26 January 2005, the Claimant indicated that she did not know many details about her grandfather because she was born after his death. In support of her claim, the Claimant submitted her family

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<sup>1</sup> In addition to submitting a Claim Form to the CRT, the Claimant submitted an Initial Questionnaire (“IQ”), numbered HEB 0001 144, 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 710664.

book indicating that Georg Schwarz was the father of Eva Freudenberg, née Schwarz, and that he was from Wartenburg; and a declaration sworn by Chava Gillai (formerly Eva Schwarz) on 6 January 1969, indicating that the Claimant is her daughter, and that Georg Schwarz is her father. The Claimant indicated that she was born on 9 February 1948 in Hadeta, Palestine (now Israel). The Claimant is representing her brother, Gadi Gillai, who was born on 12 May 1939 in Petach Tikva, Palestine (now Israel).

The Claimant previously submitted an Initial Questionnaire (“IQ”) with the Court in 1999 asserting her entitlement to a Swiss bank account owned by her grandfather, Georg Schwarz.

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

The Bank’s records consist of a customer card. According to this record, the Account Owner was Georg Schwarz who resided in Leipzig, Germany. The Bank’s record indicates that the Account Owner held one custody account, numbered L 34644, and one demand deposit account. The Bank’s record further indicates that the accounts were opened in May 1929, that the custody account was closed on 22 December 1933, and the demand deposit account was closed on 31 December 1933. The value of the accounts on the dates of their closure is unknown. There is no evidence in the Bank’s record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

### **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 Claimant in one proceeding.

#### Identification of the Account Owner

The Claimant’s grandfather’s name and country of residence match the published name and country of residence of the Account Owner. The CRT notes that the Claimant indicated that his grandfather’s city of residence was Wartenburg, while the Bank’s record indicates that the Account Owner resided in Leipzig. However, the CRT further notes that Wartenburg is 70 kilometers from Leipzig, which is the closest major city to Wartenburg. Furthermore, the Claimant was born after the Second World War and may not have full knowledge of her grandfather’s addresses before the Second World War, or where her grandfather may have had business connections. In support of her claim, the Claimant submitted documents, including her family book indicating that Georg Schwarz was the father of Eva Freudenberg, née Schwarz, and that he was from Wartenburg, Germany; and an official declaration by Chava Gilai (formerly Eva Schwarz), indicating that the Claimant is her daughter, and that Georg Schwarz was her father, providing independent verification that the person who is claimed to be the Account

Owner had the same name and resided in the same country recorded in the Bank's record as the name and country of residence of the Account Owner.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by her grandfather, Georg Schwarz, prior to the publication in February 2001 of the list of accounts determined by the Independent Committee of Eminent Persons ("ICEP") to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her 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 her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her 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 country of residence than that of the Account Owner, or provided a city of residence in the same country that was distant from the Account Owner's city of residence. 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 he was killed by the Nazis.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's grandfather. These documents include her family book indicating that Georg Schwarz was the father of Eva Freudenberg, née Schwarz; and an official declaration by Chava Gilai (formerly Eva Schwarz), indicating that the Claimant is her daughter, and that Georg Schwarz is her father.

#### The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until he was killed by the Nazis during the Second World War, and would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; that there is no record of the payment of the Account Owner's accounts to him; that the Account Owner and his heirs would not have been able to obtain information about his 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; 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>2</sup> the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his 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 her grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody 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 present value of the account being awarded. Based on the investigation carried out pursuant to the instructions of ICEP (“ICEP Investigation”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”), and the average value of a demand deposit account was SF 2,140.00. Thus, the total 1945 average value of the accounts at issue is SF 15,140.00. The present 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 SF 189,250.00.

### 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 her brother, Gadi Gillai. Accordingly, the Claimant and her 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 her 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).

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<sup>2</sup> Appendix C appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

**Certification of the Award**

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal  
15 July 2005