

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimants [REDACTED 1],  
[REDACTED 2] and [REDACTED 3]

## **in re Accounts of Ella Bachrach**

Claim Numbers: 210290/MBC; 212003/MBC; 219102/MBC

Award Amount: 162,675.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) to the accounts of Ella Bachrach, and upon the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of [REDACTED], née [REDACTED].<sup>1</sup> This Award is to the accounts of Ella Bachrach (the “Account Owner”) 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 Claimants**

The Claimants each submitted a Claim Form identifying the Account Owner as their grandmother, Ella Bachrach, née Hirsch. The Claimants stated that their grandmother was Jewish, held Austrian citizenship, was born on 28 or 29 January 1875, and was married to [REDACTED]. Claimant [REDACTED 1] and Claimant [REDACTED 3] indicated that the couple had five children, who all were born in Vienna, Austria: [REDACTED], née [REDACTED], Claimant [REDACTED 2]’s mother, who perished in Auschwitz in 1944; [REDACTED], née [REDACTED], Claimant [REDACTED 1]’s mother, who was born in 1900 and died in 1985; [REDACTED], Claimant’s [REDACTED 3]’s father, who was born in 1902 and died in 1966; [REDACTED], who was born in 1910 and died in 1990, and [REDACTED] ([REDACTED]) [REDACTED], née [REDACTED], who died in Sydney, Australia. Claimant [REDACTED 3] stated that his parents were [REDACTED] and [REDACTED], née [REDACTED]. According to the Claimants, after their grandfather’s death in 1914, their grandmother assumed the direction of the textile (silk) business that he had owned, which was located at Schottenfeldgasse 27 in Vienna. Claimant [REDACTED 3] indicated that his

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<sup>1</sup> The CRT will treat the claim to this account in a separate decision.

grandmother lived in Vienna, at Rahlgasse 1, and held additional residences at Jaquingasse 6 and Dreihufeisengasse 11. Claimant [REDACTED 1] indicated that her grandmother's last place of residence was at Dreihufeisengasse in Vienna. The Claimants stated that their grandmother was deported to the Theresienstadt concentration camp, where she perished on 15 May 1944.

In support of her claim, Claimant [REDACTED 1] provided documents including her Austrian birth certificate, which shows that she is the granddaughter of Ella Bachrach, née Hirsch; a copy of the "*Totenbuch Theresienstadt*," in which her grandmother's name is listed among the victims; and a copy of an Austrian census form, numbered 4343, completed by her grandmother, in which Ella Bachrach was forced to declare her assets to the Nazi authorities, including information about an account of unknown type she held at the Bank and various securities that had been deposited at the Bank. This information is more fully described below. Furthermore, these documents contain samples of Ella Bachrach's signature. Claimant [REDACTED 3] submitted various documents, including his father's birth and death certificates, as well as his own birth certificate. Claimant [REDACTED 3] also provided the same extract from the "*Totenbuch Theresienstadt*," and Austrian census form as Claimant [REDACTED 1].

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

The Bank's record consists of an account registry card. According to this record, the sole Account Owner was Frau ("Mrs.") Ella Bachrach, who resided in Vienna. The Bank's record indicates that the Account Owner held four accounts: three demand deposit accounts, which were all opened on 20 November 1926 and closed on 20 July 1928, 20 December 1929 and 20 July 1938, respectively, and a custody account, numbered L58767, which was opened on 21 February 1934 and closed on 21 December 1938. The Bank's record does not show to whom the accounts closed in 1938 were paid, nor does this record indicate the value of these accounts.

### **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 concerning the assets of Ella Bachrach numbered 4343. The records indicate that Ella Bachrach was Jewish, that she was born on 29 January 1875, and that she was widowed. These records show that Ella Bachrach resided at Dreihufeisengasse 11 and Jacquingasse 6 in Vienna.

According to these records, Ella Bachrach submitted several forms that reported her assets and that determined the value of various taxes she was required to pay, including a "flight tax" (*Reichsfluchtsteuer*) and security (*Sicherheitbescheid*). In a document dated 11 May 1939, Ella Bachrach reported assets worth 1,465,299.00 Reichsmarks, of which

292,557.00 Reichsmarks, was to be paid as flight tax. On 6 August 1940, Ella Bachrach submitted another document, in which she valued her assets at 1,650,366.00 Reichsmarks, of which 412,591.50 Reichsmarks, was to be paid as security tax. According to the records, these assets included land, real property, cash, and securities.

The Austrian census records also contain an application, dated 19 December 1938, filed with the Nazi authorities by [REDACTED], requesting permission to receive a gift of two pieces of real property owned by Ella Bachrach. In this application, [REDACTED] explained that Ella Bachrach was her mother-in-law and that Ella Bachrach was presenting her two grandchildren, [REDACTED] and [REDACTED], with a gift of two pieces of real properties valued at 16,000.00 Reichsmarks and 24,000.00 Reichsmarks respectively. In the application, [REDACTED] explained that Ella Bachrach was Jewish, that she, [REDACTED], was fully Aryan, and that her two minor children from her marriage with [REDACTED], who was also Jewish, were therefore of mixed race.<sup>2</sup> In the application, [REDACTED] explained that the gift of the property was intended to provide for the children's cost of living, because their father, her former spouse, had permanently immigrated to America.<sup>3</sup>

The records show that Ella Bachrach reported an account of unspecified type at the Bank with a balance of 14.00 Swiss Francs as of 14 July 1938. The records also include an itemized list of securities, compiled by Mrs. Bachrach, noting the institution where each security was held. According to this list, Mrs. Bachrach held securities at the Bank with a total value of 4,765.00 Reichsmarks as of 14 July 1938, including shares in the *Ungarische Allgemeine Kohlen*, *Trifailer Kohlen*, and *Landerbank*. Handwritten notes, signed by Ella Bachrach and dated June 1939, indicate that these assets were no longer in her possession, because she had given them to her daughter-in-law in August 1938 to help support her grandchildren, [REDACTED] and [REDACTED].

## **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 three claims of the Claimants in one proceeding.

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<sup>2</sup> "Frau Ella Bachrach is Jüdin, ich selbst bin Vollarierin, meine beiden mj. Kinder, die der Ehe mit [REDACTED], der ebenfalls Jude ist, entstammen, sind daher Mischlinge."

<sup>3</sup> "Die Schenkung der beiden Liegenschaften seitens Frau Ella Bachrach an ihre Enkelkinder, d.s. meine Kinder, hat den Zweck, den Unterhalt der Kinder sicherzustellen, da deren Vater, mein gewesener Gatte, endgiltig [sic] nach Amerika ausgewandert ist."

### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Their grandmother's name matches the published name of the Account Owner. The Claimants stated that their grandmother lived in Vienna, which matches the Account Owner's unpublished place of residence contained in the Bank's record. Furthermore, the Claimants indicated that "Bachrach" was their grandmother's married name, which matches unpublished information regarding the marital status of the Account Owner contained in the Bank's record. In support of their claims, Claimants [REDACTED 3] and [REDACTED 1] submitted their grandmother's Austrian census form, which indicates that she held two accounts at the Bank, including an account of unspecified type and a second account into which she deposited securities (i.e. a custody account), which is consistent with the number and types of accounts indicated in the Bank record. Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Ella Bachrach, and indicates that she was born on 29 January 1875 in Vienna. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel. The CRT further notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owner.

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

The Claimants have plausibly shown that the Account Owner was a Victim of Nazi Persecution. The Claimants stated that the Account Owner was Jewish and lived in Vienna until her deportation to Theresienstadt, where she perished in 1944. As noted above, a person named Ella Bachrach was included in the CRT's database of victims.

### The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting documents, such as their parents' and their own birth certificates, demonstrating that they are the Account Owner's grandchildren.

### The Issue of Who Received the Proceeds

With respect to the demand deposit account closed on 20 July 1938 and mentioned in the Bank's records, the CRT concludes that this account corresponds to the account the Account Owner reported in her Austrian census record that was held at the same Bank, was of unspecified type, and had a balance of 14.00 Swiss Francs as of 14 July 1938. The facts of this case are similar to other cases that have come before the CRT in which, after the March 1938 *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. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis; that the Account Owner remained in Austria until she was deported to Theresienstadt concentration camp, where she perished in 1944; that the Account Owner would not have

been able to repatriate her accounts to Austria without their confiscation at the time the accounts were closed; that there is no record of the payment of the Account Owner's accounts to her or to her heirs; that the Account Owner's heirs would not have been able to obtain information about the Account Owner's accounts 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 (a), (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 or her heirs.

With respect to the custody account numbered L58767, which was closed on 21 December 1938 and mentioned in the Bank's record, the CRT notes that the Account Owner's Austrian census record indicates that the Account Owner held securities at the Bank. Thus, the CRT concludes that the custody account mentioned in the Bank's record corresponds to the custody account indicated in the Account Owner's Austrian census record. In notes included with her Austrian census record, the Account Owner stated that as of June 1939, she was no longer in possession of securities worth 4,765.00 Reichsmarks because she had given them to her daughter-in-law in August 1938.

It is plausible that, in these circumstances, this transfer never took place. Such a transfer without compensation was done apparently to avoid confiscation by the Nazis. However, it is unlikely that the Nazis would have allowed such a transfer in which the Account Owner, a Jew, tried to use her daughter-in-law (who was not Jewish herself, but was married to the Account Owner's son) as a nominee to protect her assets from confiscation. Moreover, if such a transfer did occur, the custody account remained open until 21 December 1938, when it was presumably closed and paid to the Nazis.

The facts of this case are similar to other cases that have come before the CRT in which, after the March 1938 *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. Given that the CRT's precedent indicates that it is plausible in such situations that the account proceeds were paid to the Nazis; that the Account Owner remained in Austria until she was deported to Theresienstadt concentration camp, where she perished in 1944; that the Account Owner would not have been able to repatriate her accounts to Austria without their confiscation at the time the accounts were closed; that there is no record of the payment of the Account Owner's accounts to her or to her heirs; that the Account Owner's heirs would not have been able to obtain information about the Account Owner's accounts 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 (a), (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 or her 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.

With respect to the demand deposit accounts closed on 20 July 1928 and 20 December 1929, the CRT has jurisdiction to resolve claims to Accounts of Victims open or opened in Swiss banks during the Relevant Period (1933-1945). Consequently, the CRT does not have jurisdiction to resolve claims to these 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, the Claimants have plausibly demonstrated that the Account Owner was their grandmother, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed accounts.

#### Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account. With respect to the demand deposit account closed on 20 July 1938 and mentioned in the Bank's record, as noted above, the CRT concludes that this account corresponds to the account the Account Owner reported in her Austrian census record that was held at the same Bank, was of unspecified type, and had a balance of 14.00 Swiss Francs as of 14 July 1938. According to Article 29 of the Rules, if the amount in a demand deposit was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 2,140.00 Swiss Francs. In this case, the Austrian census record completed by the Account Owner six days prior to the closing date of the account constitutes plausible evidence contrary to the use of the Article 29 value presumption and provides an accurate record of the value of this account. Accordingly, the current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the award amount for this account 175.00 Swiss Francs.

With respect to the custody account closed on 21 December 1938 and contained in the Bank's record, as noted above, the CRT concludes that the custody account mentioned in the Bank's record corresponds to the custody account indicated in the Account Owner's Austrian census record. The Austrian State Archives records indicate that the value of the custody account as of 14 July 1938 was 4,765.00 Swiss Francs. According to Article 29 of the Rules, if the amount in a custody account was less than 13,000 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 13,000 Swiss Francs. 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 an award amount of 162,500.00 Swiss Francs for this account. Consequently, the total award amount is 162,675.00 Swiss Francs.

### Division of the Award

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. In this case, the three Claimants are all grandchildren of the Account Owner, each representing three of the Account Owner's children: [REDACTED], [REDACTED], and [REDACTED]. Accordingly, each of the Claimants is entitled to one-third 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  
20 May 2004