

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

## **in re Accounts of Max Behr**

Claim Number: 213908/MG

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the "Claimant") to the published accounts of Max Behr (the "Account Owner") at the Zurich branch of the [REDACTED] (the "Bank").<sup>1</sup>

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 Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as his maternal grandfather, Max Behr, who was born on 1 July 1895 in Germany, and was married to [REDACTED] in Germany. The Claimant stated that his grandfather, who was Jewish, was an antique coins dealer who resided in Plattling, Germany. The Claimant stated that after the Nazis came to power, his grandfather fled Germany for the United States, where he died on 5 November 1957 in New York, New York. The Claimant submitted his grandfather's death certificate, which shows that he was born in Germany, and his own birth certificate, which shows that his mother's maiden name was [REDACTED]. The Claimant stated that he was born on 1 July 1958 in New York.

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

The Bank's record consists of a customer card. According to this record, the Account Owner was Max Behr, who resided in Regensburg, Germany. This record also indicates that the assets

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<sup>1</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 those of Victims of Nazi Persecution (the "ICEP List"), Max Behr is indicated as having one account. Upon careful review, the CRT has concluded that the Bank's records evidence the existence of two accounts.

were initially jointly held with *Frau* (Mrs.) [REDACTED], but that she subsequently, on an unknown date, ceased to be an account owner. The Bank's record indicates that the Account Owner held a custody account, numbered L40543, which was closed on 21 October 1935. The Bank's record further indicates that the Account Owner subsequently opened another custody account with the same number. This account was closed on 27 September 1938, but the record does not show who closed the account.

The Bank's record does not indicate the values of these accounts. There is no evidence in the Bank's record that the Account Owner or his heirs closed the accounts and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant's grandfather's name matches the published name of the Account Owner. The CRT notes that the Bank's record indicates that the Account Owner resided in Regensburg, Germany, while the Claimant stated that his grandfather resided in Plattling, Germany. The CRT also notes, however, that Plattling is only 50 kilometers from Regensburg, which is a major city in that area, and finds it plausible that the Claimant's grandfather may have maintained a business or residential address in Regensburg.

In support of his claim, the Claimant submitted documents, including his grandfather's death certificate, which indicates that he was born in Germany, providing independent verification that the person who is claimed to be the Account Owner had the same name and resided in the same country recorded in the Bank's records as the name and country of residence of the Account Owner.

The CRT further notes that the Claimant did not identify the name of the joint account owner, who appears to be related to the Account Owner. However, given that the Claimant was born after the Second World War and may not know the names of all his family members who resided in pre-war Germany, the CRT finds that this does not materially affect the Claimant's identification of the Account Owner.

The CRT notes that the other claim to these accounts was disconfirmed because that Claimant provided a different city of residence, which was more than 500 kilometers away from the Account Owner's residence. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that he fled Nazi Germany for the United States.

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

The Claimant has plausibly demonstrated that he is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's grandfather. The CRT notes that the Claimant submitted the Account Owner's death certificate and that this is a document which most likely only a family member would possess. The CRT further notes that the Claimant submitted his own birth certificate, which shows that his mother's maiden name was [REDACTED], which provides independent verification that the Claimant's relatives bore the same family name as the Account Owner. Finally, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Account Owner was well known to the Claimant as a family member, and all this information supports the plausibility that the Claimant is related to the Account Owner, as he has asserted in his Claim Form.

### The Issue of Who Received the Proceeds

The Bank's record indicates that the Account Owner held one custody account, numbered L40543, which was closed on 21 October 1935, subsequently reopened under the same number, and closed, unknown to whom, on 27 September 1938. Given that a second custody account was opened under the Account Owner's name and with the same number, the CRT concludes that the Account Owner himself closed the original account on 21 October 1935 and received the proceeds himself. With regard to the custody account's closure on 27 September 1938, given that the Account Owner fled Nazi Germany; that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (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 his 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 the Account Owner was his grandfather, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owner held 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 Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a custody account was 13,000.00 Swiss Francs (“SF”). 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 162,500.00.

### **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 his claim to determine whether there are additional Swiss bank accounts to which he 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  
30 December 2004