

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants [REDACTED 1]

and [REDACTED 2]

**in re Account of Paul Engel**

Claim Numbers: 203554/AX; 708601/AX<sup>1</sup>

Award Amount: 10,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the unpublished account of [REDACTED], and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the unpublished account of [REDACTED].<sup>2</sup> This Award is to the published account of Paul Engel (the “Account Owner”) at the Geneva 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.

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<sup>1</sup> Claimant [REDACTED 2] did not submit a Claim Form to the CRT. However, in 1999 he submitted an Initial Questionnaire (“IQ”), numbered 0009035, 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 708601.

<sup>2</sup> The CRT did not locate an account belonging to Claimant [REDACTED 1]’s relative, [REDACTED], and Claimant [REDACTED 2]’s relative, [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 Claimants should be aware that the CRT will carry out further research on their claims to determine whether an award may be made based upon the information provided by the Claimants or upon information from other sources.

## **Information Provided by the Claimants**

### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as his brother, Paul Engl, who was born on 3 March 1936 in Nove-Zamky, Czechoslovakia (today Slovakia) to [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that his father was a director of a linen factory in Nove-Zamky and was interned in a labor camp at an unknown location in 1942. Claimant [REDACTED 1] stated that his brother, who was Jewish, was deported to Auschwitz, where he perished in 1943. In support of his claim, Claimant [REDACTED 1] submitted his passport and his marriage certificate, indicating that his father was [REDACTED]. Claimant [REDACTED 1] indicated that he was born on 1 July 1925 in Szeged, Hungary.

Claimant [REDACTED 1] previously submitted two Initial Questionnaires (“IQs”) with the Court in 1999 asserting his entitlement to a Swiss bank account owned by [REDACTED].

### Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an IQ identifying the Account Owner as his cousin, Paul Engel. In a telephone conversation with the CRT on 7 March 2005, Claimant [REDACTED 2] indicated that Paul Engel, who was Jewish, was a cousin on his mother’s side of the family. Claimant [REDACTED 2] indicated that Paul Engel lived in Kosice, Czechoslovakia (today, Slovakia), and was one of the owners of a paper company named *Papirus*. Claimant [REDACTED 2] indicated that he was very young before the Second World War, and that he saw Paul Engel for the last time in 1944 before Claimant [REDACTED 2] was deported to Auschwitz. Claimant [REDACTED 2] stated that he did not know what happened to his cousin during the Second World War, but that his cousin was not heard from again after the War. Claimant [REDACTED 2] indicated that he was born on 24 July 1929 in Kosice.

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

The Bank’s records consist of extracts from the Bank's ledgers. According to these records, the Account Owner was Paul Engel. The Bank's records do not indicate the Account Owner's domicile. The Bank’s records indicate that the Account Owner held one savings/passbook account. The savings/passbook account was initially numbered 12909, and subsequently the number was changed to 23373. The Bank's records indicate that the old booklet for the account was still in circulation, and that a new booklet had not been issued. The Bank's records indicate that the account was considered dormant by the Bank and was transferred to a suspense account for dormant assets on 4 June 1946. The amount in the account on the date of the transfer was 2.25 Swiss Francs (“SF”).

The Bank’s records do not show when the account at issue was closed. 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 records that the Account Owner or his 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 Claimants in one proceeding.

### Identification of the Account Owner

Claimant [REDACTED 1]’s brother’s name matches the published name of the Account Owner,<sup>3</sup> as does Claimant [REDACTED 2]’s cousin’s name. The CRT notes that the Bank’s records do not contain any specific information about the Account Owner other than his name. The CRT notes that Claimant [REDACTED 1] filed two IQs, asserting his entitlement to a Swiss bank account owned by Paul Engl’s father, [REDACTED], 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”). This indicates that Claimant [REDACTED 1] has based his 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 his relative, but indicates that Claimant [REDACTED 1] had reason to believe that his relatives owned Swiss bank accounts prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 1].

The CRT notes that Claimant [REDACTED 2] also filed an IQ, asserting his entitlement to a Swiss bank account owned by his cousin, Paul Engel, prior to the publication in February 2001 of the ICEP List. This indicates that Claimant [REDACTED 2] has based his 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 his relative, but rather on a direct family relationship that was known to him before the publication of the ICEP List. It also indicates that Claimant [REDACTED 2] had reason to believe that his relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by Claimant [REDACTED 2].

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Paul Engel, and indicates that he was from Kosice, which matches the

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<sup>3</sup> The CRT notes that Claimant [REDACTED 1] spelled his brother’s family name Engl in the Claim Form, while the Account Owner’s family name is spelled Engel. However, the CRT further notes that in his Claim Form, and in one of the IQs he filed, Claimant [REDACTED 1] indicated that his father’s family name was spelled Engel.

<sup>4</sup> See [www.yadvashem.org](http://www.yadvashem.org).

information about the Account Owner provided by Claimant [REDACTED 2]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT further notes that a database of victims on the website of the Yad Vashem Memorial also includes a person named Paul Engel from Kosice, and indicates that he perished in the Holocaust.<sup>4</sup>

The CRT notes that Claimant [REDACTED 1]'s relative and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all published information about the Account Owner that is available in the Bank's records; that there is no additional information in the Bank's records which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

#### Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner was Jewish, and that he was murdered in Auschwitz.

Claimant [REDACTED 2] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that the Account Owner was Jewish, that he did not know the Account Owner's circumstances during the Second World War, but that he was not heard from after the Second World War. As noted above, a person named Paul Engel from Kosice was included in the CRT's database of victims, and information available on the website of the Yad Vashem Memorial indicates that he perished in the Holocaust.

#### The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is related to the Account Owner by submitting specific information demonstrating that the Account Owner was his brother. The CRT notes that Claimant [REDACTED 1] submitted a copy of his birth certificate and marriage certificate indicating that his father was [REDACTED], which provides independent verification that Claimant [REDACTED 1]'s relatives bore the same family name as the Account Owner, which supports the plausibility that Claimant [REDACTED 1] is related to the Account Owner, as he has asserted in his Claim Form.

Claimant [REDACTED 2] has also plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was Claimant [REDACTED 2]'s cousin. The CRT notes that Claimant [REDACTED 2] filed an IQ, identifying the relationship between the Account Owner and Claimant [REDACTED 2] prior to the publication in February 2001 of the ICEP List, and that Claimant [REDACTED 2] also identified information which matches information contained in the Yad Vashem records. 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 Claimant [REDACTED 2] as a

family member, and all of this information supports the plausibility that Claimant [REDACTED 2] is related to the Account Owner, as he has asserted in his IQ

There is no information to indicate that the Account Owner has other surviving heirs.

#### The Issue of Who Received the Proceeds

Given that the Account Owner perished during the Holocaust; that there is no record of the payment of the Account Owner's account to him, nor any record of a date of closure of the account; 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 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 Claimants. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that the Account Owner was his brother, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his cousin, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

#### Amount of the Award

In this case, the Account Owner held one savings/passbook account. The Bank's records indicate that the value of the account as of 4 June 1946 was SF 2.25. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 30.00, which reflects standardized bank fees charged to the account between 1945 and 1949. Consequently, the adjusted balance of the account at issue is SF 32.25. According to Article 29 of the Rules, if the amount in a savings/passbook account was less than SF 830.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 830.00. The current value of the amount of the award is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 10,375.00.

#### Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where

several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under these Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the total award amount.

### **Scope of the Award**

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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  
15 July 2005