

# 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 Malvine Willenz**

Claim Numbers: 709623/AC; 789147/AC<sup>1</sup>

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the accounts of [REDACTED] and [REDACTED].<sup>2</sup> This Award is to the published account of Malvine Willenz (the “Account Owner”), over which [REDACTED] and [REDACTED] held power of attorney (the “Power of Attorney Holders”), 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 two Initial Questionnaires (“IQs”) identifying the Power of Attorney Holders as her late husband’s parents, [REDACTED] and [REDACTED], née [REDACTED]. In a telephone conversation with the CRT on 23 September 2004 and in further correspondence, the Claimant identified the Account Owner as her sister-in-law, Malvine (Malwine, Mimi) Rechter, née Willenz, who was born in 1911.

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<sup>1</sup> [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted two Initial Questionnaires (“IQs”), numbered GER-0040006 and ENG-0787087, to the Court in the United States. Although these IQs were not Claim Forms, 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 IQs were forwarded to the CRT and have been assigned Claim Numbers 709623 and 789147, respectively.

<sup>2</sup> The CRT did not locate an account belonging to the Claimant’s relatives, [REDACTED] or [REDACTED], 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). The Claimant should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

According to the Claimant, her sister-in-law had two siblings, [REDACTED], who was born in 1909, and the Claimant's husband, [REDACTED], who was born in 1917. The Claimant stated that the family resided in Bielsko, Poland. The Claimant indicated that her sister-in-law was married to [REDACTED], that she and her husband moved to Palestine in 1932, where they had a daughter, [REDACTED], in approximately 1933 or 1934, and that the family subsequently returned to Bielsko, in order to be near [REDACTED] and [REDACTED]. According to the Claimant, [REDACTED] and [REDACTED] fled to Lemberg (Lwow), Poland (now Lvov, the Ukraine) when the Nazis invaded Poland, and the [REDACTED] family followed soon thereafter. The Claimant explained that the family was living in Lemberg when the Nazis invaded, and that [REDACTED] was taken from her parents and never heard from again. The Claimant stated that [REDACTED] and [REDACTED] were shot and killed by the Nazis in 1943, and that her sister-in-law was deported to Bergen-Belsen, where she later died of typhoid fever on 23 May 1945. The Claimant indicated that [REDACTED] was in England during the Second World War, and that he married, but never had children, and has since passed away. According to the Claimant, [REDACTED] survived the Second World War and visited the Claimant's family in Israel, bringing documents relating to his wife with him. The Claimant indicated that his whereabouts are no longer known. The Claimant stated that apart from her daughter, [REDACTED], née [REDACTED], and herself, she does not know of any surviving heirs of her sister-in-law.

The Claimant submitted documents in support of her claim, including: 1) a copy of her husband's birth certificate, indicating that [REDACTED] was born on 25 January 1917 in Vienna, Austria, and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; 2) copies of family correspondence, dated between 12 December 1939 and 16 October 1945, naming "[REDACTED] and [REDACTED] of Lwow, Ukraine, [REDACTED] of Oxford, England, Malvine (Mimi) and Lomek of Lwow, and [REDACTED]" as members of the same family; 3) a copy of her marriage certificate, indicating that she was married to [REDACTED] on 10 December 1945, and that [REDACTED]'s parents were [REDACTED] and [REDACTED], and 4) a copy of her husband's Israeli court-issued inheritance certificate, dated 2 April 1970, indicating that [REDACTED] left his estate in equal shares to the Claimant and her daughter.

The Claimant indicated that she was born on 31 July 1921 in Breslau, Germany.

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

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Malvine Willenz, who resided in Bielsko, Poland, and the Power of Attorney Holders were [REDACTED] and [REDACTED]. The Bank's record indicates that the Account Owner held one account, the type of which is not indicated, which was opened in or before 1932.

The Bank's record does not show when the account at issue was closed nor does this record indicate the value of this account. 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 this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945.

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

## **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 sister-in-law’s name and city and country of residence match the published name and city and country of residence of the Account Owner, and the Claimant’s parents-in-laws’ names match the published names of the Power of Attorney Holders.

In support of her claim, the Claimant submitted documents, including 1) a copy of her husband’s birth certificate; 2) copies of family correspondence; and 3) a copy of her marriage certificate; 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 record as the name and city of residence of the Account Owner, and that the persons who are claimed to be Power of Attorney Holders had the same names recorded in the Bank’s record as the names of the Power of Attorney Holders.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes persons named [REDACTED] and [REDACTED], and indicates that their city of residence was Bielsko, which matches the information about the Power of Attorney Holders provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT also notes that the name Malvine Willenz appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution (the “ICEP List”).

Finally, the CRT notes that there are no other claims to this account.

### 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 she, her parents, and her daughter were murdered by the Nazis.

As noted above, persons named [REDACTED] and [REDACTED] were included in the CRT's database of victims.

### 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, demonstrating that the Account Owner was the Claimant's sister-in-law. The CRT notes that the Claimant submitted copies of her husband's birth certificate, which names his parents as [REDACTED] and [REDACTED], and family correspondence making reference to Malvine Willenz. The CRT notes that it is plausible that these documents are documents which most likely only a family member would possess. The CRT further notes that these documents provide independent verification that the Claimant's relatives had the same family name and resided in the same city as the Account Owner. 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 IQs.

### The Issue of Who Received the Proceeds

Given that the Account Owner perished in Bergen-Belsen; that there is no record of the payment of the Account Owner's account to her nor any record of a date of closure of the account; that the Account Owner and her heirs would not have been able to obtain information about her 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) 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 Owner, 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 Owner was her sister-in-law, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the Power of Attorney Holders, nor their heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owner held 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 current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of an account of unknown type was 3,950.00 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 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 claims 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  
10 December 2004