

# 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]  
represented by Professor [REDACTED]

### **in re Accounts of the *Gebr. Sulzbach'sche Familienstiftung***

Claim Number: 500428/CC/JK

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of the *Gebr. Sulzbach'sche Familienstiftung* (the “Account Owner”) at the Basel 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 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 family's private foundation, the *Gebrüder Sulzbach'sche Familienstiftung* (the “Sulzbach Family Foundation”). The Claimant stated that the Sulzbach Family Foundation was established by his maternal great-grandfather, [REDACTED], and [REDACTED]'s brother, [REDACTED]. According to a book, “Jewish Foundations in Frankfurt am Main,” to which the Claimant referred in his claim form, the Sulzbach Family Foundation was established on 15 February 1872 in Frankfurt am Main, Germany, and was approved by the State on 11 January 1873.<sup>1</sup> The Claimant further stated that [REDACTED] and [REDACTED], who were Jewish, were the founders of the private bank *Gebrüder Sulzbach* of Frankfurt.

The Claimant stated that his mother, [REDACTED], née [REDACTED], who was born on 29 May 1892, was the daughter of [REDACTED]'s son, [REDACTED]. The Claimant stated that his mother, who, like the entire Sulzbach family, was Jewish, married his father, [REDACTED], who was born on 3 January 1886 in Wiesbaden, on 28 February 1914 in Frankfurt. According to

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<sup>1</sup> Arno Lustiger, Ed., *Jüdische Stiftungen in Frankfurt am Main* [Jewish Foundations in Frankfurt am Main], Frankfurt: Verlag Waldemar Kramer, 1988, p. 124.

the Claimant, his father, who was not Jewish, was a lawyer and became a partner of the *Gebrüder Sulzbach* bank. According to “Jewish Foundations in Frankfurt am Main,” in 1939, the Claimant’s father, who resided at the time at Paul Ehrlich-Strasse 1 in Frankfurt, acted as the administrator of the assets of the Sulzbach Family Foundation.

The Claimant stated that during the Nazi period, most of the active and silent partners of the *Gebrüder Sulzbach* bank fled Germany and that, in 1938, the bank was compelled to change its name to *Kirchholtes & Co.*<sup>2</sup> The Claimant stated that, despite pressure to do so, his father refused to divorce his Jewish wife. According to the Claimant, his father was imprisoned by the Nazis for a period of time, and his mother was compelled to perform forced labor. The Claimant stated that in 1942, his mother’s sister [REDACTED] and her husband, [REDACTED], were deported to Theresienstadt, where they perished, and that his mother’s brother [REDACTED] committed suicide shortly before he was to be deported from Frankfurt. The Claimant stated that his father died in 1959 and that his mother died in May 1978 in Bad Homburg vor der Höhe, Germany.

In support of his claim, the Claimant submitted the bylaws that established the Sulzbach Family Foundation, which contain the signatures and seals of [REDACTED] and [REDACTED]. According to the preamble of the bylaws, the prime purpose of the Sulzbach Family Foundation was to care for blood relatives of the Sulzbach family into the distant future. According to Article I of the bylaws, the beneficiaries of the Sulzbach Family Foundation were divided into six classes: class one consisted of the descendants of [REDACTED] and [REDACTED]; class two of the descendants of the sisters of [REDACTED] and [REDACTED], [REDACTED], née [REDACTED], [REDACTED], née [REDACTED], and [REDACTED], née [REDACTED]; class three consisted of the descendants of the sister of the mother of [REDACTED] and [REDACTED], [REDACTED], née [REDACTED]; class four consisted of the descendants of the brother of the mother of [REDACTED] and [REDACTED], [REDACTED]; class five consisted of the descendants of the brother of the father of [REDACTED] and [REDACTED], [REDACTED], district rabbi in Nachod in Bohemia (now the Czech Republic); and class six consisted of the descendants of the half-brother of the father of [REDACTED] and [REDACTED], [REDACTED], of Alzey, Germany.

Article II of the bylaws established Frankfurt as the domicile of the Sulzbach Family Foundation. According to Article IX of the bylaws, the capital of the Sulzbach Family Foundation was permitted to be invested in foreign and domestic stocks and bonds, bills of exchange, and real

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<sup>2</sup> The CRT notes that, in a book regarding the history of the Cologne banking house *Sal. Oppenheim Jr. & Cie.*, the authors describe that bank’s 1968 takeover of the bank *Kirchholtes & C.* and explain the bank’s adoption of its name as follows: “*Kirchholtes* had been in operation since 1856, under the name of *Gebr. Sulzbach*, as a bank of solid reputation. Forced in 1938 to drop the old name, not unlike *Oppenheim*, the bank had survived under the name of *Kirchholtes*, the Christian husband of a Sulzbach daughter.” See Michael Stürmer, Gabriele Teichmann & Wilhelm Treue, *Striking the Balance: Sal. Oppenheim Jr. & Cie. A Family and a Bank*, London: Weidenfeld and Nicolson, 1994, p. 471. See also W. E. Mosse, *Jews in the German Economy: The German-Jewish Economic Elite 1820-1935*, Oxford: The Clarendon Press, 1987, p. 244 – 245 (noting the role of the *Gebrüder Sulzbach* bank in providing venture capital for the *Allgemeine Elektrizitäts Gesellschaft* and suggesting that without *Sulzbach* venture capital, *A. E. G.* would never have been created). There is also a short history of the Sulzbach Bank in a book written by the Claimant. See Hans-Dieter Kirchholtes, *Jüdische Privatbanken in Frankfurt am Main* [Jewish Private Banks in Frankfurt am Main], Frankfurt: Verlag Waldemar Kramer, 1989, pp. 29 - 32.

estate, with the provision that no more than one-third of the total capital be invested in real estate. According to Article XVI, if the Sulzbach Family Foundation were to be legally dissolved, the assets were to be distributed among the classes described in Article I, with one-half going to the first class, one-quarter to the second class, one-eighth to the third class, one-sixteenth to the fourth class, one-thirty-second to the fifth class, and one-thirty-second to the sixth class; if any class no longer existed, its shares were to be redistributed pro rata among the remaining classes; the allocation within the classes was to be by representation. According to “Jewish Foundations in Frankfurt am Main,” the Sulzbach Family Foundation was dissolved by a decision of its management board on 16 July 1954. In a letter to the CRT, dated 30 August 2003, Professor [REDACTED], who is the son of [REDACTED] and [REDACTED] and who is representing the Claimant, stated that his uncle, [REDACTED], who was the last surviving partner of the Sulzbach Bank, had no knowledge of the Foundation’s Swiss bank account when he sought dissolution of the Foundation due to lack of funds.

The Claimant also provided an extensive family tree of the Sulzbach family, beginning with the founders of the *Gebrüder Sulzbach* bank, [REDACTED] and [REDACTED]. The family tree does not indicate whether the children of [REDACTED] had any further descendants. According to this family tree, [REDACTED] had two children, [REDACTED] and [REDACTED]. The family tree indicates that [REDACTED] had two daughters, [REDACTED], née [REDACTED], who was the Claimant’s mother, and [REDACTED], née [REDACTED], who was the mother of [REDACTED 2], whom the Claimant is representing, and Professor [REDACTED]. In a telephone conversation with the CRT, Professor [REDACTED] stated that he did not wish to be a co-claimant in this case, despite the Claimant’s willingness to represent him.

The Claimant submitted the marriage certificate of his parents and his birth certificate. The Claimant stated that he was born on 29 November 1917 in Bonn, Germany.

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

The Bank’s records consist of excerpts from the transcript of the interrogation by the State Prosecutor of Basel of a Bank employee who acted as a Nazi spy, August Dörflinger, conducted on 1 December 1942 and printouts from the Bank’s database.

According to the Bank’s records, the Account Owner was the *Gebr. Sulzbach’sche Familienstiftung*, which was domiciled in Frankfurt am Main, Germany. The Bank’s records indicate that the Account Owner held a custody account and a demand deposit account. The balance of the custody account on 2 December 1942 was 10,000.00 Swiss Francs (“SF”) and the balance of the demand deposit account on that date was SF 666.80. The transcript of the interrogation indicates that August Dörflinger reported these account to the Nazis.

The auditors who carried out the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP investigation”) determined that the accounts had been paid to the Nazi authorities, as they had been reported to them. There is no information about the fate of these accounts. There is no evidence in the Bank’s records that the Account Owner’s beneficiaries or

persons authorized to act on behalf of the Account Owner closed the accounts and received the proceeds.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant's family's foundation's name, city, and country of domicile match the published name, city, and country of domicile of the Account Owner. The Claimant's father's name matches the name of the administrator of the family foundation, as indicated in a book about Jewish foundations in Frankfurt. In support of his claim, the Claimant submitted the bylaws of the Sulzbach Family Foundation, providing independent verification that his family's foundation had the same name and domicile as those recorded in the Bank's records as the name and domicile of the Account Owner.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named [REDACTED], née [REDACTED], and indicates that her date of birth was 4 November 1886 and her place of birth was Frankfurt am Main, which matches the information about the Claimant's aunt 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 there are no other claims to these accounts.

### Status of the Account Owner's Beneficiaries as Victims of Nazi Persecution

The Claimant has made a plausible showing that the beneficiaries of the Account Owner were Victims of Nazi Persecution. According to the bylaws of the family foundation, the foundation's beneficiaries were the blood relatives of the Sulzbach family, who was Jewish. Among these beneficiaries were the Claimant's mother, who resided in Nazi Germany and who was forced to perform forced labor; the Claimant's aunt, who was deported to Theresienstadt, where she perished; and the Claimant's uncle, who committed suicide in order to avoid deportation.

As noted above, the name of the Claimant's aunt is included in the CRT's database of victims.

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

The Claimant has plausibly demonstrated that he is related to the beneficiaries of the Account Owner by submitting documents, including his parents' marriage certificate and his birth certificate, which demonstrate that he is the son of [REDACTED], née [REDACTED], who was the granddaughter of one of the founders of the foundation and a member of the first class of beneficiaries. The CRT notes that the Claimant also supplied the foundation's bylaws, and that this document is a document that most likely only a beneficiary or administrator of the foundation would possess.

### The Issue of Who Received the Proceeds

Given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of its Jewish nationals through enforcement of discriminatory tax and other confiscatory measures, including confiscation of assets held in Swiss banks; that the accounts at issue were reported by an employee of the Bank to the Nazi authorities; that there is no record of the payment of the accounts to the Account Owner or its beneficiaries, nor date of closure for the accounts; that the Account Owner or its beneficiaries would not have been able to obtain information about the accounts after the Second World War from the Bank due to 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 Governing the Claims Resolution Process, as amended ("the Rules") (see Appendix A), the CRT concludes that it is plausible that the accounts proceeds were not paid to the Account Owner or its beneficiaries. Based on its precedent and the Rules, the CRT applies presumptions to assist in determination of whether or not Account Owners or their heirs or beneficiaries 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 family's Foundation, and his status as a beneficiary of the Foundation justifies an award. Third, the CRT has determined that it is plausible that neither the Account Owner nor its beneficiaries received the proceeds of the claimed accounts.

### Amount of the Award

In this case, the Account Owner held one custody account and one demand deposit account. According to the records of the interrogation of August Dörflinger by the State Prosecutor of Basel, the amounts in the custody account and the demand deposit account were SF 10,000.00 and SF 666.80, respectively, as of 2 December 1942. According to Article 29 of the Rules, in the absence of plausible evidence to the contrary, if the amount in a custody account was less than SF 13,000.00, and if the amount in a demand deposit account was less than SF 2,140.00, the amount in the custody account shall be determined to be SF 13,000.00, and the amount in the demand deposit account shall be determined to be SF 2,140.00. In this case, the amounts in the accounts were recorded in the transcript of the interrogation of Dörflinger. The CRT notes that, because he was being prosecuted for turning over account information to the Nazis, Dörflinger would have had an interest to understate the value of the accounts he reported. Accordingly, the CRT does not consider the values as stated in the transcript to be evidence sufficient to rebut the provisions of Article 29. Accordingly, the value of the custody account is determined to be SF 13,000.00 and the value of the demand deposit account is determined to be SF 2,140.00. The total value of the two accounts is therefore SF 15,140.00. The current value of this amount is determined 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 189,250.00.

### Division of the Award

According to Article 23(3) of the Rules, if the Account Owner is a legal or other entity, the Award will be made in favor of those Claimants who establish a right of ownership to the assets of the entity. Here, the right of the Foundation's beneficiaries is determined in accordance with Articles I and XVI of the Foundation's bylaws. According to Article I, class one of the beneficiaries of the Account Owner comprises the descendants of [REDACTED] and [REDACTED]. Under Article XVI, upon dissolution of the Account Owner, one half of the Account Owner's assets is to be distributed equally, by representation, to the descendants of [REDACTED] and [REDACTED]. Article XVI further indicates that if the other branches of the family no longer exist, the remainder is to be distributed to the surviving branches.

The Claimant and his cousin, whom he represents, are the great-grandchildren of [REDACTED]. Their mothers were both members of class one. The CRT notes that no other relative of the Account Owner's beneficiaries has filed a claim to these accounts. Accordingly, the Claimant is entitled to one-half of the total award amount; and the Claimant's cousin is entitled to one-half of the total award amount.

### **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  
12 May 2005

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