

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Ingrid Adelheid Metzger  
also acting on behalf of Claus Peter Bartenstein  
represented by Dan and Katrin Lehmann-Metzger<sup>1</sup>

**in re Accounts of  
Klaus Bartenstein, Fritz Bartenstein and Mathilde Bartenstein**

Claim Numbers: 224566/MW; 224567/MW

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of Ingrid Adelheid Metzger, née Buddenberg, (the “Claimant”) to the published accounts of Fritz Bartenstein and Mathilde Bartenstein. This Award is to the published accounts of Klaus Bartenstein (“Account Owner K. Bartenstein”), Mathilde Bartenstein (“Account Owner M. Bartenstein”) and Fritz Bartenstein (“Account Owner F. Bartenstein”) (together the “Account Owners”) at the Basel branch of the [REDACTED] (the “Bank”).<sup>2</sup>

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

## **Information Provided by the Claimant**

The Claimant submitted two Claim Forms identifying the Account Owners as her maternal grandparents, Fritz (Friedrich) Wilhelm Bartenstein and Mathilde Bartenstein. The Claimant indicated that Fritz Bartenstein was born on 20 October 1871 in Freiburg, Germany, and was married to Mathilde Kirch, who was born on 5 July 1879 in Freiburg, on 20 August 1900, also in Freiburg. The Claimant further indicated that Fritz Bartenstein had a daughter, Eva Buddenberg,

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<sup>1</sup> On 18 January 2002, Claus Bartenstein submitted a claim to the account of Klaus Bartenstein, which is registered under the Claim Number 500372. In an order signed on 8 April 2003, the Court decided to accept claims filed after 31 August 2001, but before 1 January 2003, provided that such claims do not prejudice timely claims submitted to the same accounts. As the claim filed by Claus Bartenstein is to the same jointly held accounts as those claimed by the Claimant, the claim filed by Claus Bartenstein does not fall within the scope of the Court’s order. Accordingly, Claus Bartenstein executed a power of attorney form authorizing the Claimant to represent Claus Bartenstein in these proceedings.

<sup>2</sup> The CRT notes that, on the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Klaus Bartenstein, Fritz Bartenstein and Mathilde Bartenstein are each indicated as owners of one account. Upon careful review, the CRT has concluded that the Bank’s records indicate that Klaus Bartenstein, Fritz Bartenstein and Mathilde Bartenstein jointly owned two accounts.

née Bartenstein. The Claimant stated that the Nazis determined that the Claimant's mother, Eva Buddenberg, née Bartenstein, was mentally handicapped, and was treated at a psychiatric clinic in Emmendingen, Germany. The Claimant indicated that a nurse at the clinic befriended her mother and warned her mother's father, Fritz Bartenstein, that his daughter was scheduled to be removed from the hospital, transported away and murdered by the Nazis. The Claimant indicated that Fritz Bartenstein died on 7 May 1951 in Freiburg, Mathilde Bartenstein died in February 1966, also in Freiburg, and that the Claimant's mother, Eva Buddenberg, died in June 1966. The Claimant submitted her grandfather's birth certificate, which indicates that his name was Friedrich Wilhelm Bartenstein, and that he was born in Freiburg on 20 October 1871; various documents, such as the Claimant's immunization record, which contains her grandfather's signature and a stamp denoting the name Dr. F. W. Bartenstein; her grandfather's death certificate, which indicates that he died in Freiburg on 7 May 1951, and that his wife was Anna Mathilde Bartenstein, née Kirch; an identity card with her grandfather's name and title; and correspondence between the Claimant and Fritz and Mathilde Bartenstein, which confirm Fritz Bartenstein's Freiburg address and title, and indicate that the Claimant was Fritz and Mathilde Bartenstein's granddaughter. The Claimant indicated that she was born on 6 February 1933 in Heidelberg, Germany. The Claimant is representing her cousin, Claus Bartenstein, who was born on 9 January 1935 in Detroit, Michigan, the United States.

Claus Bartenstein submitted a separate Claim Form identifying the Account Owners as his father, Klaus Bartenstein, and his paternal grandparents, Friedrich Wilhelm Bartenstein and Mathilde Bartenstein, née Kirch. Claus Bartenstein indicated that his father was born on 25 May 1905 in Freiburg, Germany, and was married to Evelynna Bartenstein, née Prausnitzer, on 1 October 1930 in Ellis Island, New York, the United States. Claus Bartenstein stated that his father was a mechanical engineer, and that Fritz, Mathilde, and Klaus Bartenstein lived in Freiburg, Germany from 1905 through 1928, and that Klaus Bartenstein then lived on N. Martin Street in Dearborn, Michigan, the United States, from 1928 until 1937. Claus Bartenstein indicated that his maternal grandmother, Emma, was married to Kurt Prausnitzer, who was Jewish, and with whom she had four children. Claus Bartenstein further indicated that his maternal grandmother and her daughters, Evelynna, Ruth and Anna Marie, and her son, Ernst, had to flee Germany to avoid Nazi persecution. Claus Bartenstein explained that his entire family faced Nazi persecution because some of his relatives married Jewish people, namely, his maternal aunt, Eva Buddenberg, was married to a Jewish man, and his mother, who was Jewish. Claus Bartenstein also indicated that the Nazis lured his father back to Germany in 1935 under a ruse that his mother had suffered a heart attack, but upon his arrival in Germany the Nazis confiscated his passport and extorted money from him. Claus Bartenstein further indicated that his father was held in Freiburg until his wife had the United States government intervene on his behalf, which ultimately resulted in his return to the United States in 1937. Claus Bartenstein stated that he was uncertain if the Nazis targeted his father, Klaus Bartenstein, because of his marriage in 1930 to a Jewish woman, or because of his sister's mental illness. Claus Bartenstein stated that his father died on 14 May 1967 in Sherburne, Vermont, the United States, and that his mother died on 27 January 1992, also in Sherburne. Claus Bartenstein submitted his birth certificate, which indicates that his mother was Evelina Prausnitzer Bartenstein, and that he was born in Michigan; his father's birth certificate, which indicates that his parents were Dr. Friedrich Wilhelm and Mathilde Bartenstein, née Kirch; and his maternal aunt's and maternal grandmother's passports, which indicate that they were Jewish.

## Information Available in the Bank's Records

The Bank's record submitted to the CRT by 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") consists of a printout from the Bank's database. According to this record, the Account Owners were Mathilde Bartenstein, Dr. Fritz Bartenstein, and Klaus Bartenstein. This record indicates that the Account Owners resided in Freiburg im Breisgau, Germany, and Michigan, the United States, but does not specify the domicile of each Account Owner. This record further indicates that the Account Owners held a custody account and a demand deposit account, both numbered 32570, which were opened on 23 May 1927.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about the assets held by the Account Owners ("Voluntary Assistance"). On 21 July 2004, the Bank provided the CRT with an additional document. This document consists of an account opening contract between the Bank and the Account Owners.

This document indicates that the Account Owners held one custody account and one demand deposit account,<sup>3</sup> numbered 32570, and that they were opened on 12 March 1932, and not on 23 May 1927 as indicated on the printout from the Bank's database. According to this record, Dr. Fritz Bartenstein and Mathilde Bartenstein resided at Gartenstrasse 18 in Freiburg im Breisgau, and Klaus Bartenstein resided at 140 Martha [sic] in Dearborn, Michigan, the United States. The account opening contract contains the signatures of the Account Owners. This document shows that the accounts were opened in the name of Account Owner K. Bartenstein; that Account Owner M. Bartenstein had the exclusive right to use of the assets in the accounts during her lifetime; that upon Account Owner M. Bartenstein's death, Account Owner F. Bartenstein would have the exclusive right to use of the assets in the account; and that Account Owner K. Bartenstein would have the right to use of the assets in the accounts after the deaths of Account Owner M. Bartenstein and Account Owner F. Bartenstein.

The Bank's records do not show when the accounts at issue were closed, nor do these records indicate the value of these accounts. The auditors who carried out the ICEP Investigation did not find these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

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<sup>3</sup> The CRT notes that the account opening contract is for a custody account and one or more demand deposit accounts. As there is no information in the contract as to whether the Account Owners held one or more demand deposit accounts, and the printout from the Bank's database indicates that the Account Owners held one demand deposit account, the CRT determines that the Account Owners held one demand deposit account.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 37(1) of 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 two claims of the Claimant in one proceeding.

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The names, city and country of residence of the Claimant's relatives match the published names, city and country of residence of the Account Owners. The Claimant identified her grandfather's title as doctor, which matches unpublished information about Account Owner F. Bartenstein contained in the Bank's records. Claus Bartenstein further identified information about his father's residence in Michigan, which matches unpublished information in the Bank's records. The Claimant also submitted a sample of her grandfather's signature, which matches the signature contained in the Bank's records.

In support of her claims, the Claimant and Claus Bartenstein submitted documents, including their grandfather's birth certificate, which indicates that his name was Friedrich Wilhelm Bartenstein, and that he was born in Freiburg, Germany on 20 October 1871; various documents, such as the Claimant's immunization record, which contains her grandfather's signature and a stamp denoting the name Dr. F.W. Bartenstein; her grandfather's death certificate, which indicates that he died in Freiburg on 7 May 1951, and that his wife was Anna Mathilde Bartenstein, née Kirch; an identity card with her grandfather's name and title; correspondence between the Claimant and Fritz and Mathilde Bartenstein, which confirm Fritz Bartenstein's Freiburg address and title; Klaus Bartenstein's birth certificate, which indicates that his parents were Dr. Friedrich Wilhelm and Mathilde Bartenstein, née Kirch; and Claus Bartenstein's birth certificate, which indicates that he was born in Michigan. These documents provide independent verification that the persons who are claimed to be the Account Owners have the same names and cities of residence recorded in the Bank's records as the names and cities of residences of the Account Owners. The CRT notes that there are no other claims to these accounts.

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

The Claimant has made a plausible showing that the Account Owners were Targets of Nazi Persecution. The Claimant stated that Account Owners F. and M. Bartenstein's daughter, Eva Buddenberg, née Bartenstein, was mentally handicapped and was being treated at Emmendingen psychiatric clinic, and had been scheduled to be transported from the hospital and murdered by the Nazis. Furthermore, according to Claus Bartenstein, Account Owner K. Bartenstein and his entire family faced Nazi persecution either because Account Owner K. Bartenstein was married to a Jewish woman or because his aunt was mentally handicapped.

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

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that Account Owners F. Bartenstein and M. Bartenstein were the Claimant's maternal grandparents, and that Account Owner K. Bartenstein was the Claimant's maternal uncle. These documents include her grandfather's birth certificate, which indicates that his name was Friedrich Wilhelm Bartenstein, and that he was born in Freiburg on 20 October 1871; her grandfather's death certificate, which indicates that he died in Freiburg on 7 May 1951, and that his wife was Anna Mathilde Bartenstein, née Kirch; correspondence between the Claimant and Fritz and Mathilde Bartenstein, which indicate that the Claimant was Account Owners F. and M. Bartenstein's granddaughter; and Klaus Bartenstein's birth certificate, which indicates that his parents were Dr. Friedrich Wilhelm and Mathilde Bartenstein, née Kirch. There is no information to indicate that the Account Owners have surviving heirs other than the Claimant's cousin, Claus Bartenstein, whom she represents.

### The Issue of Who Received the Proceeds

Given that the Bank's records do not indicate to whom the account was closed; that Account Owner K. Bartenstein was held in Nazi Germany from 1935 to 1937 because the Nazis confiscated his passport; that Account Owner K. Bartenstein had relatives remaining in Germany, and that he may therefore may have yielded to Nazi pressure to turn over his accounts to ensure their safety; that the Account Owners and their heirs would not have been able to obtain information about their accounts after the Second World War from the Bank, even for the stated purpose of obtaining indemnification from the German authorities, 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) 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 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 accounts.

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that Account Owners F. and M. Bartenstein were the Claimant's maternal grandparents, and Account Owner K. Bartenstein was the Claimant's maternal uncle, and those relationships justify an Award. Third, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owners held one demand deposit account and one custody account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”), and the average value of a custody account was SF 13,000.00. Thus, the total 1945 average value of the accounts at issue 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 award amount of SF 189,250.00.

### Division of the Award

According to Article 25(1) of the Rules, 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. Accordingly, it shall be presumed that each of the Account Owners held a one-third share in the accounts. Furthermore, 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 Claimant represents Claus Bartenstein, her cousin. With regard to Account Owners F. and M. Bartensteins’ shares of the account, the Claimant and her cousin, as grandchildren of Account Owners F. and M. Bartenstein, are each equally entitled to Account Owners F. and M. Bartensteins’ shares in the accounts. With regard to Account Owner K. Bartenstein’s share of the accounts, the Claimant’s cousin, as the son of Account Owner K. Bartenstein, has a better entitlement to that share of the accounts than does the Claimant, who is Account Owner K. Bartenstein’s niece. Accordingly, the Claimant is entitled to one-fourth of the total award amount (one-half of Account Owners F. and M. Bartenstein’s half of the account), and her cousin, Claus Bartenstein, is entitled to three-fourths of the total award amount (one-half of Account Owners F. and M. Bartensteins’ half of the account and the full portion of Account Owner K. Bartenstein’s half of the account).

### **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 claim 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 November 2004