

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to Claimants [REDACTED 1],

[REDACTED 2],

and [REDACTED 3]<sup>1</sup>

and to Claimant [REDACTED 4]  
represented by [REDACTED]

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

Claim Numbers: 210290/AV; 212003/AV; 219102/AV; 500766/AV<sup>2,3</sup>

Original Award Amount: 162,675.00 Swiss Francs

Award Amendment Amount: 47,312.50 Swiss Francs

This Certified Award Amendment is based upon the claims of [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), [REDACTED 3] (“Claimant [REDACTED 3]”), and [REDACTED 4], née [REDACTED], (“Claimant [REDACTED 4]”) to the account of Ella Bachrach, and the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Lisl Schüssler, née Bachrach.<sup>4</sup> This Award Amendment is to the accounts of Ella Bachrach (the “Account Owner”) at the [REDACTED] (the “Bank”).

All award amendments 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 owner, and the bank have been redacted.

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<sup>1</sup> On 20 May 2004, the Court approved an award to [REDACTED 1], née [REDACTED] (“Claimant [REDACTED 1]”), [REDACTED 2] (“Claimant [REDACTED 2]”) and [REDACTED 3] (“Claimant [REDACTED 3]”) for the accounts of Ella Bachrach (the “May 2004 Award”), which is the subject of this Award Amendment.

<sup>2</sup> Claimant [REDACTED 1] submitted eight additional claims, which are registered under the Claim Numbers 401814, 500628, 500629, 500630, 500631, 501451, 501458, and 501459. The CRT will treat these claims in separate determinations.

<sup>3</sup> [REDACTED 4] (“Claimant [REDACTED 4]”) submitted one additional claim, which is registered under the Claim Number 500767. The CRT will treat this claim in a separate determination.

<sup>4</sup> The CRT will treat the claim to this account in a separate determination.

## **Procedural History**

On 20 May 2004, the Court approved an Award to Claimant [REDACTED 1], Claimant [REDACTED 3], and Claimant [REDACTED 2] for the Account Owner's accounts (the "May 2004 Award"). In this Award Amendment, the CRT adopts and amends its findings in the May 2004 Award to address the entitlement of Claimant [REDACTED 4]. Furthermore, based on information contained in the Austrian State Archive regarding the declarations made by the Account Owner in the Nazi-decreed 1938 Census of Jewish-owned assets (the "1938 Census"), the CRT determined that the value of the demand deposit account was SF 14.00 as of 14 July 1938. Furthermore, based upon further evidence regarding the reliability of the declarations made in the 1938 Census, the CRT amends the determination of the value of the demand deposit account in the May 2004 Award. Accordingly, the CRT now determines that the Claimants are each entitled to one-fourth of the total award amount, that the value of the demand deposit account held by the Account Owner was 2,140.00 Swiss Francs ("SF"), and that given the foregoing, the May 2004 Award amount shall be increased by SF 26,575.00.

## **The May 2004 Award**

In the May 2004 Award, the CRT determined that Claimant [REDACTED 1], Claimant [REDACTED 3], and Claimant [REDACTED 2] had plausibly identified the Account Owner, that they plausibly demonstrated that they are related to the Account Owner, and that they made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Based on the information contained in the Bank's records, the CRT also determined that the Account Owner owned one demand deposit account and one custody account. As noted above, based on information in the Austrian State Archives regarding the Account Owner's 1938 Census declaration, the CRT determined that the value of the demand deposit account was SF 14.00 as of 14 July 1938. Additionally, the CRT determined that it was plausible that the Account Owner did not receive the proceeds of her accounts. Finally, the CRT determined that the May 2004 Award amount was SF 162,675.00, including an amount of SF 175.00 for the demand deposit account held by the Account Owner.

## **Information Provided by Claimant [REDACTED 4]**

Claimant [REDACTED 4] submitted a Claim Form identifying the Account Owner as her mother-in-law, Ella Bachrach, née Hirsch, who was born on 19 January 1875 in Vienna, Austria, and was married to [REDACTED] on 2 January 1898 in Vienna. Claimant [REDACTED 4] stated that her mother-in-law, who was Jewish, resided at Filgradergasse 5 in Vienna, and that she owned textile mills and a textile company named *Wilhelm Bachrach, Ltd.*, which operated in Vienna and Prague, Czechoslovakia. Claimant [REDACTED 4] indicated that Ella Bachrach's son, [REDACTED], was her late husband. Claimant [REDACTED 4] submitted a letter of confirmation from the *Israelitische Kultusgemeinde Wien* (Jewish Community of Vienna), indicating that Elsa Bachrach, née Hirsch, was born on 19 January 1875 in Vienna, that she was married to [REDACTED] on 2 January 1898, that they resided at Filgradergasse 5 in Vienna, and that they were the parents of [REDACTED]. In addition, Claimant [REDACTED 4] submitted her husband's death certificate, identifying Claimant [REDACTED 4] as

[REDACTED]'s spouse. Claimant [REDACTED 4] indicated that she was born on 22 April 1915 in Vienna.

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

### Claimant [REDACTED 4]'s Identification of the Account Owner

Claimant [REDACTED 4] has plausibly identified the Account Owner. Claimant [REDACTED 4]'s mother-in-law's name and country of residence match the published name and country of residence of the Account Owner. Claimant [REDACTED 4] identified the Account Owner's city of residence, which matches unpublished information about the Account Owner contained in the Bank's records. In support of her claim, Claimant [REDACTED 4] submitted documents, including a letter of confirmation from the Jewish Community of Vienna, identifying her mother-in-law as Elsa Bachrach and indicating that she resided in Vienna, 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 records as the name and city of residence of the Account Owner.<sup>5</sup>

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

In the May 2004 Award, the CRT determined that the Account Owner was a Victim of Nazi Persecution.

### Claimant [REDACTED 4]'s Relationship to the Account Owner

Claimant [REDACTED 4] has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was Claimant [REDACTED 4]'s mother-in-law. These documents include a letter of confirmation from the Jewish Community of Vienna, identifying [REDACTED] as the Account Owner's son, and [REDACTED]'s death certificate, identifying Claimant [REDACTED 4] as his spouse.

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<sup>5</sup> The CRT notes that the letter of confirmation from the Jewish Community of Vienna identifies Claimant [REDACTED 4]'s mother-in-law as Elsa Bachrach, while the Account Owner was Ella Bachrach. The CRT concludes that this discrepancy does not adversely affect the plausibility of Claimant [REDACTED 4]'s identification of the Account Owner.

### The Issue of Who Receiver the Proceeds

As detailed in the May 2004 Award, the CRT has concluded that it is plausible that the accounts' proceeds were not paid to the Account Owner or her heirs.

### Basis for the Award Amendment

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 4]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 4] has plausibly demonstrated that the Account Owner was her mother-in-law, and that relationship justifies an Award. Third, the CRT determined in the May 2004 Award that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

### Amount of the May 2004 Award

As detailed in the May 2004 Award, the Account Owner held one custody account and one demand deposit account. Based on review of the Account Owner's 1938 Census records, the CRT determined that the value of the demand deposit account was SF 14.00. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case with the Account Owner's custody account, 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 upon the investigation conducted by the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), in 1945 the average value of a custody account was SF 13,000.00, resulting in a total value of SF 13,014.00 for the two accounts at issue.

According to Article 31 of the Rules, account values are multiplied by an adjustment factor to bring award amounts up to current value. At the time of the May 2004 Award, the adjustment factor was 12.5, and the resulting award amount was SF 162,675.00.

### New 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. Moreover, according to Article 23(1)(f) of the Rules, if a child of the account owner is deceased, that child's spouse but none of that child's descendants have submitted a claim, that child's spouse shall be considered a child of the account owner. In this case, Claimant [REDACTED 4]'s deceased spouse was a child of the Account Owner, and therefore Claimant [REDACTED 4] shall be considered a child of the Account Owner. Furthermore, Claimant [REDACTED 1], Claimant [REDACTED 3], and Claimant [REDACTED 2] are each descendants of other children of the Account Owner. Accordingly, the Claimants are each entitled to one-fourth of the total award amount.

### Amount and Division of the Award Amendment

The CRT notes that the Account Owner's 1938 Census record indicates that the value of her

demand deposit account was SF 14.00. However, CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census, as it has no evidence regarding the circumstances of the Account Owner's declaration. The CRT notes that, as evidenced in a number of cases, the Account Owner may not have declared all her assets, or understated their value, in the belief that this might help her safeguard some of them.<sup>6</sup> Pursuant to Article 29 of the Rules, if the amount in a demand deposit account is less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the demand deposit account shall be determined to be SF 2,140.00. Accordingly, the CRT does not find that the value of the demand deposit account indicated in the Account Owner's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of the demand deposit account shall be determined to be SF 2,140.00.

Therefore, according to this Award Amendment, the combined 1945 value of the demand deposit and custody account is SF 15,140.00. 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 amended award amount of SF 189,250.00. Claimant [REDACTED 1], Claimant [REDACTED 3], Claimant [REDACTED 2], and Claimant [REDACTED 4] are each entitled to one-fourth of the 1945 combined account value, or SF 3,785.00, for a current value of SF 47,312.50 each.

With respect to Claimant [REDACTED 1], Claimant [REDACTED 3], and Claimant [REDACTED 2], the CRT notes that in the May 2004 Award, they were awarded the combined 1945 value of SF 13,014.00 for the two accounts, which was equal to the current value of SF 162,675.00. In the May 2004 Award, the CRT determined that they were each entitled to one-third of that 1945 value, or SF 4,338.00 each, which, at current value, was equal to SF 54,225.00. Because Claimant [REDACTED 1], Claimant [REDACTED 3], and Claimant [REDACTED 2] have received SF 54,225.00, but are only entitled to receive SF 47,312.50, they are not entitled to any additional payment.

With respect to Claimant [REDACTED 4], as noted above, the total 1945 value of the Account Owner's accounts was SF 15,140.00. Claimant [REDACTED 4] is entitled to one-fourth of this amount, or SF 3,785.00. 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 an Award Amendment amount of SF 47,312.50. Claimant [REDACTED 4] has not previously received any portion of the Award amount. Therefore, Claimant [REDACTED 4] is entitled to the full amount of the Award Amendment.

### **Scope of the Award Amendment**

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).

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<sup>6</sup> In a previous Order, the Court amended the values of other accounts reported in 1938 Census records. See Order Approving Award Amendments, 21 October 2004.

**Certification of the Award Amendment**

The CRT certifies this Award Amendment for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal