

# 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 Samuel Stern**

Claim Numbers: 204201/ES; 670027/ES<sup>1</sup>

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the published accounts of Samuel Stern (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).<sup>2</sup>

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 a claim to the Holocaust Claims Processing Office (the “HCPO”) identifying the Account Owner as her father, Samuel Stern, who was born on 22 December 1891 in Mulheim am Main, Germany, and was married to [REDACTED] in Mulheim am Main. The Claimant stated that her father, who was Jewish, was a wealthy businessman who owned a clothing store for more than 20 years. The Claimant indicated that her father resided at Marktstrasse 12 in Mulheim during the years 1933 to 1939, and then moved to Frankfurt am Main, Germany, and resided at Pfingstweidstrasse 10. The Claimant indicated that her father traveled to Switzerland on business trips and to visit relatives. The Claimant indicated that her father was arrested by the Nazis in 1941 or 1942 and was deported to Auschwitz, where he was killed, together with his wife, in 1945. The Claimant submitted documents including her birth certificate, indicating that she was born in Frankfurt am Main and that her father was Samuel Stern, a businessman.

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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”), Samuel Stern is indicated as the owner of two accounts. On 26 November 2002, the Court approved an award to the Claimant for one custody account belonging to Samuel Stern. See *In re Account of Samuel Stern* (the “November 2002 Award”). This Award addresses the remaining account held by Samuel Stern.

<sup>2</sup> The Claimant submitted a claim, numbered I-01875, on 13 July 1999, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 670027.

The Claimant indicated that she was born on 23 July 1922 in Frankfurt am Main.

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

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

The Bank’s records consist of a customer card and a printout from the Bank’s database. According to these records, the Account Owner was Samuel Stern, who resided at Rotteckstrasse 4, I., and at another address which is illegible, in Frankfurt am Main, Germany. The Bank’s records indicate that the Account Owner held a custody account, numbered 11819, and a demand deposit account. The Bank’s records indicate that the custody account was opened in 1925 and was closed on 8 January 1934.<sup>3</sup> The Bank’s records further indicate that the demand deposit account was closed no later than 8 January 1934. The amounts in the accounts on the dates of their closures are not known. There is no evidence in the Bank’s records that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

The CRT notes that the Claimant was awarded this custody account in the Award *In re Account of Samuel Stern*, which was approved by the Court on 26 November 2002.

### **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 has plausibly identified the Account Owner. The Claimant’s father’s name, city, and country of residence match the published name, city, and country of residence of the Account Owner. In support of her claim, the Claimant submitted documents, including her birth certificate, indicating that she was born in Frankfurt am Main and that her father was Samuel Stern, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same city recorded in the Bank’s records as the name and the city of residence of the Account Owner.

The CRT notes that the name Samuel Stern appears only once 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”).

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<sup>3</sup> The Claimant was awarded this custody account in the November 2002 Award.

The CRT notes that the Claimant filed an IQ with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Samuel Stern, prior to the publication of 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 this account were disconfirmed because those claimants provided a different city or country of residence, than the city and country of residence 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 he was killed in Auschwitz.

#### 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 her birth certificate, demonstrating that the Account Owner was the Claimant's father. There is no information to indicate that the Account Owner has other surviving heirs.

#### The Issue of Who Received the Proceeds

The Bank's records indicate that the Account Owner held a demand deposit account.

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 his arrest and deportation to a concentration camp, 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 account 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 inquires 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 and Appendix C, 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 father, 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 demand deposit account.

### Amount of the Award

In this case, the Award is for one demand deposit 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 current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the ICEP (the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"). 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 26,750.00.

### **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  
24 December 2004