

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Daisy Straus  
also acting on behalf of William Schwarz

## **in re Account of Josef Schwarz**

Claim Number: 201054/WT

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of Daisy Straus, née Schwarz, (the “Claimant”) to the published account of Josef Schwarz (the “Account Owner”) at the Wettingen branch of the [REDACTED] (the “Bank”).<sup>1</sup>

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 father, Josef Schwarz, who was born on 6 August 1894 in Vienna, Austria, and was married to Renee Schwarz, née Schindler, on 28 January 1923 in Vienna. The Claimant indicated that her father, who was Jewish, was the son of Vilmas Schwarz and Roza Schwarz, née Bittner, and that he operated a wholesale grain business, which was located at Taborstrasse 11A in Vienna. The Claimant indicated that after the incorporation of Austria into the Reich in March 1938 (the “Anschluss”), her father’s home, business, and property were confiscated; in July 1938, her family fled to Italy and ultimately to the United States, where her father died in San Francisco on 23 April 1944.

The Claimant submitted copies of: (1) her father’s birth certificate, indicating that Josef Schwarz was born on 6 August 1894 to Vilmas Schwarz and Roza Schwarz, née Bittner; (2) her father’s 1938 census records, which are further described below; (3) a certificate, issued by the Nazi authorities in Vienna (*Polizeidirektion in Wien*) and dated 8 July 1938, indicating that Josef

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<sup>1</sup> The CRT notes that on the February 2001 published 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”), the name Josef Schwarz appears twice. Upon careful review, the CRT has determined that the second Josef Schwarz is not the same person addressed in the current decision and, consequently, Claimant Daisy Straus (the “Claimant”) did not identify this other account owner as her relative.

Schwarz, who resided at Taborstrasse 11A in Vienna, intended to emigrate to Italy, and that the authorities confirmed that there were no criminal or legal proceedings pending against him in Vienna; (4) her own birth certificate, issued by the Hebrew Community of Vienna (*israelitische Kultusgemeinde in Wien*), indicating that Daisy Valerie Schwarz was born on 16 October 1927 to Josef Schwarz and Renee Schwarz, née Schindler; (5) her own naturalization certificate, indicating that Daisy Valerie Schwarz of Austria became a citizen of the United States on 10 July 1944; and (6) her own marriage certificate, indicating that Daisy Schwarz married Gerhard Straus on 6 February 1947 in San Francisco, California, the United States.

The Claimant indicated that she was born on 16 October 1927 in Vienna. The Claimant is representing her brother, William Schwarz, who was born on 30 October 1923 in Vienna.

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

The Bank's records consist of a list of suspended accounts and an extract from the register of the Bank's collective suspense account. According to these records, the Account Owner was Josef Schwarz. The Bank's records do not indicate the Account Owner's domicile. The Bank's records indicate that the Account Owner held a savings/passbook account, numbered 1635, which was transferred to the Bank's suspense account on 19 February 1963. The amount in the account on the date of its transfer, according to these records, was 7.10 Swiss Francs ("SF").

### **Information Available from the Austrian State Archive**

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Josef Schwarz, numbered 2650. According to these records, Josef Schwarz was a businessman (*Kaufmann*) who was born on 6 August 1894, and who resided at Taborstrasse 11A in Vienna, with his wife, Renee Schwarz, née Schindler. These records further indicate that Josef Schwarz operated a feed store, *Josef Schwarz Getreide und Futtermittel*, which was also located at Taborstrasse 11A. The records indicate that Josef Schwarz held an insurance policy for the care of his daughter, who is not named in the records, with the *Anker* insurance company. In addition, the records include a letter written by Josef Schwarz on his company letterhead on 2 July 1938, indicating that he would leave the country the following day, namely 3 July 1938.

These records make no mention of assets held in a Swiss bank account.

### **The CRT's Analysis**

#### Identification of the Account Owner

The Claimant's father's name matches the published name of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner

other than his name. In support of her claim, the Claimant submitted documents, including her father's birth certificate, her father's Austrian census records, her father's certificate from the Vienna police, and her own birth certificate, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner. The CRT notes that there are no other equally plausible claims to this account.<sup>2</sup> 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, that after the *Anschluss* in March 1938 his home and business were confiscated, and that in July 1938 he fled with his family to Italy, and ultimately to the United States. The Claimant also submitted her father's 1938 census records, and a certificate issued to her father by the Vienna police in relation to his emigration from Austria in July 1938.

#### 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 father. These documents include her own birth certificate, indicating that Daisy Valerie Schwarz was the daughter of Josef Schwarz. There is no information to indicate that the Account Owner has surviving heirs other than the party whom the Claimant is representing.

#### The Issue of Who Received the Proceeds

The Bank's records indicate that the account remains open and dormant.

#### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant and the party she represents. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"). Second, the Claimant has plausibly demonstrated that the Account Owner was her father, and that

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<sup>2</sup> As detailed in the section entitled "Information Available in the Bank's Records," very little information is available concerning the Account Owner in this case. Usually, in determining whether a claimant has identified an account owner as his or her relative, the CRT considers such factors as an account owner's city or country of residence, profession, nationality, and/or names of family members. Since such information about the account owner is not available in this case, the CRT considers other, more detailed and nuanced factors. Such factors include, but are not limited to, whether a claimant identified an exact spelling of the account owner's name; whether the claimant was able to provide documentation linking his or her surname to that of the account owner, thereby demonstrating a familial relationship to a person with the same name as the account owner; whether a claimant identified the account owner's name prior to its publication, or despite the fact that the name was never published; and/or whether the fate of the claimant's relative is consistent with the disposition of the claimed account. Based upon these considerations, matches between this account and less plausible claims were disconfirmed, and those claims were excluded from this decision.

relationship justifies an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

#### Amount of the Award

In this case, the Account Owner held one savings/passbook account. The Bank's records indicate that the value of the savings/passbook account as of 19 February 1963 was SF 7.10. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 285.00, which reflects standardized bank fees charged to the account between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 292.10. According to Article 29 of the Rules, if the amount in a savings/passbook account was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. 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 10,375.00.

#### 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. Accordingly, the Claimant and her brother are each entitled to one-half of the total award amount.

#### **Certification of the Award**

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

Claims Resolution Tribunal  
12 May 2009