

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1]  
also acting on behalf of [REDACTED 2],  
[REDACTED 3] and [REDACTED 4]

and to Claimant [REDACTED 5]

## **in re Accounts of Erich Broch**

Claim Numbers: 400697/AZ;<sup>1</sup> 401311/AZ<sup>2</sup>

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 5] (“Claimant [REDACTED 5]”) and [REDACTED 1] (“Claimant [REDACTED 1]”) (together the “Claimants”) to the published accounts of Erich Broch (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).

All awards 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.

## **Information Provided by the Claimants**

### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as [REDACTED], who was born on 7 December 1904, in Linz, Austria, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] indicated that [REDACTED]’s parents were [REDACTED] and [REDACTED], née [REDACTED], and that his sister was [REDACTED], née [REDACTED]. Claimant [REDACTED 1] further stated that [REDACTED], who was Jewish and a lawyer, lived at Rainergasse 29 in Vienna IV, Austria,

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<sup>1</sup> Claimant [REDACTED 1] (“Claimant [REDACTED 1]”) submitted one additional claim, which is registered under the claim number 208363. In separate decisions, the CRT awarded the accounts of Phillip Broch and Laura Broch to Claimant [REDACTED 1]. See *in re Accounts Phillip Broch and Laura Broch*, (approved on 31 December 2003) and *in re account of Laura Broch* (approved on 21 October 2004).

<sup>2</sup> Claimant [REDACTED 5] (“Claimant [REDACTED 5]”) submitted three additional claims, which are registered under the Claim Numbers 401295, 401314, 401223. The CRT will treat these claims in separate determinations.

until 9 August 1938, after which he fled to the United States. The Claimant indicated that [REDACTED]'s property in Austria was confiscated on 25 November 1941. The Claimant further indicated that [REDACTED] lived in Scarsdale, New York, the United States, until his death in 1956. Finally, Claimant [REDACTED 1] stated that [REDACTED]'s wife, [REDACTED], née [REDACTED], died in 1977 and that [REDACTED] and his wife had no children. Claimant [REDACTED 1] further stated that he and the relatives he represents are the sole heirs of [REDACTED], who in turn was the sole heir of her husband, [REDACTED].

Claimant [REDACTED 1] submitted documents in support of his claim, including: 1) a copy of the Last Will of [REDACTED], dated 9 June 1976, indicating that she was a widow, that she had no children and no living parents or siblings, and providing that Claimant [REDACTED 1], [REDACTED 4], [REDACTED], and [REDACTED 3], who were the nephews and nieces of [REDACTED], a friend of [REDACTED], would inherit her residual estate in equal shares; 2) a copy of a codicil to [REDACTED]'s Last Will, dated 29 September 1977, making specific bequests of artwork, housewares, and books to her sister-in-law, [REDACTED]; 3) a copy of an order of a court in New York relating to the estate of [REDACTED], stating that she had died on 15 October 1977, that the administration of her estate was partially completed, and that Claimant [REDACTED 1], [REDACTED 4], [REDACTED], and [REDACTED 3] were the heirs of her residuary estate and would each receive a specific sum as a partial distribution of that estate; 4) a copy of a letter from the Vienna magistrate's office to the ambassador from the Netherlands, dated 18 December 1997, indicating that [REDACTED] was born on 7 December 1904 in Linz, that he was married to [REDACTED], that he was an attorney, that his last residence in Vienna was at Rainergasse 29, and that he deregistered from Vienna on 9 August 1938 for New York, the United States.

Claimant [REDACTED 1] indicated that he was born on 29 August 1943 in Groede, the Netherlands. Claimant [REDACTED 1] is representing his brother, [REDACTED 2], who was born on 15 March 1938 in Groede; his cousin, [REDACTED 3], née [REDACTED], who was born on 24 May 1938 in Zaamslag, the Netherlands; and his cousin, [REDACTED 4], who was born on 23 September 1939 in Zaamslag.

#### Claimant [REDACTED 5]

Claimant [REDACTED 5] submitted a Claim Form, identifying the Account Owner as his father's cousin, [REDACTED], who was born on 7 December 1904 in Linz, Austria. Claimant [REDACTED 5] further indicated that [REDACTED]'s parents were [REDACTED] and [REDACTED], née [REDACTED], and that his sister was [REDACTED], née [REDACTED], who was married to [REDACTED]. Claimant [REDACTED 5] stated that neither [REDACTED] nor his sister [REDACTED] had children. Claimant [REDACTED 5] indicated that [REDACTED], who was Jewish, died on 28 May 1956 in New York.

Claimant [REDACTED 5] submitted documents in support of his claim, including: 1) his great-uncle's birth certificate, indicating that [REDACTED] was born on 30 May 1872 in Prossnitz, Czechoslovakia and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; 2) his paternal grandparents' marriage certificate, indicating that [REDACTED] and [REDACTED], née [REDACTED], the daughter of [REDACTED] and [REDACTED], were married on 26 August 1894 in Prossnitz; 3) his father's birth certificate, indicating that

[REDACTED] was born on 27 July 1895 in Prossnitz and that his parents were [REDACTED] and [REDACTED], née [REDACTED]; 4) [REDACTED]'s birth certificate, indicating that [REDACTED] was born on 22 December 1911 in Vienna and that her parents were [REDACTED] and [REDACTED]; 5) his own birth certificate, indicating that the Claimant was born on 19 November 1932 in Vienna and that his father was [REDACTED], who was born on 27 July 1895 and whose parents were [REDACTED] and [REDACTED], née [REDACTED]; and 6) a letter from the Claimant's cousin [REDACTED] to the Claimant's father [REDACTED], referring to the Claimant by name.

Claimant [REDACTED 5] indicated that he was born on 19 November 1932 in Vienna.

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

The CRT notes that 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") did not report an account belonging to Erich Broch during their investigation of the Bank. The documents evidencing an account belonging to Erich Broch were obtained from archival sources in Austria and are further described below.

### **Information Available from the Austrian State Archive**

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of *Dr. jur.* (doctor of laws) Erich Broch, numbered 6078. These records indicate that Erich Broch was born on 7 December 1904 in Linz, Austria; that he was married to [REDACTED], née [REDACTED], who was born on 18 July 1906 in Vienna; that he was a lawyer; that he lived at Rainergasse 29 in Vienna IV; and that his mother was [REDACTED], who lived at Pötzleinsdorferstrasse 33 in Vienna XVIII. According to these records, Erich Broch held securities and accounts at several banks in Vienna and Berlin, Germany.

Furthermore, these records evidence account ownership at the Bank. Specifically, among his assets, Erich Broch listed a demand deposit account held at the Bank, which had a balance of 338.40 Swiss Francs ("SF") as of 27 April 1938. In addition, these records indicate that Erich Broch owned a custody account at the Bank, which contained the following securities as of 27 April 1938:

- 20 shares of *Steyremühl* with a market value of 1,380.00 Reichsmark ("RM");
- 25 shares of *Steir. Magnesit* with a market value of RM 1,825.00;
- 25 units of *Donau-Save-Adria Eisenbahn Prior.* bond, the value of which could not be determined;

- *Anl. Stadt Sofia 1910 4½%* bonds, with a nominal value indicated as “Fr. 38,500.00” and a market value indicated as RM 1,599.50.<sup>3</sup>

The 1938 Census records indicate that Erich Broch was assessed flight tax (“*Reichsfluchtsteuer*”) of RM 24,000.00 in August 1938. Finally, these records contain an order of seizure (“*Beschlagnahmeverfügung*”) from the Gestapo, dated 25 November 1941, indicating that all of Erich Broch’s and [REDACTED]’s assets and rights were seized, with the expectation that their property would be appropriated to the benefit of the Reich.

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

### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. The name of Claimant [REDACTED 5]’s cousin, and the name of the spouse of the individual of whom Claimant [REDACTED 1] is an heir, match the published name of the Account Owner. The Claimants also identified the Account Owner’s title and date and place of birth, and Claimant [REDACTED 1] identified the Account Owner’s profession, city of residence, and street address, all of which matches unpublished information about the Account Owner contained in the 1938 Census records.

In support of his claim, Claimant [REDACTED 1] submitted a copy of a letter from the Vienna magistrate’s office, indicating that Dr. Erich Broch 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 1938 Census records as the name and city of residence of the Account Owner.

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

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

The Claimants have 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 Vienna after the incorporation of Austria into the Reich in March 1938 (the “*Anschluss*”). The CRT notes that the 1938 Census records indicate that the Account Owner’s assets were seized by the Gestapo on 25 November 1941.

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<sup>3</sup> According to Special Master Helen B. Junz, the “Fr.” designation here refers to gold franc.

### The Claimants' Relationships to the Account Owner

Claimant [REDACTED 5] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was his father's cousin. These documents include Claimant [REDACTED 5]'s birth certificate, identifying his father as [REDACTED]; his father's birth certificate, identifying [REDACTED]'s mother as [REDACTED], née [REDACTED]; his grandmother's marriage certificate, identifying [REDACTED]'s parents as [REDACTED] and [REDACTED]; his great-uncle's birth certificate, identifying [REDACTED]'s parents as [REDACTED] and [REDACTED]; and [REDACTED]'s birth certificate, indicating that [REDACTED] was married to [REDACTED]. The CRT notes that the 1938 Census records indicate that [REDACTED] was the Account Owner's mother.

The CRT notes that Claimant [REDACTED 1] is not related to the Account Owner. The CRT notes, however, that Claimant [REDACTED 1] has plausibly demonstrated that he and the parties represented by him are the heirs of [REDACTED], the Account Owner's spouse, by submitting [REDACTED]'s Last Will.

### The Issue of Who Received the Proceeds

The facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. In this case, the 1938 Census records specifically state that the Account Owner's assets were seized by the Nazis. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that the Account Owner reported the accounts in the 1938 Census; that the Account Owner lived in Austria until he fled in August 1938, and therefore could not have repatriated the accounts without losing ultimate control over their proceeds; and given the application of Presumptions (d), (h), and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

### Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1] and parties he represents. First, Claimant [REDACTED 1]'s claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that he and the parties he represents are the heirs of the Account Owner's spouse, who would have inherited the Account Owner's estate upon his death in 1956, and that relationship justifies an award. Third, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts. Further, the CRT notes that Claimant [REDACTED 1] and the parties he represents, as the testamentary heirs of

the Account Owner's spouse, have a better entitlement to the accounts than Claimant [REDACTED 5], the Account Owner's cousin.

### Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit account.

In the 1938 Census declaration submitted by the Account Owner, the value of the Account Owner's demand deposit account is specified as SF 338.40 as of 27 April 1938. The CRT determines that it is unable to rely on the balance amount 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 of his assets, or understated their value, in the belief that this might help him safeguard some of them. 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 account shall be determined to be SF 2,140.00. In this case, the CRT does not find that the value of the 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 Account Owner's demand deposit account shall be determined to be SF 2,140.00. 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 an award amount of SF 26,750.00.

With regard to the custody account, the CRT notes that the 1938 Census records indicate that the value of the 25 shares *Donau-Save-Adria Eisenbahn Prior.* was unknown. According to Special Master Helen B. Junz, however, official stock exchange notations indicate that these shares had a value of SF 468.75 and that the *Anl. Stadt Sofia 1910 4½%* bonds were in default. According to the Guidelines on the Valuation of Securities, circulated by Special Master Junz, these bonds, therefore, are valued at their market value. Accordingly, the securities in the custody account are valued as follows:

- 20 shares of *Steyremühl* with a market value of RM 1,380.00, which was equal to SF 2,421.62;<sup>4</sup>
- 25 shares of *Steir. Magnesit* with a market value of RM 1,825.00, which was equal to SF 3,202.51;
- 25 units of *Donau-Save-Adria Eisenbahn Prior.* with a market value SF 468.75;
- *Anl. Stadt Sofia 1910 4½%* bonds, with a market value of RM 1,599.50, which was equal to SF 2,806.80.

The value of the securities in the Account Owner's custody account is therefore determined to be SF 8,899.68. The 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 of her assets, or understated their value, in the belief that this might help her

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<sup>4</sup> The CRT uses official exchange rates when making currency conversions.

safeguard some of them. 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 CRT does not find that the value of the 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 Account Owner's custody account shall be determined to be SF 13,000.00. 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 amount of SF 162,500.00.

### Division of the Award

According to Article 23(2)(c) of the Rules, if a claimant bases a claim of entitlement on a chain of inheritance but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity. In this case, Claimant [REDACTED 1] and the parties he represents are the testamentary heirs of the Account Owner's spouse. Claimant [REDACTED 1] further stated that the Account Owner's spouse inherited his entire estate upon his death in 1956. This result is consistent with Article 23(1)(a) of the Rules, which provides that if the Account Owner's spouse and no descendants of the Account Owner have submitted a claim, the spouse shall receive the entire amount.

Claimant [REDACTED 1] and the parties he represents are each their heirs of one-fourth of [REDACTED]'s residual estate. Accordingly, Claimant [REDACTED 1] and the parties he represents are each entitled to one-quarter of the total award amount.

### **Scope of the Award**

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

### **Certification of the Award**

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

Claims Resolution Tribunal  
October 20, 2006