

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1], also acting on behalf of [REDACTED], [REDACTED],  
[REDACTED], and [REDACTED];  
Claimant [REDACTED 2], represented by [REDACTED];  
Claimant [REDACTED 3];  
and  
Claimant [REDACTED 4],<sup>1</sup> represented by [REDACTED]

## **in re Account of Samuel and Betty Leb**

Claim Numbers: 004425/LK; 218350/LK; 218364/LK; 223048/LK; 223052/LK;  
220726/LK

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) to the account of Samuel and Betty Leb; the claim of [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) to the account of Samuel Leb; the claims of [REDACTED 3] (“Claimant [REDACTED 3]”) to the account of Betty Leb; and the claim of [REDACTED 4] (“Claimant [REDACTED 4]”) (together the “Claimants”), to the account of [REDACTED]. This Award is to the account of Samuel and Betty Leb (the “Account Owners”) 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 claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

## **Information Provided by the Claimants**

Claimant [REDACTED 2] submitted a Claim Form, an Initial Questionnaire, and an ATAG Ernst & Young claim identifying the Account Owners as her paternal uncle, Samuel Leb, who was born near Cluj, Romania, and his wife, Betty Leb, who were married in Cluj in 1913. Claimant [REDACTED 2] stated that Betty Leb was the daughter of [REDACTED] and [REDACTED]. Claimant [REDACTED 2] further stated

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<sup>1</sup> The CRT notes that Claimant [REDACTED 4] did not file a claim to the account of Samuel and Betty Leb. The CRT included Claimant [REDACTED 4] in this decision because Claimant [REDACTED 4] claimed an account belonging to related Account Owners, [REDACTED] and [REDACTED]. The CRT further notes that it has treated the account of [REDACTED] and [REDACTED] in a separate decision.

that her uncle was a merchant of food, spices, and other goods, and the co-owner of *Leb Brothers* in Cluj. Claimant [REDACTED 2] explained that her aunt and uncle, who were Jewish, resided at 55 Elisabeth Street in Cluj from 1920 until 1944, when they both were sent to Auschwitz, where they perished. Claimant [REDACTED 2] further explained that her relatives had one child, [REDACTED], née [REDACTED], who was born in 1915 and also perished in Auschwitz in 1944. According to Claimant [REDACTED 2], she was like a second daughter to Samuel and Betty Leb, and often traveled and spent vacations with them. In support of her claim, Claimant [REDACTED 2] submitted a family tree. Claimant [REDACTED 2] indicated that she was born on 13 June 1918 in Osorhel, Romania.

Claimant [REDACTED 3] submitted a Claim Form identifying the Account Owners as his great-aunt (his maternal grandmother's sister), Betty Leb, who was born in 1889 in Kolozs Borsa, Hungary, and her husband, Samuel Leb, who were married in 1909. Claimant [REDACTED 3] stated that Betty Leb's parents were [REDACTED] and [REDACTED]. Claimant [REDACTED 3] further stated that his great-aunt and great-uncle, who were Jewish, lived at 55 Elisabeth Street in Cluj, Romania. According to Claimant [REDACTED 3], his relatives were deported to Auschwitz, where they perished along with their only daughter, [REDACTED], née [REDACTED], on 9 June 1944. Claimant [REDACTED 3] indicated that he was born on 3 June 1936 in Cluj, Romania.

In a letter to the CRT, dated 20 September 2002, [REDACTED], a relative of Claimant [REDACTED 1]'s, identified the Account Owners as Claimant [REDACTED 1]'s mother's sister-in-law's parents, Samuel Leb and Betty Leb, née [REDACTED], from Cluj, Romania. Furthermore, in a letter to the CRT, dated 28 February 2003, [REDACTED], a cousin of Claimant [REDACTED 1], whom she is representing in this proceeding, also identified the Account Owners as Claimant [REDACTED 1]'s mother's sister-in-law's parents, Samuel Leb and Betty Leb, née [REDACTED], from Cluj. Claimant [REDACTED 1] stated that [REDACTED], née [REDACTED], was the Account Owners' daughter and her mother's sister-in-law. Claimant [REDACTED 1] indicated that she was born on 15 October 1926 in Petrosani, Romania. Claimant [REDACTED 1] is also representing her cousins, [REDACTED], who was born 16 November 1935 in Italy; [REDACTED] who was born on 8 September 1934 in Italy; [REDACTED], who was born 12 February 1939 in Italy; and [REDACTED], who was born 24 September 1937 in Italy.

Claimant [REDACTED 4], who assumed her late husband's claim, submitted a Claim Form identifying the Account Owner's daughter as her husband's cousin's wife, [REDACTED], née [REDACTED], who lived in Cluj, Romania. Claimant [REDACTED 4] indicated that she was born on 22 December 1926 in Bucharest, Romania.

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

The Bank's records consist of an account registry card, dated 22 December 1938, an extract from a suspense account ledger from 22 March 1949, and printouts from the Bank's database. According to these records, the Account Owners were Samuel Leb and *Mme* (Mrs.) Betty Leb, née [REDACTED], who resided at 55 Rue Elisabeta in Cluj, Romania, and held an account, numbered 55428 D.C.B. The Bank's records do not indicate the type of the account held by the Account Owners. The Bank's records indicate that the account was opened on 22 December 1938 and was transferred to a suspense account for dormant assets on 22 March 1949, at which time the balance in the account was 88.00 Swiss Francs.

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 Owners 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 six claims of the Claimants in one proceeding.

### Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. The Claimants' relatives' names match the published names and country and city of residence of the Account Owners. Claimant [REDACTED 2] and Claimant [REDACTED 3] identified their relatives' street address and the maiden name of Account Owner Betty Leb which matches unpublished information about the Account Owners contained in the Bank's records. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes persons named Samuel and Betty Leb, and indicates that they resided at Erzebethstrasse 55 in Cluj, Romania, which is consistent with the information about the Account Owners provided by Claimant [REDACTED 1], Claimant [REDACTED 2], and Claimant [REDACTED 3]. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by the Account Owners, 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 2] has based her present claim not simply on the fact that individuals identified on the ICEP List as owning a Swiss bank account bears the same name as her relatives, 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 relatives 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 there are no other claims to this account. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owners.

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

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that the Account Owners were Jewish and that they perished in Auschwitz. As noted above, persons named Samuel and Betty Leb were included in the CRT's database of victims.

#### The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners. Claimant [REDACTED 2] has plausibly demonstrated that the Account Owners were her aunt and uncle. Claimant [REDACTED 3] has plausibly demonstrated that the Account Owners were his great-aunt and great-uncle. Claimant [REDACTED 1] has plausibly demonstrated that the Account Owners were his mother's sister-in-law's parents. Claimant [REDACTED 4] has plausibly demonstrated that the Account Owners were her late husband's cousin's wife's parents. The CRT notes that Claimant [REDACTED 2] and Claimant [REDACTED 3] identified their relatives' street address and the maiden name of Account Owner Betty Leb which matches unpublished information about the Account Owners contained in the Bank's records. The CRT further notes that Claimant [REDACTED 2], Claimant [REDACTED 3] and Claimant [REDACTED 1] identified information about their relatives contained in the database containing the names of victims of Nazi persecution. Furthermore, the CRT notes that Claimant [REDACTED 2] filed an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by the Account Owners prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owners were known to the Claimants as family members, and all of this information supports the plausibility that the Claimants are related to the Account Owners, as they have asserted in their six separate Claim Forms.

### The Issue of Who Received the Proceeds

The CRT notes that it is possible that, if the account was still open in 1950, it could have been transferred to the Romanian government pursuant to an agreement between Switzerland and Romania whereby unclaimed assets held by Romanian citizens in Swiss banks were to be transferred to the Romanian government in return for compensation for Swiss property that had been nationalized by Romania's communist regime. Given this possibility, the persecution of Jews in Romania and the confiscation of Jewish assets during the War, the Communist dictatorial regime after the War; that the Account Owners' account remained in existence after the Second World War, and was transferred to a suspense account for dormant assets on 22 March 1949; that the Account Owners perished in Auschwitz in 1944; that there is no record of payment to the Account Owners' heirs after the Second World War; that the Account Owners or their heirs would not have been able to obtain information about their 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, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners 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 account.

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimants have plausibly demonstrated that the Account Owners were their relatives, and those relationships justify an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owners held one account of unknown type. The Bank's records indicate that the value of the account as of 22 March 1949 was 88.00 Swiss Francs. According to Article 29 of the Rules, if the amount in an account of unknown type was less than 3,950.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 3,950.00 Swiss Francs. 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 49,375.00 Swiss Francs.

### Division of the Award

According to Article 25(1), if an Account is a Joint Account and Claimants related to each of the Account Owners have submitted claims to the Account, it shall be presumed

that each Account Owner was the owner of an equal share of the Account. According to Article 23(1)(d) of the Rules, if neither the Account Owner's spouse nor any of the descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. In this case, Claimant [REDACTED 2], as the niece of Samuel Leb, and Claimant [REDACTED 3], as the son of the niece of Betty Leb, have better entitlement to the Award than Claimant [REDACTED 1] and Claimant [REDACTED 4] because Claimant [REDACTED 2] and Claimant [REDACTED 3] are both direct descendants of the Account Owners. Accordingly, Claimant [REDACTED 2] and Claimant [REDACTED 3] 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

31 December 2003