

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]  
also acting on behalf of [REDACTED], [REDACTED], and [REDACTED].

## **in re Accounts of Philipp Broch and Laura Broch**

Claim Number: 208363/AY

Award Amount: 446,891.75 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the account of Philipp Broch (“Account Owner Philipp Broch”). This Award is to the account of Philipp Broch and to the accounts of Laura Broch (“Account Owner Laura Broch”) (together, the “Account Owners”) 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 claimant, any relatives of the claimant other than the account owners, and the bank have been redacted.

### **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying Account Owner Philipp Broch as a family friend, who was born on 30 May 1872 in Vienna, Austria and was married to Account Owner Laura Broch, née [REDACTED], who was born on 23 March 1879 and whose date of death is unknown. The Claimant stated that Philipp and Laura Broch resided at Reisnerstrasse 28 in Vienna and had two children: [REDACTED], who was born on 22 December 1911 in Vienna; and [REDACTED], who was born on 7 December 1904 in Linz, Austria and died on 28 May 1956 in New York, the United States. The Claimant further stated that Philipp Broch was Jewish and worked as a bank manager. In a telephone conversation with the CRT, the Claimant stated that after Philipp Broch’s death on 20 May 1936, his wife, Laura, took over his assets including his foreign bank accounts. The Claimant stated that all he knew about Philipp and Laura Broch’s daughter, [REDACTED], was that she was a medical student, and that she fled Austria on 12 March 1938 to an unknown country and subsequently married a [REDACTED]. The Claimant further stated that [REDACTED] was married to [REDACTED], née [REDACTED], and resided at Rainergasse 29, Vienna.

In support of his claim the Claimant submitted [REDACTED]’s last will which indicates that [REDACTED], in his last will, bequeathed everything to his wife [REDACTED], as

they had no children. [REDACTED]'s last will further provides that all residual property is to be equally inherited by the Claimant and the represented parties (who are the nephews and niece of [REDACTED]'s friend) and indicates that some of her estate is to be inherited by her sister-in-law, [REDACTED]. The Claimant also submitted a letter from the Vienna's magistrate office, dated 18 December 1997, stating that he and the parties represented by him in these proceeding are the only heirs of [REDACTED]'s estate. The Claimant stated that [REDACTED] died on 15 October 1977 in New York, New York.

The Claimant previously submitted an ATAG Ernst & Young Claim Form with the CRT on 26 January 1998, asserting his entitlement to a Swiss bank account owned by Account Owner Laura Broch, whose name was included in the list of dormant accounts published by the Swiss Bankers Association in July 1997. A final award was rendered by the Sole Arbitrator of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (the "Sole Arbitrator") in an arbitration concluded on 14 April 1999 (the "Arbitration"). In the Arbitration, the information before the CRT indicated that Laura Broch held a demand deposit account (No. 703.769.01R) and a custody account (No. 703.769.S3). The CRT determined that the Claimant had a valid claim and ordered the Bank to pay the Claimant an adjusted amount of 77,271.57 Swiss Francs. This value was based on documents submitted by the Bank, which showed that the value of the account was 17,329.20 Swiss Francs on 31 December 1986.

The Claimant indicated that he was born on 29 August 1943 in Groede, The Netherlands. The Claimant is representing his brother, [REDACTED], who was born on 15 March 1938 in Groede, and his cousins, [REDACTED], née [REDACTED], and [REDACTED], who were born on 24 May 1938 and 23 September 1934 respectively, in Zaamslag, The Netherlands.

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

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Philipp Broch who resided in Vienna, Austria. The Bank's record indicates that the Account Owner held a custody account, numbered 7357, which was opened on 18 February 1928 and was closed on 27 December 1939. The amount in the account on the date of its closure is unknown. There is no evidence in the Bank's record that Account Owner Philipp Broch or his heirs closed the account and received the proceeds themselves.

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

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Laura Broch of Vienna, who was born on 24 March

1879 and who was a widow at the time of filing the forms. The detailed list of assets declared in the census indicates that Mrs. Broch held one demand deposit account and a custody account at the Bank. According to a summary of cash assets and savings, the amount in the demand deposit account was 1,351.00 Swiss Francs on 27 April 1938, and 1,828.10 Swiss Francs on 12 November 1938.

With regards to the custody account, the Austrian census records show that Laura Broch held the following securities at the Bank in April 1938:

- 50 *Hotel Bristol* shares, at a total market value of 500.00 Reichsmarks;
- 110 *Steyermühl* shares at a total market value of 7,590.00 Reichsmarks;
- 25 *Lapp Finze* shares at a total market value of 1,425.00 Reichsmarks;
- 20 *Soproner Eisenwarenfabrik* shares at a total market value of 102.00 Reichsmarks;
- 95 *Donau-save-Adria Eisenbahn Prior.* shares at a total market value of 1,045.00 Reichsmarks;
- 6% *Bulgar. Staats. Hyp. Anleihe 1892* at a total nominal value of 11,000.00 Swiss Francs and total market value of 975.00 Reichsmarks;
- 5% *Jugoslavische Fundings 1933* at a total nominal value of 9,000.00 French Francs and total market value of 329.00 Reichsmarks.

Thus, the total market value of the securities held by Laura Broch at the Bank amounted to 11,966.00 Reichsmarks, which was equivalent to 20,923.24 Swiss Francs.<sup>1</sup>

Furthermore, in a letter dated 10 August 1938, Laura Broch informed the Property Registration Office that all her foreign assets and securities had already been declared to the main Reichsbank in Vienna. She also informed the office that since she intended to immigrate in the near future, she had instructed the Reichsbank to release all her assets to the Property Registration Office by 31 August 1938. Moreover, according to a notification dated 2 March 1939, Laura Broch's *Reichfluchtsteuer* (flight taxes) were assessed at 248,563.00 Reichsmarks.

The Austrian State Archives also contains documents concerning the assets of [REDACTED] of Vienna, who was born on 22 December 1911 and who was a medical student. The records indicate that [REDACTED] was residing in the United States and that she was married to a person with the surname of [REDACTED].

## **The CRT's Analysis**

### Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. His family friends' names and city of residence match the published name and city of residence of Account Owner

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<sup>1</sup> In converting amounts into Swiss Francs the CRT uses official exchange rates.

Philipp Broch and the information about Account Owner Laura Broch contained in the Austrian State Archives. In support of his claim the Claimant submitted [REDACTED]'s last will which indicates that [REDACTED], in his last will, bequeathed everything to his wife [REDACTED], as they had no children. [REDACTED]'s last will further provides that all residual property is to be equally inherited by the Claimant and the represented parties (who are the nephews and niece of [REDACTED]'s friend) and states that some of her estate is to be inherited by her sister-in-law, [REDACTED]. The Claimant also submitted a letter from the Vienna's magistrate office, dated 18 December 1997, stating that the Claimant and the parties represented by him in these proceeding are the only beneficiaries of [REDACTED]'s estate.

The CRT further notes that the Claimant filed an ATAG Ernst & Young claim form in 1998, asserting his entitlement to a Swiss bank account owned by Laura Broch, who was Account Owner Philipp Broch 's wife and who took over his assets after his death in 1936. This Claim Form was submitted prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based his present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as his family friend, but rather on a relationship that was known to him before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that his family friend owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant. The CRT further notes that there are no other claims to these accounts. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owners.

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

The Claimant has made a plausible showing that Account Owner Laura Broch was a Victim of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that although Account Owner Philipp Broch died in 1936, his wife, who took over his assets, fled Nazi Austria in March 1939. The records of the Austrian State Archives indicate that Account Owner Laura Broch paid a flight tax of 248,563.00 Reichsmarks upon her escape.

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

The Claimant has plausibly demonstrated that he, his brother and his cousins, whom he represents, are the only beneficiaries of the late [REDACTED], the Account Owners' daughter-in-law, by submitting [REDACTED]'s last will. The Claimant indicated that [REDACTED] was the widow and sole heir of [REDACTED], the son of the Account Owners.

### 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, after the *Anschluss*, Austrian citizens who are Jewish report their assets in the 1938 census, and, subsequently, their accounts are closed unknown to whom or are transferred to Nazi-controlled Banks. Given that the CRT's precedent indicates that it is plausible in such situations that the accounts proceeds were paid to the Nazis; that there is no record of the payment of the Account Owners' accounts to them; 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 due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the Banks' concern regarding double liability; and the application of Presumptions (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 accounts proceeds in this case 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 he, his brother and two cousins, whom he represents, are the beneficiaries of the estate of the heirs of the Account Owners, and that this relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

### Amount of the Award

In this case Account Owner Philipp Broch held one custody account, and Account Owner Laura Broch held one custody account and one demand deposit account.

With regard to the custody account held by Account Owner Philipp Broch, 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 the ICEP (the "ICEP Investigation"), in 1945 the average value of a custody account was 13,000.00 Swiss Francs. 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 amount of 162,500.00 Swiss Francs.

With regard to the accounts held by Account Owner Laura Broch, the Austrian State Archives records indicate that the value of the custody account in April 1938 was 20,923.24 Swiss Francs, and that the balance of the demand deposit account in November

1938 was 1,828.10 Swiss Francs. Thus, the total historical value of these accounts is 22,751.34 Swiss Francs. The current value of this amount is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules to produce an amount 284,391.75.

Consequently, the total award amount in this case is 446,891.75 Swiss Francs.

#### Division of the Award

The Claimant is representing his brother, [REDACTED], and his cousins, [REDACTED] and [REDACTED]. 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 principle of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity. The Claimant submitted [REDACTED]'s last will, which provides for equal shares between the Claimant and the represented parties. Therefore, the Claimant, his brother, and their two cousins are each entitled to one-fourth of the total award.

#### **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  
31 December 2003