

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

**in re Accounts of Paul Fellner**

Claim Number 222384/HS<sup>1</sup>

Award Amount: 269,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the published accounts of Paul Fellner (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 indicating that the Account Owner made deposits in Switzerland on behalf of the Claimant’s father, [REDACTED]. In correspondence with the CRT, dated 26 December 2002, the Claimant identified the Account Owner as his paternal uncle, Paul Fellner. In support of his claim, the Claimant submitted a notarized statement, dated 18 November 2002, from Edith Palkowitz, who identified herself as a family friend and indicated that she knew Paul and [REDACTED] Fellner before the Second World War. In a 28 May 2004 telephone conversation with the CRT, which was arranged by the Claimant, Edith Palkowitz confirmed that Paul and [REDACTED] Fellner were brothers.

Edith Palkowitz stated that she was born in 1929 in Budapest, Hungary, and that Paul Fellner was born in approximately 1900 and resided in Budapest. Edith Palkowitz stated that Paul Fellner was married, but further stated that she never met his wife and didn’t know his wife’s name or whether Paul Fellner had any children. Edith Palkowitz indicated that Paul Fellner and his younger brother, the Claimant’s father, [REDACTED], both of whom were Jewish, co-owned

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<sup>1</sup> The Claimant submitted two Claim Forms, which were registered under the Claim Numbers 222384 and 300637. The CRT has determined that these claims are duplicate claims and is treating them under the consolidated Claim Number 222384.

<sup>2</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”), Paul Fellner is indicated as having seven accounts. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of six accounts.

an antique and import/export shop located on Váci utca in Budapest. Edith Palkowitz indicated that when she was a child, she often visited Paul and [REDACTED]'s shop after school, since her own family, who lived nearby, was friendly with the Fellners, and the latter's shop contained many exotic and interesting objects. Edith Palkowitz stated that on several of these visits, she saw [REDACTED] give sealed packages to Paul Fellner, which Paul Fellner took with him on ski trips to Switzerland. Edith Palkowitz indicated that when she asked what was in the packages, she was told they contained "precious things," which were going to be taken to a safe place in Switzerland. Edith Palkowitz stated that the last time she witnessed [REDACTED] hand packages to Paul Fellner was possibly during the last six months of 1943 or the first few months of 1944.

The Claimant indicated that his father, [REDACTED], was taken from Budapest to a labor camp in July 1941 and released in August 1943. The Claimant further indicated that in June 1944 his father was sent to the Buchenwald concentration camp, and that he returned to Budapest in the autumn of 1945. Edith Palkowitz stated that the last time she saw [REDACTED]'s brother, Paul, was about six months before the Soviet liberation of Hungary, and that he was never seen again after the Second World War. The Claimant was unable to provide further information regarding Paul Fellner. According to the information provided by Edith Palkowitz, during the bombing of Budapest the Fellners' shop was completely destroyed, along with all of the documentation of Paul Fellner's deposits in Switzerland. Edith Palkowitz stated that after the end of the War, when she asked members of the Fellner family about the precious things in the packages, she was told "we don't have it, because we can't get to it." Edith Palkowitz explained that she was told that the Swiss banks were unwilling to provide any information without the proper documentation.

According to the information submitted by the Claimant, his parents were married in Hungary in 1948, and his father passed away in 1964 in Los Angeles, California, the United States. The Claimant submitted documents, including a report issued by the Jewish community in Budapest in 1965, indicating [REDACTED]'s whereabouts and fate during the Nazi occupation; a report from a doctor, dated in 1965 in Budapest, indicating that [REDACTED], who resided in Budapest before the Second World War, and again after the War, had been imprisoned in a concentration camp; [REDACTED]'s application for a United States visa, dated 15 February 1957; the Claimant's mother's birth certificate, indicating that she was born in Budapest; and the Claimant's own passport, identifying him as [REDACTED] and indicating that he was born in Hungary. The Claimant stated that he was born on 23 February 1951 in Budapest.

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

The Bank's record consists of a customer card. According to this record, the Account Owner was Paul Fellner, who resided in Budapest. On the customer card, the name of the city was crossed out on an unknown date. The Bank's record indicates that the Account Owner held three demand deposit accounts denominated in Swiss Francs, one demand deposit account denominated in French Francs, one demand deposit account denominated in United States Dollars, and one custody 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”) indicated that the Account Owner instructed the Bank to hold all correspondence.

The Bank’s record indicates that one of the demand deposit accounts denominated in Swiss Francs was opened on 10 July 1931 as a special deposit, transferred on 31 July 1935 to another demand deposit account, and then closed on 16 June 1947. The second demand deposit account denominated in Swiss Francs was transferred to another demand deposit account on 30 June 1941, and closed on 23 September 1946. The third demand deposit account denominated in Swiss Francs was opened on an unknown date and closed on 20 April 1959. The demand deposit account denominated in French Francs was closed on 31 December 1942. The demand deposit account denominated in United States Dollars was closed on 10 May 1959. The amounts in the accounts on the dates of their transfer and closure are unknown. There is no evidence in the Bank’s record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

According to the Bank’s record, the custody account was opened on an unknown date under the number 48493 and was transferred to another custody account numbered 71457 on 23 September 1946. The auditors who carried out the ICEP Investigation did not provide the CRT with information regarding custody account number 71457.

## **The CRT’s Analysis**

### Identification of the Account Owner

The Claimant’s uncle’s name matches the published name of the Account Owner. Edith Palkowitz indicated that the Claimant’s uncle resided in Budapest, which matches unpublished information about the Account Owner’s city of residence contained in the Bank’s record. In support of his claim, the Claimant submitted documents, including a report issued by the Jewish community in Budapest and a report from a doctor in Budapest, which provide independent verification that members of the Fellner family resided in the same city recorded in the Bank’s record as the residence of the Account Owner. The CRT notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified 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. According to the information submitted by Edith Palkowitz, the Account Owner, who was Jewish and resided in Budapest under Nazi occupation, disappeared during the Second World War. Additionally, the Claimant submitted a report issued by the Jewish community in Budapest and a report from a doctor in Budapest, indicating that the Account Owner’s brother was deported to a labor camp and to Buchenwald.

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

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information demonstrating that the Account Owner was his paternal uncle. In addition, the CRT notes that Edith Palkowitz identified unpublished information about the city of residence of the Account Owner, as contained in the Bank's record. The CRT notes that the Claimant submitted documents, including a report issued by the Jewish community in Budapest, a report from a doctor in Budapest, and his own passport, providing independent verification that the Claimant's relatives bore the family name Fellner and resided in the same city and/or country as the Account Owner. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

With respect to the demand deposit account denominated in French Francs that was closed on 31 December 1942, the CRT notes that Hungary enacted anti-Jewish legislation under pressure from the Nazi Regime on 29 May 1938 and that the Nazis occupied Hungary on 9 March 1944. However, given that Edith Palkowitz indicated that the Account Owner traveled to Switzerland several times, ending possibly in late 1943 or early 1944, the CRT concludes that the Account Owner had free access to the demand deposit account denominated in French Francs at the time of its closure. Therefore the CRT determines that the Account Owner closed this account himself and received the proceeds.

With respect to the remaining four demand deposit accounts and one custody account, given that the Account Owner disappeared during the Second World War and was never seen again; that the demand deposit accounts survived the War and that there is no closure date indicated in the Bank's record for the custody account; that there is no record of the payment of the Account Owner's accounts to him; that Edith Palkowitz stated that the Account Owner's relatives told her that they were unable to access the accounts in Switzerland; that the Account Owner and his heirs would not have been able to obtain information about the accounts from the Bank after the War due to the Swiss bank's 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 (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 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 his uncle, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owner held five demand deposit accounts and one custody account. As discussed above, the CRT has determined that the Account Owner received the proceeds of one of the demand deposit accounts. With regard to the remaining accounts, 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 a demand deposit account was 2,140.00 Swiss Francs (SF) and the average value of a custody account was SF 13,000.00. Consequently, the total average value of the four demand deposit accounts and the custody account was SF 21,560.00. 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 269,500.00.

### **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 his claim to determine whether there are additional Swiss bank accounts to which he 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  
8 August 2004