

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of *Bankhaus L. J. Kirchberger* and Alice Wiesengrund

Claim Number: 401819/RS¹

Award Amount: 17,043.75 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Andreas Kirchberger. This Award is to the unpublished accounts of *Bankhaus L. J. Kirchberger* (“Account Owner Bank Kirchberger”) and to the unpublished accounts of Alice Wiesengrund (“Account Owner Wiesengrund”) (together, the “Account Owners”) at the Zurich branch of the [REDACTED] (“Bank I”), and to the unpublished accounts of Account Owner Bank Kirchberger at the Zurich branch of the [REDACTED] (“Bank II”) (together, the “Banks”).²

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 banks have been redacted.

¹ Claimant [REDACTED] (the “Claimant”) submitted two additional claims, which are registered under the Claim Numbers 206946 and 501030. In addition, in 1999 the Claimant submitted three Initial Questionnaires (“IQs”), numbered ENG-0658-052, ENG-0658-053, and ENG-0658-054, to the Court in the United States. Although these IQs were not Claim Forms, the Court, in an Order signed on 30 July 2001, ordered that those IQs 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 IQs were forwarded to the CRT and have been assigned claim numbers 705428, 705429 and 705430, respectively.

In a separate decision, the CRT awarded the account of Otto Kirchberger to the Claimant. See *In re Account of Otto Kirchberger* (approved on 12 January 2005).

In another decision dated 7 December 2006, the CRT treated the Claimant’s claims to the accounts of Emil Hellmann and Reinhard Hellmann. In a separate decision dated 13 February 2007, the CRT treated the Claimant’s claim to the account of Reinhard Hellmann. In a further decision dated 24 September 2007, the CRT treated the Claimant’s claims to the accounts of Charlotte Kirchberger, Paul Kirchberger, Friedrich Albert Paul Kirchberger, Joachim Heinrich Kirchberger, Reinhard Hellmann, Mathilde Kirchberger, Hermann Kirchberger, Eva Kirchberger, Rudolf Kirchberger, and Theodor Kirchberger.

² The CRT notes that, on the List of Account Owners Published in 2005 (the “2005 List”), Andreas Kirchberger is indicated as having a bank account. Upon careful review, the CRT has concluded that the German archival records evidence the existence of four bank accounts held by *Bankhaus L. J. Kirchberger* (“Account Owner Bank Kirchberger”) and one bank account held by Alice Wiesengrund (“Account Owner Wiesengrund”), and that Andreas (André) Kirchberger was the Power of Attorney Holder over two of the accounts held by Account Owner Bank Kirchberger, and over the account held by Account Owner Wiesengrund. The German archival records do not indicate that Andreas (André) Kirchberger was the owner of a bank account.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying L. J. Kirchberger in the name of *Bankhaus L. J. Kirchberger* as her paternal great-great-great-grandfather's cousin, Löb Joseph Kirchberger, who was born in 1776 in Koblenz-Ehrenbreitstein, Germany, and passed away in 1861 in Bad Ems, Germany. According to information provided by the Claimant, Löb Joseph Kirchberger owned a bookshop in Bad Ems in the early nineteenth century. The Claimant added that the Kirchberger family soon expanded its business activities, and that Löb Joseph Kirchberger's grandson, [REDACTED], founded a bank in Bad Ems named *Bankhaus Kirchberger*.

The Claimant identified the Power of Attorney Holder as the great-grandson of Löb Joseph Kirchberger, [REDACTED], who was born on 15 August 1899 in Bad Ems. According to the Claimant, [REDACTED] was the son of [REDACTED] and [REDACTED], née [REDACTED]. The Claimant added that [REDACTED] had two siblings, [REDACTED] and [REDACTED], and that the family resided at Grabenstrasse 13 in Bad Ems. The Claimant stated that [REDACTED] was a banker, and that he resided in Bad Ems and in Paris, France prior to the Second World War. According to the Claimant, [REDACTED] was never married, and did not have any children.

The Claimant further indicated that [REDACTED]'s father [REDACTED] died in 1921 in Bad Ems, and that [REDACTED] fled to France in 1939 with her daughter, [REDACTED], but that they were both deported to Auschwitz, where they perished. The Claimant stated that [REDACTED] perished on 28 July 1942 in Mauthausen concentration camp.

The Claimant submitted a document which indicates that [REDACTED]'s brother [REDACTED] survived the Second World War and was listed as the owner of the family home in Bad Ems in 1953.

The Claimant submitted copies of:

- (1) a letter to the Claimant from the Municipality of Bad Ems dated 30 March 2005, indicating that L. J. Kirchberger resided in Bad Ems in the nineteenth century; that the Kirchberger family founded a bank in Bad Ems; that [REDACTED] was married to [REDACTED], née [REDACTED]; that [REDACTED] died in 1921; that [REDACTED] fled to France with her daughter [REDACTED] in 1939; and that [REDACTED] survived the Second World War;
- (2) an email to the Claimant from the Municipality of Bad Ems, dated 21 June 2005, stating that further research in the municipal archives indicated that Löb Joseph Kirchberger had a son named [REDACTED]; that [REDACTED] was married to [REDACTED] and that they had two sons: [REDACTED], who was born in 1849, and [REDACTED], who was born in 1852 and who founded the *Bankhaus Kirchberger* in Bad Ems; that [REDACTED] was married to [REDACTED], and that they had a son named [REDACTED], who was born in 1899;
- (3) a hand-written letter dated June 1865, written by [REDACTED], the Claimant's great-grandfather's uncle, outlining the history of the Kirchberger family;

- (4) the birth certificate of [REDACTED], indicating that he was born on 17 July 1849 in Niederlahnstein, Germany, and that his parents were [REDACTED], who was Jewish, and [REDACTED], who was also Jewish;
- (5) a marriage certificate indicating that wine merchant [REDACTED], born on 17 July 1849 as the son of [REDACTED] and [REDACTED], was married on 2 September 1877 in Niederlahnstein to [REDACTED], who was born on 24 June 1857, and that [REDACTED] was a witness to the marriage;
- (6) a birth certificate indicating that [REDACTED] was born on 21 December 1879 in Niederlahnstein, and that her parents were [REDACTED] and [REDACTED], both of whom were Jewish;
- (7) a marriage certificate indicating that [REDACTED] and [REDACTED] were married on 21 March 1908 in Weilburg;
- (8) an announcement regarding the birth of [REDACTED], dated 25 August 1909, indicating that his parents were [REDACTED] and [REDACTED], née [REDACTED];
- (9) a marriage certificate dated 27 August 1944, indicating that [REDACTED] and [REDACTED] were married in Connecticut, the United States;
- (10) her birth certificate, indicating that she, [REDACTED], was born on 18 March 1947 and that her parents were [REDACTED] and [REDACTED]; and
- (11) a detailed family tree.

The Claimant previously submitted an Initial Questionnaire (“IQ”) to the Court in 1999, asserting her entitlement to a Swiss bank account owned by Paul Kirchberger.³

The Claimant indicated that she was born on 18 March 1947 in Meriden, Connecticut, USA.

Information Available in the Banks’ Records

The CRT notes that the auditors who carried out the investigation of the Banks 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 report an account belonging to Andreas Kirchberger during their investigation of the Banks. The records for the Account Owners’ accounts at the Banks were obtained from archival sources in Germany and are further described below.

Information Available from German Archival Records

In the records of the Wiesbaden State Archive (*Staatsarchiv Wiesbaden*), there is a file numbered 83 (1935).

³ The CRT did not locate an account belonging to Paul Kirchberger in the Account History Database prepared pursuant to the ICEP Investigation.

The records in this file consist of the German financial authorities' 1935 criminal case file regarding [REDACTED]. This file includes, specifically, a criminal indictment for violations of currency laws (*Devisenverfahren*) and the documentary evidence supporting the indictment, including police investigation reports, bank documents, correspondence from the German financial authorities, correspondence between the Banks and *Bankhaus L. J. Kirchberger*, correspondence relating to the liquidation of *Bankhaus L. J. Kirchberger*, and account balance sheets.

The Baden-Württemberg State Archive in Freiburg, Germany (*Landesarchiv Baden-Württemberg Staatsarchiv Freiburg*) also contains a record consisting of the Freiburg District Court (*Landgericht Freiburg im Breisgau*) criminal case file regarding [REDACTED]. This file includes, specifically, the arrest warrant for [REDACTED]; police investigation notes regarding the case; statements made by [REDACTED]; a transcript of the proceedings against him; the decision of the court in that case; correspondence from the accused's lawyer Richard (Israel) Müller of Ludwigshafen am Rhein; a letter from [REDACTED] to the *International Red Cross*; a letter from [REDACTED] to the court dated 12 December 1940; copies of receipts for accommodation in Ouchy-Lausanne, Switzerland in the name of Mr. R. Linn; and copies of letters from a number of individuals sent to various recipients care of the American Joint Distribution Committee in Paris, all of which were seized upon [REDACTED]'s arrest in Paris.

The indictment against [REDACTED] (the "Kirchberger Indictment") indicates that he was a bank officer (*Bankprokurist*). The arrest warrant was issued on 3 November 1934, and the Kirchberger Indictment was submitted on 10 February 1936 to the General Prosecutor (*Oberstaatanwalt*) in the Wiesbaden District Court (*Landgericht Wiesbaden*). According to the Kirchberger Indictment, [REDACTED] was born on 15 August 1899 in Bad Ems, and had a registered address of Römerstrasse 20, Bad Ems; however, as of 13 September 1934, [REDACTED] had left Germany, and given that his exact location was unknown, he was considered to be a "fugitive" (*Flüchtling*). The Kirchberger Indictment states that [REDACTED] was an officer of *Bankhaus L. J. Kirchberger* before he left Germany, and that *Bankhaus L. J. Kirchberger* had a permit from the *Reichsbank* to conduct foreign currency exchanges (*Devisenbankeigenschaft*).

According to the Kirchberger Indictment, during the period between June 1933 and September 1934, [REDACTED] allegedly transferred German and foreign currency from Germany to Switzerland, personally or with the help of an individual named Rudolf Linn, and without permission from the German authorities, thereby violating German foreign currency laws. The Kirchberger Indictment indicates that in this manner, [REDACTED] deposited the equivalent of a total of 13,894.25 Swiss Francs ("SF") in a bank account in Switzerland without permission from the German authorities. In addition, according to the German archival records, an additional SF 3,366.25 was found on Rudolf Linn's person upon his arrest, bringing the total amount taken out of Germany by [REDACTED] and Rudolf Linn to SF 17,260.50. The Kirchberger Indictment further alleges that [REDACTED] used the funds in the Swiss bank account in 1933 and 1934 to acquire in Switzerland, without permission from the German authorities, shares of the German company *I. G. Farben (I. G. Farbenindustrie)* with a total nominal value of 20,000.00 Reichsmark ("RM"), for a total purchase value of SF 17,384.05;

[REDACTED] then allegedly sold those shares in Germany for a higher price than that at which he had acquired them.

The German archival records include a copy of the investigation report (the “German Police Report”) leading to the Kirchberger Indictment. According to the German Police Report, on 16 March 1934, the police in Wiesbaden alerted German border stations that a banker named [REDACTED], residing in Bad Ems, was suspected of smuggling currency to Switzerland with the assistance of a second individual, and that [REDACTED] should be stopped at the border.

The German Police Report further indicates that on 12 September 1934, the Wiesbaden police followed a person named Rudolf Linn, who had received money in a meeting with “a Jew” in Frankfurt am Main, and who then crossed the border to Basel, Switzerland, by train with the money. The German Police Report further states that Rudolf Linn had been arrested on a train in Basel carrying German and foreign currency. According to the German Police Report, the police concluded that Rudolf Linn was unemployed, and that a Jewish person, for whom Rudolf Linn smuggled foreign currency into Switzerland, supported Linn financially; that this Jewish person had been known to introduce himself as “Dr. Busse”; and that this person might be the banker named [REDACTED] from Bad Ems.

The German Police Report further indicates that investigators proceeded to Bad Ems where the widow [REDACTED], née [REDACTED], of Jewish religion, owned a bank, which was managed by her son [REDACTED]. The German Police Report indicates that [REDACTED] and his mother [REDACTED] both resided at Grabenstrasse 13 in Bad Ems. According to the German Police Report, the investigators questioned an employee of the bank, who stated that on 12 September 1934, [REDACTED] and his aunt, Alice Wiesengrund, left Bad Ems for Basel. The German Police Report states that the investigators also questioned [REDACTED], the sister of [REDACTED], and that she indicated that her brother [REDACTED] and her aunt Alice Wiesengrund were visiting a friend in Switzerland.

According to the German Police Report, in Bad Ems, the investigators seized two photographs of [REDACTED] that were later presented to a witness familiar with Rudolf Linn and his alleged benefactor “Dr. Busse,” and that witness identified the person in the photographs as “Dr. Busse.”

The German Police Report further states that [REDACTED] had been traveling on the same train on which Rudolf Linn was arrested in Basel. The German Police Report also includes the authorities’ conclusion that it was clear that [REDACTED] had made numerous trips to Switzerland with Rudolf Linn, and that each time, the two had brought foreign currency into Switzerland with them.

The German archival records indicate that an arrest warrant against [REDACTED] relating to these violations of German currency laws was issued in Lörrach, Germany, on 3 November 1934. The arrest warrant indicates that [REDACTED] recruited another individual to take foreign currency out of the country on two occasions without the authorities’ permission, and that [REDACTED] also personally took foreign currency out of the country without government permission. The arrest warrant indicates that [REDACTED] was a fugitive as of the date of the

arrest warrant. The German archival records also indicate that as of 14 September 1934, Rudolf Linn was being held in custody in the regional prison in Lörrach.

The Freiburg District Court criminal case file indicates that [REDACTED] was arrested by French authorities on 14 July 1940 in Paris, France, where he had been residing at the *Hotel Colbert*, 42 Rue de la Rochefoucauld. The file further indicates that [REDACTED] was then transferred to the military prison in Paris, where he was questioned by German officers, who took his statements.

In his 1940 statements to the authorities, [REDACTED] stated that he was Jewish, and that he had three siblings, namely a sister who lived with his mother, a brother [REDACTED], and a brother [REDACTED], who was born in approximately 1910.

In his statements, [REDACTED] indicated that his family had owned and operated *Bankhaus L. J. Kirchberger* for over 150 years, and that he had sole signing authority for the bank. [REDACTED] also stated that the bank had been liquidated at the end of 1934. [REDACTED] stated that he moved to France in September 1934, that he had worked for a number of banks in Paris between 1934 and 1936, and that in mid-1936, he became the Secretary of the American Joint Distribution Committee, a Jewish aid organization. [REDACTED] further indicated that from 5 September 1939 through 9 February 1940, he was interned in France because of his German citizenship, and that he served as a forced laborer for the labor organization *Etranger Prestataire* in France from February through June 1940; on 28 June 1940, he returned to Paris.

In his statements to the authorities, [REDACTED] admitted that he had recruited Rudolf Linn to assist him to bring currency over the German-Swiss border on three occasions: once in 1933, once in July 1934, and once in September 1934. [REDACTED] further indicated that in 1927 and between 1930 and 1933, *Bankhaus L. J. Kirchberger* suffered considerable losses, but that he did not feel he could liquidate the bank, as it did not have the financial resources to satisfy its creditors. [REDACTED] further stated that he realized that many securities could be purchased more cheaply in Switzerland than in Germany; accordingly, in an effort to raise liquidity for his family's bank, he purchased *I. G. Farben* securities relatively inexpensively in Switzerland, and sold them later in Germany at a profit of approximately 50 percent. [REDACTED] also indicated that he opened an account in the name of his aunt, Alice Wiesengrund, at Bank I and deposited the funds to purchase the bonds in her account.

The German archival records indicate that [REDACTED] also admitted to loaning German currency to a German national who took the money to the Netherlands, and to making payments to a German company on behalf of a Swiss company. In addition, [REDACTED] was charged with converting travelers' checks, which had been issued to him in Germany for the sole purpose of covering travel expenses while in Switzerland, into cash and depositing the proceeds into Swiss bank accounts. Those alleged infractions of German financial regulations at that time were also added to the indictment against him.

In his statements to the authorities, [REDACTED] also stated that his purpose in transferring money to Switzerland was not personal gain, but rather the safeguarding of his family's house in

Bad Ems, with the hopes of later selling it in order to satisfy *Bankhaus L. J. Kirchberger's* creditors.

The records indicate, additionally, that criminal proceedings were brought against Rudolf Linn for his involvement in a homosexual relationship with [REDACTED], but that similar charges against [REDACTED] were dropped at the request of the Wiesbaden prosecution office. The records indicate that Rudolf Linn was imprisoned for seven months on the basis of the sexual offences charge.

The German archival records indicate that ultimately, [REDACTED] was tried by the Freiburg District Court on 8 January 1941, and was found guilty of the five charges of currency violations brought against him. The German archival records also indicate that [REDACTED] was sentenced to one year and six months' imprisonment, and a RM 15,000.00 fine, which was waived for time served, and in recognition of the accused's full confession. However, an additional fine of RM 14,000.00, representing the amount of foreign currency involved, minus RM 908.65, representing the funds previously disgorged by the accused, was also levied on the accused.

The German archival records indicate that [REDACTED] was transferred to the prison in Rottenburg (Neckar) on 5 February 1941, and his sentence was scheduled to end on 10 July 1942. The records also indicate that on 5 May 1942, his lawyer, Richard (Israel) Müller, wrote to the Freiburg prosecutors' office, requesting that [REDACTED] be permitted to return to Paris upon his release. Nonetheless, the German archival records indicate that on 9 July 1942, [REDACTED] was sent with a group transport from Rottenburg (Neckar) to the concentration camp Mauthausen; the authorities expected that he would arrive in Mauthausen on 18 July 1942.

Bank I

The German archival records indicate the existence of three accounts at Bank I held by two different Account Owners.

According to the German archival records, *Bankhaus L. J. Kirchberger*, which was located in Bad Ems, Germany, held a custody account numbered 6576 and a demand deposit account numbered 7255 at Bank I. The German archival records indicate that the Power of Attorney Holder over both of those accounts was [REDACTED], who resided at Römerstrasse 20, Bad Ems, and later in Amphion-Les-Bains, Les Cèdres, France. The German archival records further indicate that [REDACTED], née [REDACTED], who was the mother of Power of Attorney Holder [REDACTED], was the owner of *Bankhaus L. J. Kirchberger* and that Power of Attorney Holder [REDACTED] was an officer of *Bankhaus L. J. Kirchberger* who had sole signing authority for the family bank.

The German archival records also indicate that [REDACTED]'s aunt, *Fräulein* (Miss) Alice Wiesengrund, who resided at Rue Pigalle 7, Paris 9, France, held a demand deposit account, which was interchangeably numbered 5514 or 7709, at Bank I. The German archival records further indicate that the Power of Attorney Holder over Alice Wiesengrund's account was [REDACTED]. As indicated below, the German archival records indicate that this demand

deposit account was controlled by [REDACTED] and operated in practice as an account of *Bankhaus L. J. Kirchberger*; the German archival records also indicate that Alice Wiesengrund never controlled or used this account.

The German archival records further indicate that the account held by Account Owner Wiesengrund was opened by [REDACTED]. In a letter dated 20 July 1933, [REDACTED], on behalf of Account Owner Bank Kirchberger, requested that a demand deposit account held by Account Owner Bank Kirchberger under the rubric *Lefortier-Bernard* henceforth be registered under the name *Fräulein Alice Wiesengrund*. The correspondence also includes a letter dated 21 July 1933 from Bank I stating that the demand deposit account numbered 19781 labeled under the rubric *Lefortier-Bernard* had been closed, and that the balance had been transferred to a new demand deposit account in the name of Account Owner Wiesengrund.

The German archival records indicate that from May 1933 through March 1935, Account Owner Bank Kirchberger's custody account numbered 6576 contained 5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 4,000.00, and 4% *Kanton Bern 1930* bonds with a nominal value of SF 1,000.00. In correspondence, Bank I indicated that all of those bonds were held as a guarantee over negative balances in the demand deposit accounts held by both Account Owner Bank Kirchberger and Account Owner Wiesengrund. The German archival records also indicate that on 22 July 1933, Power of Attorney Holder [REDACTED], as representative of Account Owner Bank Kirchberger, personally signed a security instrument or guarantee pledging the bonds in custody account 6576 to Bank I. Bank I indicated in further correspondence that under that agreement, it had the right to liquidate the securities in custody account 6576 in the event that they decreased in value in such a way as to endanger Bank I's guarantee.

The German archival records include further correspondence indicating that in 1934, someone acting on behalf of Account Owner Bank Kirchberger requested delivery of most of the security certificates held in Account Owner Bank Kirchberger's custody account at Bank I. In a letter dated 30 October 1934 from Bank I to Account Owner Bank Kirchberger, Bank I refused Account Owner Bank Kirchberger's request to send it 4% *Kanton Bern 1930* bonds with a nominal value of SF 1,000.00, and 5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 2,000.00 held in Account Owner Bank Kirchberger's custody account. Bank I explained that it was unable to forward the security certificates because it was holding them as a guarantee over the negative balance of SF 400.00 in Account Owner Bank Kirchberger's demand deposit account, and over the negative balance of SF 2,200.00 in Account Owner Wiesengrund's demand deposit account.

The Kirchberger Indictment includes correspondence indicating that on 8 June 1934, and again on 29 December 1934, Account Owner Bank Kirchberger requested the permission of the Foreign Exchange Authority (*Devisenbewirtschaftungsstelle*) to utilize interest payments received from Bank I totaling SF 106.70 and SF 126.10, respectively, despite the fact that the interest payments had been paid in both cases on securities which Bank I was holding as a guarantee over overdrafts on the accounts. The Foreign Exchange Authority authorized Account Owner Bank Kirchberger to use those interest payments for its own purposes in both instances.

The German archival records also include correspondence indicating that beginning on or before 12 November 1934, Account Owner Bank Kirchberger was in liquidation. This correspondence includes a letter dated 14 December 1934 from Bank I to Dr. jur. [REDACTED], individual Liquidator of Account Owner Bank Kirchberger (the "Liquidator"). In the letter, Bank I noted the Liquidator's statement that the liquidation had become necessary because of *Bankhaus L. J. Kirchberger's* difficulties with the Foreign Exchange Authority. Bank I provided the Liquidator with complete information regarding the type and quantity of Account Owner Bank Kirchberger's assets at Bank I. Bank I also indicated that provided that its claims to securities held in Account Owner Bank Kirchberger's custody account would not be compromised, Bank I agreed to the liquidation of Account Owner Bank Kirchberger.

In a further letter dated 26 April 1935, Bank I indicated to the Liquidator that despite several requests, Account Owner Wiesengrund had not settled her debt owing to Bank I. Bank I indicated that consequently, it had transferred the negative balance of SF 2,303.00 in Account Owner Wiesengrund's demand deposit account to the demand deposit account of Account Owner Bank Kirchberger; Bank I also stated that it had subsequently closed Account Owner Wiesengrund's account. Furthermore, Bank I indicated that it had also sold 4% *Kanton Bern 1930* bonds with a nominal value of SF 1,000.00, and 5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 2,000.00, and had received total net proceeds from those sales of SF 1,926.60. The German archival records indicate that Bank I credited those proceeds to Account Owner Bank Kirchberger's demand deposit account. Bank I further stated that following those sales, Account Owner Bank Kirchberger's demand deposit account still had a negative balance of SF 669.40. Bank I indicated that it was holding the remaining securities in Account Owner Bank Kirchberger's custody account (5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 2,000.00) as security over that negative balance.

A balance sheet for Account Owner Wiesengrund's demand deposit account numbered 5514/7709 details the following activity on the account from 21 July 1933 to 2 May 1935:

- 21 July 1933: transfer of SF 1,437.50 from *L. J. Kirchberger*.
- 24 July 1933: purchase of *I.G. Farben* shares with a nominal value of RM 3,000.00 at a price of SF 3,057.40.
- 30 August 1933: purchase of *I.G. Farben* shares with a nominal value RM 3,000.00 at a price of SF 2,905.55.
- 30 August 1933: deposit by A. Kirchberger of SF 1,000.00.
- 6 September 1933: deposit by A. Kirchberger of SF 300.00.
- 8 September 1933: purchase of *I. G. Farben* shares with a nominal value of RM 3,000.00 at a price of SF 2,764.45.
- 29 March 1934: remittance of SF 6,252.00 from *L. J. Kirchberger*.
- 9 April 1934: purchase of *I. G. Farben* shares with a nominal value of RM 8,000.00 at a price of SF 6,580.75.
- 12 July 1934: purchase of *I. G. Farben* shares with a nominal value of RM 3,000.00 at a price of SF 2,075.90.
- 2 May 1935: transfer of a negative balance of SF 2,303.00 to the account of *L. J. Kirchberger*.

The account statements and correspondence from Bank I contained in the German archival records indicate that the *I. G. Farben* shares that were purchased using funds in Account Owner Wiesengrund's demand deposit account were not deposited in accounts at either Bank I or Bank II. In his 1940 statement to the authorities, [REDACTED] indicated that he sold the *I. G. Farben* shares, which he had purchased in Switzerland, in Germany at a 50 percent profit.

The Kirchberger Indictment includes copies of Bank I's balance statements for demand deposit account numbered 7255 held by Account Owner Bank Kirchberger at Bank I. Those statements reflect the following activity and balances for that account:

- 30 June 1932: negative balance of SF 762.00
- 31 December 1932: negative balance of SF 705.00
- 30 June 1933: negative balance of SF 600.00
- 31 December 1933: negative balance of SF 512.00
- 30 June 1934: negative balance of SF 403.50
- 31 December 1934: negative balance of SF 293.00
- 24 April 1935: credit to the account of SF 981.55 (proceeds from the sale of 5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 2,000.00), and of SF 945.05 (proceeds from the sale of 4% *Kanton Bern 1930* bonds with a nominal value of SF 1,000.00)
- 2 May 1935: transfer to the account of the negative balance of SF 2,303.00 from the demand deposit account belonging to *Frl. Alice Wiesengrund*
- 30 June 1935: negative balance of SF 636.50

The German archival records indicate that, apart from the April 1935 sale of bonds, the negative balance of Account Owner Bank Kirchberger's demand deposit account was reduced only by the credit to the account of coupon payments made on the bonds held in Account Owner Bank Kirchberger's custody account.

The German archival records also indicate a payment of SF 19.60 to the *Reichsbank Direktorium* from Account Owner Bank Kirchberger's demand deposit account on 20 November 1933.

The German archival records contain a letter dated 7 February 1936, from the Liquidator to the Foreign Exchange Authority. In that letter, the Liquidator indicates that the liquidation of Account Owner Bank Kirchberger had thus far resulted in the repayment of 65 percent of creditors' claims against the bank. The Liquidator further indicated that the remaining creditors' claims could potentially be paid out through the sale of unspecified securities held by an unnamed female foreigner, who, upon learning of the criminal proceedings against [REDACTED], had authorized *Frau* [REDACTED] to sell those securities in order to pay off the debts that [REDACTED] owed to an unnamed bank.

The German archival records include a statement from [REDACTED] indicating that by late 1940, the accounts held by Account Owner Bank Kirchberger and Account Owner Wiesengrund at Bank I had been closed.

Bank II

The German archival records indicate the existence of two accounts at Bank II held by one account owner.

According to the German archival records, the Account Owner was *Bankhaus L. J. Kirchberger*, which was located in Bad Ems, Germany. The German archival records indicate that Account Owner Bank Kirchberger held a custody account numbered 41833 and a demand deposit account at Bank II. The German archival records do not specifically indicate whether there was a Power of Attorney Holder over either of the accounts.

The German archival records indicate that from May 1933 until 13 April 1935, custody account 41833 contained 7 shares of *I.G. Chemie*, and 5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 9,000.00. The German archival records indicate that Bank II held those securities as a guarantee over the overdraft in Account Owner Bank Kirchberger's demand deposit account.

The German archival records include Bank II's balance statements for the demand deposit account, into which Bank II paid the interest and coupon payments from the bonds held in the custody account. The balance statements indicate that on 30 June 1931, Account Owner Bank Kirchberger's demand deposit account had a positive balance of SF 134.00. The balance statements further indicate that following the purchase of unnamed securities in June and July 1931, the demand deposit account had a negative balance of SF 9,935.50 on 30 September 1931. For the following four years, the balance statements indicate, Account Owner Bank Kirchberger's demand deposit account carried a continuously negative balance ranging between SF 9,935.50 and SF 7,873.00. The German archival records indicate that, apart from the April 1935 sale of bonds, the negative balance of the demand deposit account was reduced only by the credit to the account of coupon payments made on the bonds held in the custody account.

In a 28 February 1935 letter, Bank II indicated to Account Owner Bank Kirchberger that the demand deposit account had an approximate negative balance of SF 7,900.00. Bank II further advised that given the "existing currency regulations," Bank II realized that Account Owner Bank Kirchberger would not be able to repay the existing debt; consequently, Bank II anticipated exercising its security rights by selling unnamed assets. A handwritten note on the letter indicates that the letter was received by Account Owner Bank Kirchberger on 2 March 1935 in Bad Ems.

In a subsequent letter dated 12 April 1935, Bank II informed Account Owner Bank Kirchberger that it had sold all of the securities in its custody account over which it had security rights based upon an existing "guarantee certificate." Bank II further advised that it would credit the proceeds from those sales to Account Owner Bank Kirchberger's demand deposit account in order to reduce that account's negative balance. The German archival records indicate elsewhere that those securities were actually sold on 13 April 1935. A balance sheet for the demand deposit account indicates that those sales resulted in a credit of SF 1,635.80 from the sale of the 7 shares of *I. G. Chemie*, and a credit of SF 4,569.20 from the sale of the 5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 9,000.00. The German archival

records indicate that following those sales, the demand deposit account had a new negative balance of SF 1,838.50. In a letter dated 15 April 1935, Bank II requested Account Owner Bank Kirchberger's signature on the securities' sale release forms, and indicated that the demand deposit account still had a residual negative balance of approximately SF 1,800.00. Bank II stated, finally, that it would like that debt to be repaid, and that it was open to suggestions from Account Owner Bank Kirchberger as to how that repayment might be made.

The German archival records do not indicate when the accounts at Bank II were closed.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Bank Kirchberger. The Claimant's relative's name and city and country of residence match the unpublished initials and surname in the name of *Bankhaus L. J. Kirchberger*. Another of the Claimant's relative's name and cities and countries of residence match the published name and unpublished cities and countries of residence of the Power of Attorney Holder, [REDACTED]. The Claimant also identified Account Owner Wiesengrund's surname, which is the same as the maiden name of Power of Attorney Holder [REDACTED]'s mother. The Claimant further identified the Power of Attorney Holder's family members, the address of the Power of Attorney Holder's family home, his profession, and his mother's maiden name, all of which match unpublished information about the Power of Attorney Holder contained in the German archival records.

In support of her claim, the Claimant submitted documents, including: (1) a letter to the Claimant from the Municipality of Bad Ems dated 30 March 2005; (2) a copy of an email to the Claimant from the Municipality of Bad Ems dated 21 June 2005; (3) a hand-written letter dated June 1865; and (4) a detailed family tree, providing independent verification that the person who is claimed to have founded Account Owner Bank Kirchberger had the same initials and surname and resided in the same town recorded in the German archival records as the name and city of operation of Account Owner Bank Kirchberger.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], and indicates that he resided in Ems (Wiesbaden, Hesse-Nassau) and in Paris during the Second World War, that he was a banker, and that his mother's name was [REDACTED], which matches the information about the Power of Attorney Holder provided by the Claimant. The database also includes a person named [REDACTED] and indicates that his date of birth was 15 August 1899, and that he perished in Mauthausen concentration camp on 28 July 1942, which matches the information about the Power of Attorney Holder provided by the Claimant. The database also includes a person named [REDACTED], née [REDACTED], and indicates that she resided in Bad Ems and in Paris, that she had four children and that she perished in Auschwitz, which matches information about the Power of Attorney Holder's mother provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

The CRT notes that the Claimant did not identify Account Owner Wiesengrund's given name, although she did identify Account Owner Wiesengrund's surname. However, the CRT notes that the Claimant was born after the Second World War, and that the Claimant resides in the United States, whereas Account Owner Wiesengrund resided in Bad Ems, and therefore the CRT determines that it is plausible that the Claimant would not know the names of all of her relative's extended family members, and that the Claimant's failure to identify Account Owner Wiesengrund's given name does not adversely affect the plausibility of her identification of Account Owner Bank Kirchberger and Power of Attorney Holder [REDACTED].

The CRT notes that there are no other claims to these accounts.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the owners of Account Owner Bank Kirchberger were Victims of Nazi Persecution. The Claimant stated that Account Owner Bank Kirchberger was owned by the Kirchberger family, who was Jewish. The Claimant stated that Power of Attorney Holder [REDACTED] was Jewish, and that he perished in Mauthausen concentration camp. As noted above, a person named [REDACTED] was included in the CRT's database of victims. The CRT notes that the Claimant did not provide any information about Account Owner Wiesenberg. However, as detailed above, the German archival records indicate that the account in her name was opened by Power of Attorney Holder [REDACTED] for the beneficial use of Account Owner Bank Kirchberger, which was owned by Victims of Nazi Persecution.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to the founder of Account Owner Bank Kirchberger and to the Power of Attorney Holder by submitting specific information and documents, demonstrating that they were the Claimant's relatives. These documents include: (1) an email from the Municipality of Bad Ems, stating that according to the municipal archives, Löb Joseph Kirchberger was married to [REDACTED], that their son was [REDACTED], that [REDACTED] had two sons, [REDACTED] and [REDACTED], the latter of whom was a banker, and that [REDACTED] was married to [REDACTED] and that they had a son [REDACTED], who was born on 15 August 1899; (2) a hand-written letter dated June 1865 written by [REDACTED], the Claimant's great-grandfather's uncle, describing the history of the Kirchberger family; (3) a detailed family tree indicating that Löb Joseph Kirchberger was the nephew of [REDACTED], and that [REDACTED] was the grandfather of [REDACTED] who resided in Niederlahnstein, that his son was [REDACTED], that [REDACTED]'s daughter was [REDACTED], that [REDACTED]'s son was [REDACTED], and that [REDACTED]'s daughter was [REDACTED]; (4) the birth certificate of [REDACTED], indicating that he was born on 17 July 1849, and that his parents were [REDACTED] and [REDACTED]; (5) a marriage certificate indicating that [REDACTED], son of [REDACTED] and [REDACTED], née [REDACTED], was married on 2 September 1877 to [REDACTED], and that [REDACTED] was a witness to the marriage; (6) a birth certificate indicating that [REDACTED] was born on 23 December 1879, and that her parents were [REDACTED] and [REDACTED]; (7) a marriage certificate indicating that [REDACTED] and [REDACTED]

were married on 21 March 1908; (8) an announcement regarding the birth of [REDACTED], dated 25 August 1909, indicating that his parents were [REDACTED] and [REDACTED], née [REDACTED]; (9) a marriage certificate dated 27 August 1944, indicating the marriage of [REDACTED] and [REDACTED]; and (10) a birth certificate indicating that [REDACTED] was born on 18 March 1947 to Ruth and [REDACTED].

The CRT notes that the Claimant indicated that she may have other surviving relatives, but that because they are not represented in the Claimant's claim, the CRT will not treat their potential entitlement to the Account Owners' accounts in this decision.

The CRT further notes that the Claimant identified unpublished information about the Account Owners and about Power of Attorney Holder [REDACTED] as contained in the German archival records, and that the Claimant 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 Account Owner Bank Kirchberger and the Power of Attorney Holder were well known to the Claimant as a company owned by the family and as a family member, and all of this information supports the plausibility that the Claimant is related to the owners of Account Owner Bank Kirchberger and to the Power of Attorney Holder, as she has asserted in her Claim Form.

The CRT notes that the Claimant did not specifically indicate that she is related to Account Owner Wiesengrund. However, given that the German archival records indicate that Account Owner Wiesengrund was the aunt of Power of Attorney Holder [REDACTED], the CRT concludes that it is plausible that Account Owner Wiesengrund and Power of Attorney Holder [REDACTED] were related, and that by plausibly demonstrating that she is related to Power of Attorney Holder [REDACTED], the Claimant has also plausibly demonstrated that she is related to Account Owner Wiesengrund. The CRT also notes that the Claimant did identify Account Owner Wiesengrund's surname. The CRT further notes that the German archival records indicate that Account Owner Wiesengrund's account was opened by Power of Attorney Holder [REDACTED] for the beneficial use of Account Owner Bank Kirchberger.

The Issue of Who Received the Proceeds

Bank I

The German archival records indicate that Account Owner Bank Kirchberger held a custody account numbered 6576 and a demand deposit account numbered 7255 at Bank I, and that Account Owner Wiesengrund held a demand deposit account interchangeably numbered 5514 or 7709 at Bank I. The German archival records also indicate that shortly before 26 April 1935, Account Owner Wiesengrund's demand deposit account at Bank I was closed, and the negative balance of that account was transferred to Account Owner Bank Kirchberger's demand deposit account numbered 7255. The CRT therefore determines that Account Owner Wiesengrund's account was closed properly.

The German archival records indicate that from May 1933 through March 1935, Account Owner Bank Kirchberger's custody account numbered 6576 at Bank I contained 5½% *Internationale*

Bodenkreditbank 1931 bonds with a nominal value of SF 4,000.00, and *4% Kanton Bern 1930* bonds with a nominal value of SF 1,000.00. However, the German archival records further indicate that some time prior to 26 April 1935, Bank I sold *5½% Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 2,000.00, and *4% Kanton Bern 1930* bonds with a nominal value of SF 1,000.00, in order to cover the unaddressed negative balance in Account Owner Bank Kirchberger's demand deposit account. The proceeds of those sales were credited, according to the German archival records, to Account Owner Bank Kirchberger's demand deposit account. The Kirchberger Indictment contains a balance statement dated 30 June 1935 indicating that as of that date, the balance of Account Owner Bank Kirchberger's demand deposit account was negative SF 636.50. On that date, *5½% Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 2,000.00 remained in Account Owner Bank Kirchberger's custody account as continued security over the negative balance in the demand deposit account.

The Kirchberger Indictment also includes a statement to the authorities made by [REDACTED] indicating that by late 1940, the accounts held by Account Owner Bank Kirchberger at Bank I had been closed.

Bank II

The German archival records indicate that Account Owner Bank Kirchberger held a custody account numbered 41833 and a demand deposit account at Bank II. The German archival records indicate that on or about 13 April 1935, the Bank sold all of the securities in the custody account, namely *7 I. G. Chemie* shares, and *5½% Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 9,000.00, and credited the proceeds of the sale to the demand deposit account, which, on 28 February 1935, had had a negative balance of approximately SF 7,900.00. This sale proceeded pursuant to a security guarantee entered into and acknowledged by the [REDACTED]. The CRT therefore considers this account to have been closed properly. The German archival records indicate that following the credit to the demand deposit account of the proceeds from the bond sale on or about 13 April 1935, the demand deposit account at Bank II had a negative balance of SF 1,838.50.

There is no indication in the German archival records as to the ultimate disposition of Account Owner Bank Kirchberger's demand deposit account at Bank II.

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 Account Owner Wiesengrund, the owners of Account Owner Bank Kirchberger, and the Power of Attorney Holder were her relatives, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners, nor the Power of Attorney Holder, nor their heirs received the proceeds of the claimed accounts.

Amount of the Award

Bank I

In this case, the award addresses the two accounts held by Account Owner Bank Kirchberger at Bank I, as the CRT has determined that the account owned by Account Owner Wiesengrund was closed properly. With regard to these two accounts, the German archival records indicate that as of approximately 26 April 1935, Account Owner Bank Kirchberger's custody account at Bank I contained 5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 2,000.00, and that as of 30 June 1935, Account Owner Bank Kirchberger's demand deposit account at Bank I had a balance of negative SF 636.50. The German archival records also indicate that the bonds that remained in Account Owner Bank Kirchberger's custody account at Bank I were securing the negative balance in the demand deposit account at Bank I.

With regard to the demand deposit account, given that it had a negative balance, the CRT concludes that no award amount is appropriate for this account.

With regard to the custody account, given that there is no indication in the German archival records that Account Owner Bank Kirchberger, the Power of Attorney Holder, or his heirs, received the 5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 2,000.00, or their proceeds, the CRT concludes that Account Owner Bank Kirchberger did not receive those bonds. However, given that those bonds were being used to secure the negative balance in the demand deposit account at Bank I; that the German archival records indicate that Power of Attorney Holder [REDACTED] signed a guarantee pledging those bonds to the bank; and that the demand deposit account at Bank I had a negative balance of SF 636.50 on 30 June 1935, the CRT concludes that the total value of the assets held by Account Owner Bank Kirchberger at Bank I was the value of the bonds, minus SF 636.50.

On 26 April 1935, Account Owner Bank Kirchberger's account at Bank I contained 5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 2,000.00, and a market value of SF 1,120.00.⁴ According to the Guidelines for the Valuation of Securities, circulated to the CRT by Special Master Helen B. Junz, as a general rule, the nominal value of bonds not in default shall be awarded if the market value was below the nominal value on the date the account owner is deemed to have lost control over the account. The CRT presumes that the account owner, if able to decide freely, could have opted to hold the respective bond to maturity to avoid a capital loss. These bonds were in good standing. Accordingly, the bonds are to be valued at nominal value. The nominal value of the bonds, namely SF 2,000.00, minus the negative balance of the demand deposit account, namely SF 636.50, equates to SF 1,363.50. The CRT therefore determines that the value of the custody account at Bank I was SF 1,363.50.

According to Article 29 of the Rules, if the amount in a custody account was less than SF 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 13,000.00. In this case, the German archival records clearly and repeatedly state the contents of the custody account. Further, Power of Attorney Holder

⁴ The market value of these bonds is taken from the 30 December 1935 issue of the *Kursblatt der Zürcher Effektenbörse*.

[REDACTED] himself attested to the contents of the account when he signed the guarantee pledging the securities to cover the negative balance in the demand deposit account. The CRT considers these facts sufficient to rebut the value presumption of Article 29, and therefore concludes that the value of the custody account at Bank I was SF 1,363.50. 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 total award amount is SF 17,043.75 for this account.

Bank II

In this case, the award addresses the demand deposit accounts held by Account Owner Bank Kirchberger at Bank II, as the CRT has determined that the custody account owned by Account Owner Bank Kirchberger was closed properly. As noted above, the German archival records indicate that Account Owner Bank Kirchberger held a custody account numbered 41833 and a demand deposit account at Bank II. The German archival records indicate that on or about 13 April 1935, the Bank sold all of the securities in the custody account, namely 7 *I. G. Chemie* shares, and 5½% *Internationale Bodenkreditbank 1931* bonds with a nominal value of SF 9,000.00, and credited the proceeds of the sale to the demand deposit account, which, on 28 February 1935, had had a negative balance of approximately SF 7,900.00. The German archival records indicate that following the credit to the demand deposit account of the proceeds from the bond sale on or about 13 April 1935, the demand deposit account at Bank II had a negative balance of SF 1,838.50.

As noted above with regard to the accounts at Bank I, the CRT notes that these values are cited consistently and repeatedly in the German archival records, and that Power of Attorney Holder [REDACTED] acknowledged that the securities in the custody account were to be used as a guarantee for the negative balance in the demand deposit account. Given these facts, and given that the entire contents of the custody account was sold by 13 April 1935 to partially cover the overdraft of the demand deposit account, and given that the demand deposit account still showed a negative balance of SF 1,838.50 after that date, the CRT concludes that no award amount is appropriate for this account.

Accordingly, the total award amount is SF 17,043.75.

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 her claims to determine whether there are additional Swiss bank accounts to which she 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
18 December 2008