

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Daniela Zizovy

## **in re Account of Erna Solmsen**

Claim Number: 211517/MC

Award Amount: 310,500.00 Swiss Francs

This Certified Award is based upon the Claim of Daniela Zizovy (the “Claimant”) to the Account of Erna Solmsen (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 is redacted.

## **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as her paternal grandmother. The Claimant stated that Erna Solmsen, *née* Landauer, who was Jewish, was the wife of Hugo Solmsen, an industrialist who lived in Berlin-Charlottenburg. According to the Claimant, Hugo Solmsen had numerous business contacts and clients in Switzerland and an agent in Basel. The Claimant stated that Hugo Solmsen also vacationed in Switzerland. According to the Claimant, Hugo and Erna Solmsen had two children, Rudolf and Herb, who was also known as Peter. Hugo Solmsen died on 12 May 1928 in London. The Claimant stated that Erna Solmsen died during deportation on 31 July 1942.

The Claimant stated that she was born in Jerusalem on 6 January 1944 and that she is the only child of Rudolf Solmsen and Sara Pomeranz. Rudolf Solmsen died on 14 January 1993, and Sara Solmsen died on 21 April 1994. The Claimant also stated that Herb Solmsen died without issue in May 1996, in San Francisco, California. In support of her claim, the Claimant submitted Rudolf Solmsen’s will, which designated his wife, Sara, as his sole heir, should she survive him, and the Claimant as his sole heir, should his wife predecease him. The Claimant also submitted a Certificate of Inheritance that confirmed that her mother’s entire estate passed to the Claimant at the time of her mother’s death.

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

The bank records contain internal bank documents and correspondence as well as excerpts from the Bank's ledger books recording accounts that were transferred to German banks. These records indicate that the sole Account Owner was "Widow Erna Solmsen," that she held a custody account, and that she resided in Berlin.

The internal bank documents and correspondence refer to the Seventh Implementation Order to the Law of Foreign Exchange Control of 19 November 1936 ("*Siebente Durchführungsverordnung zum Gesetz über die Devisenbewirtschaftung vom 19. November 1936*"). These foreign currency restriction measures mandated that German owners of foreign securities must deposit their securities at a German bank or, if in a bank outside Germany, into a German bank account there. According to the correspondence in the records, the original deadline for such transfers was 4 December 1936. The bank correspondence dated 16 February 1937 indicates that, in the period from the effective date of the Foreign Exchange Control Law until 31 January 1937, securities from 291 customer custody accounts in the amount of 6,266,760.00 Swiss Francs were transferred to various banks in Germany.

The records indicate that securities in the amount of 27,000.00 Swiss Francs were transferred from the Account Owner's account to the *Dresdner Bank* in Berlin on 1 December 1936. The records indicate that as a result of this transfer, the account was closed.

## **Tribunal's Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owner. Her grandmother's name matches the published name of the Account Owner. The Claimant stated that her grandmother lived in Berlin, which matches information about the Account Owner's place of residence contained in the bank documents. The Claimant also stated that her grandfather died in 1928, thereby making the Account Owner a widow. This information matches unpublished information contained in the bank records regarding the Account Owner's marital status.

### 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 a German Jew who died during deportation on 31 July 1942.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner. The Claimant has provided a copy of her father's will and a Certificate of Inheritance of her mother's estate, which confirm that she is the only child of Rudolf Solmsen, who was the Account Owner's son. The Claimant has stated that the Account Owner's other children had no children. There is no information to indicate that the Account Owner has other surviving heirs. The credibility of other information provided by the Claimant gives the Tribunal no basis to question the veracity of this information concerning her relationship to the Account Owner.

### The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award if the account at issue was paid to the Account Owner or her heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons during its investigation of Swiss banks (the "ICEP Investigation") demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families withdrew and received the funds. In other cases, Nazi authorities coerced account owners to withdraw the balances in their Swiss accounts and transfer the proceeds to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but account values were consumed by regular and special bank fees and charges, which resulted ultimately in closure without any payment to the account owners. In still other cases, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus, since the funds in this case apparently were not paid to the Account Owner or her family, there is a substantial likelihood that these funds went to the Nazis.

In this case, the bank documents show that the assets in the account were transferred to the Nazi-controlled *Dresdner Bank* in Berlin on 1 December 1936. Therefore, it is clear that the Account Owner or her heirs have not received the proceeds of the account.<sup>1</sup>

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<sup>1</sup> In reaching this conclusion, the Tribunal is relying in part on research cataloguing more than forty different laws, acts, and decrees used by the Nazi Regime to confiscate Jewish assets abroad. Although some of these laws were promulgated before the Nazis came into power, and although many of the laws were facially non-discriminatory, the Nazi Regime increasingly enforced these laws on a discriminatory basis against Jewish asset holders. These laws included, for example, increasingly stringent registration and repatriation requirements for assets held outside Germany and special confiscatory taxes for emigrants who wished to flee Germany. Until 1937, the laws generally did not explicitly target Jews, although in practice the laws were enforced more stringently against Jews. Over the course of 1937, however, the spoliation process became increasingly wholesale and systematic and Nazi expropriations of Jewish assets held in Swiss banks and elsewhere became widespread. A decree dated 26 April 1938 required Jews to register their assets, and subsequent to that date the Nazi Regime began to enact legislation and orders to repatriate and confiscate foreign assets both for Jews who sought permission to flee the Reich and for those unable to flee. A listing of the principal laws invoked by the Nazi Regime in specific confiscatory situations appears at the CRT-II website, [www.crt-ii.org](http://www.crt-ii.org).

### Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant. First, the claimed account belonged to a Victim of Nazi Persecution. Second, the Claimant has plausibly demonstrated that the Account Owner was her grandmother, and that relationship justifies an Award. Finally, the Tribunal has determined that it is probable that neither the Account Owner nor her heirs received the proceeds of the claimed account.

### Amount of the Award

The bank records indicate that the value of the assets transferred from the custody account on 1 December 1936 was 27,000.00 Swiss Francs. The present value of the amount of the award is determined by multiplying the historic value by a factor of 11.5, in accordance with Article 37(1) of the Rules. Consequently, the award amount in this case is 310,500.00 Swiss Francs.

In cases where the value of an account is based on the presumptions of Article 35 of the Rules, or where the Tribunal has determined that an account may be subject to later competing valid claims, claimants shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, claimants may receive a subsequent payment of up to the remaining 65% of the total award amount. In this case, there is the possibility of other competing claims. In this instance, 35% of the total award amount is 108,675.00 Swiss Francs.

### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal 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).

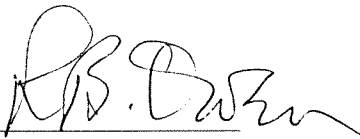
### **Certification of the Award**

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a plausible case for entitlement to an award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same account will be forthcoming. Article 37(3)(a) and (b) of the Rules provides that where the value of an award is calculated using the value presumptions provided in Article 35 of the Rules, and/or the Tribunal determines that an account may be subject to later competing claims, the initial payment to the claimant shall be 35% of the Certified Award, and the claimant may receive a second payment of up to 65% of the Certified Award when so determined by the Court. Thus, the Rules

instruct and require the Tribunal to certify and recommend an initial 35% payment in awards submitted for Court approval in particular cases where either the Tribunal has used the value presumptions of Article 35 or it has determined that the account may be subject to later competing claims, or both.

In this case, the Tribunal is of the opinion that the account at issue may be subject to later competing claims. On this basis, the Tribunal certifies this Award for approval by the Court and for payment by the Special Masters in accordance with Article 37(3) of the Rules.

26 March 2002  
Date

  
Roberts B. Owen  
Senior Claims Judge