

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

## **in re Account of E. Silberberg**

Claim Number: 200407/LH

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Marcus Silberberg.<sup>1</sup> This Award is to the account of El. Silberberg (the “Account Owner”), published as “E. Silberberg” in 2005, 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 her paternal grandfather, Eli Silberberg, who was married to [REDACTED], née [REDACTED], with whom he had one child, [REDACTED] (the Claimant’s father). In a telephone conversation with the CRT, the Claimant stated that her grandfather, who was Jewish, lived in Antwerp, Belgium, and periodically resided in Brussels, Belgium. According to the information provided by the Claimant, during the Second World War, her grandfather was forced to leave Antwerp to Brussels, where he resided at 81 rue Gottard. The Claimant indicated that her grandfather subsequently emigrated to Australia, where he died. The Claimant further stated that she and her parents, [REDACTED] and [REDACTED], née [REDACTED], lived in hiding in Brussels until 1943, when her parents were discovered by the Nazis and deported to the Warsaw Ghetto, where they perished.

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<sup>1</sup> In a separate decision, the CRT treated the Claimant’s claim to the account of Marcus Silberberg (approved on 17 December 2007). The CRT notes that in this decision, the Claimant was also informed that no accounts belonging to Eli Silberberg were included in the Account History Database prepared by the ICEP auditors. That determination was based on the full name of the Claimant’s relative. The account addressed in the current decision is identified in the Account History Database only by the Account Owner’s first name abbreviation and last name.

In support of her claim, the Claimant submitted a copy of her Belgian identity card, indicating that her name is [REDACTED] and that she was born on 28 March 1927 in Antwerp.

The Claimant indicated that she was born on 28 March 1927 in Antwerp. The Claimant previously submitted an Initial Questionnaire to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Regine Silberberg.<sup>2</sup>

### **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 (the "ICEP Investigation") did not report an account belonging to Eli Silberberg during their investigation. The documents evidencing an account belonging to E. Silberberg were obtained from the Swiss Federal Archive 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 E. Silberberg, numbered 814.

The Swiss Federal Archive records indicate that the Account Owner was El. Silberberg, who resided at 15 rue Léon Lepale in Brussels, Belgium. These records indicate the last contact between the Bank and the Account Owner occurred prior to 1945, that he was probably a Jewish male and probably a businessman. According to these documents, the Account Owner held an account, the type of which is not indicated, which had a balance of 538.30 Swiss Francs ("SF") as of 1 September 1963. The records do not contain information about the disposition of this account. There is no evidence in these records that the Account Owner or his heirs closed the account and received the proceeds themselves.

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

#### Identification of the Account Owner

The Claimant's grandfather's first initial and last name match the published first initial and last name of the Account Owner. The Claimant identified the Account Owner's city and country of

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<sup>2</sup> The CRT did not locate an account belonging to Regine Silberberg in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the "Rules").

residence, which match published information about the Account Owner contained in the records from the Swiss Federal Archive. The Claimant also identified the Account Owner's gender and the second letter of his first name, which match unpublished information about the Account Owner contained in the Swiss Federal Archive records. The CRT notes that although the street address provided by the Claimant does not match the address provided in these records, the Claimant indicated that the address she provided was the Account Owner's address during the War and that he may have lived elsewhere in Brussels at the time that the account was opened, and determines that this does not adversely affect the Claimant's identification of the Account Owner.

The CRT notes that the name E. Silberberg appears only once on the List of Account Owners Published in 2005 (the "2005 List"). The CRT further notes that the other claims to this account were disconfirmed because those claimants provided a different gender and/or different countries of residence than the gender and country of residence of the Account Owner. 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 resided in Nazi-occupied Belgium. The Claimant further indicated that the Account Owner's son and daughter-in-law were deported in 1943 to the Warsaw Ghetto, where they perished.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific biographical information, demonstrating that the Account Owner was the Claimant's grandfather.

The CRT notes that the Claimant identified unpublished information about the Account Owner as contained in the Swiss Federal Archive records. The CRT further notes that the Claimant submitted a copy of her Belgian identity card, which provides independent verification that the Claimant bore the same family name as the Account Owner, and that her family resided in Belgium. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all of this information supports the plausibility that the Claimant is related to the Account Owner, as she has asserted in her Claim Form. There is no information to indicate that the Account Owner has other surviving heirs.

#### The Issue of Who Received the Proceeds

Given that the Account Owner resided in Nazi-occupied Belgium; that the Account Owner's name was published in the 1962 Survey; that there is no record of the payment of the Account Owner's account to him nor any record of a date of closure of the account; that the Account Owner and his 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 Presumption (h), 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 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 account.

### Amount of the Award

In this case, the Account Owner held one account of an unknown type. The records from the Swiss Federal Archive indicate that the value of the account as of 1 September 1963 was SF 538.30. 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 an account of an unknown type between 1945 and 1963. Consequently, the adjusted balance of the account at issue is SF 823.30. According to Article 29 of the Rules, if the amount in an account of an unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

### **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 claim to determine whether there are additional Swiss bank accounts to which she 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  
30 May 2008