

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
representing Dr. [REDACTED 2] and [REDACTED 3]

### **in re Account of Hermann Stern**

Claim Number: 210670/KG; 704113/KG<sup>1</sup>

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1], née [REDACTED] (the “Claimant”), to the published account of Hermann Stern (the “Account Owner”), over which Corina Stern -Fränkel (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 a Claim Form and an Initial Questionnaire (“IQ”) identifying the Account Owner as her father-in-law, Herman Stern, who was born on 7 August 1895<sup>2</sup> in Cluj, Romania. In telephone conversations with the CRT on 19 July 2005 and 22 February 2006, the Claimant stated that her father-in-law was married to [REDACTED] who was born in 1904. The Claimant further stated that her father-in-law resided on Silvester Street in Bucharest, Romania. The Claimant added that her father-in-law, who was Jewish, was a pharmacist and owned a pharmaceutical company in Cluj by the name of *Ufarom*, a pharmacy in Bucharest by the name of *Frenkel Pharmacy*, which he inherited from his wife’s parents, and a villa in Borsek, Romania, by the name of *Villa Corina*. The Claimant stated that the villa, the factory and the

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<sup>1</sup> [REDACTED 1] submitted a Claim Form to the CRT. In addition, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 0404 122, 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 704113.

<sup>2</sup> The CRT notes that the Claimant provided two distinct dates of birth for her father-in-law in the forms submitted. In a telephone conversation with the CRT on 22 February 2006, the Claimant confirmed that her father-in-law was born on 7 August 1895.

pharmacy were looted and destroyed by the Nazis during the Second World War. According to the Claimant, her father-in-law was sent to a slave labor camp and most of his family members were deported to concentration camps, where they perished. The Claimant further stated that only her father-in-law, his wife and his brother, survived the Holocaust. According to the Claimant, her father-in-law and his wife immigrated to Tel Aviv, Israel in 1958, and Herman Stern died there on 1 December 1969.<sup>3</sup> In a telephone conversation with the CRT on 22 February 2006, the Claimant stated that [REDACTED] died in Israel shortly after her husband's death.

The Claimant indicated that she was born on 8 April 1937 in Bucharest. The Claimant is representing her two daughters, Dr. [REDACTED 2], née [REDACTED], who was born on 12 December 1964 in Jaffa, Israel, and [REDACTED 3], née [REDACTED], who was born on 22 December 1958 in Kasaba, Israel.

As stated above, the Claimant previously submitted an IQ to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Herman Stern.

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

The Bank's records submitted by 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") consist of an account opening contract and a customer card. According to these records, the Account Owner was Hermann Stern and the Power of Attorney Holder was *Frau* (Mrs.) Corina Stern, née Fränkel. The Bank's records further indicate that the Account Owner resided at Silvestru street 75, Bucharest, Romania. The Bank's records indicate that the Account Owner held a numbered account, the type of which is not indicated, which was initially numbered 80219 J.T. and later numbered 780219 J.T. The Bank's records further indicate that the account was opened on 11 November 1942 and was closed on 3 November 1971. The amount in the account on the date of its closure is not known.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account. The Bank provided the CRT with additional documents. These documents consist of a power of attorney form, dated 24 November 1942, and an account balances summary, dated 31 December 1966. The power of attorney form indicates that Hermann Stern and Corina Stern, née Fränkel, were married. According to the account balances summary, the account had a balance of 263.00 Swiss Francs ("SF") as of 31 December 1966.

There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder or their heirs closed the account and received the proceeds themselves.

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<sup>3</sup> The CRT notes that the Claimant provided two distinct dates of death for her father-in-law in the forms submitted. In a telephone conversation with the CRT on 22 February 2006, the Claimant confirmed that her father-in-law died on 1 December 1969.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 37(1) of 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 has plausibly identified the Account Owner. The Claimant's parents-in-laws' names and city and country of residence match the published names<sup>4</sup> and city and country of residence of the Account Owner and the Power of Attorney Holder. The Claimant also identified the name of the street<sup>5</sup> on which the Account Owner and the Power of Attorney Holder lived and the relationship between the Account Owner and the Power of Attorney Holder, which matches unpublished information about the Account Owner contained in the Bank's records.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Herman Stern, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). In her IQ, the Claimant also indicated that her father-in-law inherited a pharmacy by the name of *Frenkel Pharmacy* from his wife's parents and owned a villa called *Villa Corina*, identifying the subsequently published first name and the substantially similar maiden name of the Power of Attorney Holder. This indicates that the Claimant has based her present claim not simply on the fact that individuals identified on the ICEP List as owning a Swiss bank account bears the same name as her relatives, 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 father-in-law 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 this account were disconfirmed because those claimants provided a different city or country of residence and/or a different spouse than the city and country of residence and spouse of 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 his villa, factory and pharmacy were looted and destroyed by the Nazis during the Second World War, that he

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<sup>4</sup> The CRT notes that the Claimant identified her relative's first name to be Herman while the Bank's records indicate the Account Owner's first name to be Hermann. Similarly, the Claimant indicated that her mother-in-law's maiden name was Frenkel whereas the Bank's records indicate the Power of Attorney's maiden name was Fränkel. The CRT notes that the spelling variations are substantially similar and concludes that they do not affect the Claimant's identification of the Account Owner and Power of Attorney Holder.

<sup>5</sup> The CRT notes that Silvestru is the Romanian equivalent of Silvester, the street name identified by the Claimant.

himself was sent to a slave labor camp and that most of his family members were deported to concentration camps, 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 father-in-law. There is no information to indicate that the Account Owner has other surviving heirs other than the parties whom the Claimant is representing.

The CRT further notes that the Claimant identified unpublished information about the Account Owner as contained in the Bank's records and that the Claimant filed an IQ with the Court in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner and Power of Attorney Holder were well known to the Claimant as family members, and all of this information supports the plausibility that the Claimant is related to the Account Owner and the Power of Attorney Holder, as she has asserted in her Claim Form and IQ.

#### The Issue of Who Received the Proceeds

Given that the Account Owner himself was sent to a slave labor camp during the Second World War; that the Account Owner remained in communist Romania after the Second World War until 1958; that the account was closed in 1971, two years after the Account Owner's death in Israel in 1969, and after the Power of Attorney Holder's death; that there is no record of the payment of the Account Owner's account to him, the Power of Attorney Holder or their heirs; 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 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 represented parties, [REDACTED 2] and [REDACTED 3]. 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 the represented parties' grandfather, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holder nor their heirs received the proceeds of the claimed account.

Further, the CRT notes that the represented parties, as the Account Owners' granddaughters, have a better entitlement to the account than the Claimant, the Account Owner's daughter-in-law.

#### Amount of the Award

In this case, the Account Owner held one account, the type of which is not indicated. The Bank's records indicate that the value of this account as of 31 December 1966 was SF 263.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 1,430.00, which reflects numbered account fees and standardized bank fees charged to the account, the type of which is not indicated, between 1945 and 1966. Consequently, the adjusted balance of the account at issue is SF 1,963.00. According to Article 29 of the Rules, if an amount in an account of 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 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 49,375.00.

#### Division of the Award

According to the Article 23(1)(d) 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 the Account Owner's daughter-in-law and is representing her daughters, [REDACTED 2] and [REDACTED 3], who are the Account Owner's granddaughters. Accordingly, and as indicated above, as descendants of the Account Owner, the represented parties have better entitlement than the Claimant and 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 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  
6 May 2006