

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]<sup>1</sup>

**in re Accounts of Julius Szilagyi and Szerene Szilagyi**

Claim Number: 650019/MD<sup>2</sup>

Award Amount: 229,080.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of Julius Szilagyi and Szerene Szilagyi (the “Account Owners”) at 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 to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owners as her paternal grandparents, Julius and Szerene Szilagyi. The Claimant stated that Julius Szilagyi was born on 27 November 1890 in Vienna, Austria, and that Szerene Szilagyi, née [REDACTED], was born on 7 December 1894 in Budapest, Hungary. The Claimant indicated that Julius and Szerene Szilagyi had one child, [REDACTED] (the Claimant’s father), who was born on 15 August 1918 in Budapest. The Claimant explained that her grandfather owned a factory in Vienna, which manufactured fashion knitwear, and that he and his family lived at Radetzkystrasse 3 in Vienna. The Claimant indicated that her grandfather, who was Jewish, fled from Austria to the United Kingdom in June 1938 to escape Nazi persecution. According to the Claimant, Julius Szilagyi died on 15 August 1976 in Glasgow, Scotland; Szerene Szilagyi died in Glasgow; and [REDACTED] died on 12 September 2001 in San Diego, California, the United States.

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<sup>1</sup> [REDACTED] (formerly [REDACTED]) originally filed a claim to the accounts of his father, Julius Szilagyi. Mr. Alexander passed away in 2001, and his daughter, Claimant [REDACTED], has assumed her late father’s claim. While living in Scotland in 1947, [REDACTED] legally changed his name to [REDACTED].

<sup>2</sup> The Claimant submitted a claim, numbered B-01949, on 24 August 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 on 18 November 2002 and has been assigned Claim Number 650019.

The Claimant stated that she was born on 28 August 1942 in Glasgow, Scotland. In support of her claim, the Claimant submitted her birth certificate; her father's death certificate, which indicates Julius and Szerene Szilagyi were his parents; an Austrian citizenship certificate issued to Julius, Szerene, and [REDACTED] Szilagyi; and documents regarding the confiscation of Julius Szilagyi's assets by the Nazis. The latter two documents contain signature samples of Julius and Szerene Szilagyi.

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

The bank records consist of power of attorney forms, a bank customer card and printouts from the Bank's computer database. According to these records, the Account Owners were Julius Szilagyi and Szerene Szilagyi, who used addresses at Radetzkystrasse 3 and Esslinggasse 12 in Vienna. Julius Szilagyi owned a custody account, numbered 40499, which was closed on 26 April 1938. The Power of Attorney Holder to this account was Szerene Szilagyi. The amount in the account on the date of its closure is unknown. Julius Szilagyi also owned an account of unknown type. The Power of Attorney Holder to this account was also Szerene Szilagyi. Szerene Szilagyi held a demand deposit account. This account was opened no later than December 1935. The Power of Attorney Holder to this account was Julius Szilagyi.

The bank records do not show when the account of unknown type held by Julius Szilagyi, and the demand deposit account held by Szerene Szilagyi, were closed or to whom they were paid, nor do these records indicate the value of these accounts. 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") did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the bank records that the Account Owners, the Power of Attorney Holders or their heirs closed the accounts and received the proceeds themselves.

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

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents numbered 65688 concerning the assets of Julius Szilagyi. These records indicate that Julius Szilagyi, who was born on 27 November 1890, was married to Szerene Szilagyi, née [REDACTED], and they lived at Radetzkystrasse 3 in Vienna. These records further indicate that Julius and Szerene Szilagyi fled from Austria to Slovakia, and later to Britain. Julius Szilagyi owned a factory, which manufactured fashion knitwear, that was valued at 175,281.16 Reichsmarks and real estate in Vienna that was valued at 64,000.00 Reichsmarks, and Szerene Szilagyi owned real estate in Vienna that was valued at 45,000.00 Reichsmarks. According to these records, the assets of Julius Szilagyi and Szerene Szilagyi were confiscated and sold by the Nazis, and a "flight tax" (*Reichsfluchtsteuer*) in the amount of 305,421.00 Reichsmarks was imposed on them.

## **The CRT's Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. Her grandparents' names match the published names of the Account Owners. The Claimant identified her grandparents' address in Vienna, which matches unpublished information about the Account Owners contained in the bank records. The Claimant also submitted samples of her grandparents' signatures, which match the signature samples contained in the bank records.

### Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, that they fled from Austria in July 1938, and that their assets were confiscated by the Nazis. Moreover, the CRT notes that the records of the Austrian State Archives indicate that the Account Owners fled from Austria first to Slovakia and then to Britain and that their assets, which were recorded in the Austrian State Archives, were confiscated.

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

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting documents, including her birth certificate and her father's death certificate, demonstrating that the Account Owners were her grandparents. There is no information to indicate that the Account Owners have other surviving heirs.

### The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and, subsequently, their accounts are closed unknown to whom or are transferred to Nazi-controlled banks. With regard to the custody account, given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis, and the application of Presumptions (a) 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 in this case were not paid to the Account Owner, the Power of Attorney Holder or their heirs. With regard to the demand deposit account and account of unknown type, given the application of Presumptions (h) and (j) as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, the Power of Attorney Holders 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 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 Owners were her grandparents, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holders nor their heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owners held one custody account, one demand deposit account and one account of unknown type. 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 present value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs, the average value of a demand deposit account was 2,140.00 Swiss Francs, and the average value of an account of unknown type was 3,950.00 Swiss Francs, giving a total value of 19,090.00 Swiss Francs for the three accounts. The present value of these amounts is calculated by multiplying it by a factor of 12, in accordance with Article 31(1) of the Rules, to produce a total award amount of 229,080.00 Swiss Francs.

### **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  
April 1, 2003

**ARTICLE 28 OF THE RULES GOVERNING THE CLAIMS RESOLUTION PROCESS  
(AS AMENDED)**

In the absence of evidence to the contrary, the Tribunal presumes that neither the Account Owners, the Beneficial Owners, nor their heirs received the proceeds of a claimed Account in cases involving one or more of the following circumstances:<sup>1</sup>

- a) the Account was closed and the Account records show evidence of persecution, or the Account was closed (i) after the imposition of Swiss visa requirements on January 20, 1939, or (ii) after the date of occupation of the country of residence of the Account Owner or Beneficial Owner, and before 1945 or the year in which the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- b) the Account was closed after 1955 or ten years after the freeze of Accounts from the country of residence of the Account Owner or Beneficial Owner was lifted (whichever is later);
- c) the balance of the Account was reduced by fees and charges over the period leading up to the closure of the Account and the last known balance of the Account was small;
- d) the Account had been declared in a Nazi census of Jewish assets or other Nazi documentation;
- e) a claim was made to the Account after the Second World War and was not recognized by the bank;
- f) the Account Owner or Beneficial Owner had other Accounts that are open and dormant, suspended, or closed to profits, closed by fees, or closed to Nazi authorities;
- g) the only surviving Account Owner or Beneficial Owner was a child at the time of the Second World War;
- h) the Account Owners, the Beneficial Owners, and/or their heirs would not have been able to obtain information about the Account after the Second World War from the Swiss bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by Account Owners, Beneficial Owners, and heirs because of the banks' concerns regarding double liability;<sup>2</sup>
- i) the Account Owners, Beneficial Owners, or their heirs resided in a Communist country in Eastern Europe after the War; and/or
- j) there is no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account.<sup>3</sup>

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<sup>1</sup> See Independent Commission of Experts Switzerland - Second World War, Switzerland, National Socialism and the Second World War: Final Report (2002) (hereinafter "Bergier Final Report"); see also Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks (1999) (hereinafter "ICEP Report"). The CRT has also taken into account, among other things, various laws, acts, decrees, and practices used by the Nazi regime and the governments of Austria, the Sudetenland, the Protectorate of Bohemia and Moravia, the Free City of Danzig, Poland, the Incorporated Area of Poland, the *Generalgouvernement* of Poland, the Netherlands, Slovakia and France to confiscate Jewish assets held abroad.

<sup>2</sup> See Bergier Final Report at 443-44, 446-49; see also ICEP Report at 81-83.

<sup>3</sup> As described in the Bergier Final Report and the ICEP Report, the Swiss banks destroyed or failed to maintain account transactional records relating to Holocaust-era accounts. There is evidence that this destruction continued after 1996, when Swiss law prohibited destruction of bank records. Bergier Final Report at 40 (stating "[i]n the case of Union Bank of Switzerland . . . , however, documents were being disposed of even after the Federal Decree [of 13 December 1996]"). The wholesale destruction of relevant bank records occurred at a time when the Swiss banks knew that claims were being made against them and would continue to be made for monies deposited by victims of Nazi persecution who died in the Holocaust and that were (i) improperly paid to the Nazis, see Albers v. Credit Suisse, 188 Misc. 229, 67 N.Y.S.2d 239 (N.Y. City Ct. 1946); Bergier Final Report at 443, (ii) that were improperly paid to the Communist controlled governments of Poland and Hungary, see Bergier Final Report at 450 -51, and possibly Romania as well, see Peter Hug and Marc Perrenoud, Assets in Switzerland of Victims of Nazism and the Compensation Agreements with East Bloc Countries (1997), and (iii) that were retained by Swiss Banks for their own use and profit. See Bergier Final Report at 446-49.

"The discussion on "unclaimed cash" persisted throughout the post-war period due to claims for restitution by survivors and heirs of the murdered victims, or restitution organizations acting on their behalf." Id. at 444. Nevertheless, the Swiss Banks continued to destroy records on a massive scale and to obstruct those making claims. ICEP Report, Annex 4 ¶ 5; In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 155-56 (E.D.N.Y. 2000). Indeed, "[i]n May 1954, the legal representatives of the big banks co-ordinated their response to heirs [of account holders] so that the banks would have at their disposal a concerted mechanism for deflecting any kind of enquiry." Bergier Final Report at 446. Similarly, "the banks and their Association lobbied against legislation that would have required publication of the names of so called 'heirless assets accounts,' legislation that if enacted and implemented, would have obviated the ICEP investigation and the controversy of the last 30 years." ICEP Report at 15. Indeed, in order to thwart such legislation, the Swiss Bankers Association encouraged Swiss banks to underreport the number of accounts in a 1956 survey. "A meager result from the survey," it said, "will doubtless contribute to the resolution of this matter [the proposed legislation] in our favor." ICEP Report at 90 (quoting a letter from the Swiss Bankers Association to its board members dated June 7, 1956). "To summarize, it is apparent that the claims of surviving Holocaust victims were usually rejected under the pretext of bank secrecy . . . ", Bergier Final Report at 455, or outright deception about the existence of information, while wholesale destruction of bank records continued for over a half century. Under these circumstances, utilizing the fundamental evidentiary principles of United States law that would have applied to Deposited Assets claims had the class action lawsuits been litigated through trial, the CRT draws an adverse inference against the banks where documentary evidence was destroyed or is not provided to assist the claims administrators. See In re Holocaust Victim Asset Litig., 105 F. Supp.2d 139, 152 (E.D.N.Y. 2000); Reilly v. Natwest Markets Group, Inc., 181 F.3d 253, 266-68 (2d Cir. 1999); Kronisch v. United States, 150 F.3d 112, 126-28 (2d Cir. 1998).