

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

## **in re Account of Max Kirchheimer**

Claim Number: 771095/SJ<sup>1,2</sup>

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of Max Kirchheimer (the “Account Owner”) at 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 an Initial Questionnaire (“IQ”) and a claim to the Holocaust Claims Processing Office (“HCPO”) identifying the Account Owner as her father, Max Kirchheimer, who was born on 25 October 1889 in Berwangen, Germany, and was married to [REDACTED] (who was born on 29 October 1895) in December 1920. The Claimant indicated that her father, who was Jewish, owned a cigar manufacturing business called *Kirchheimer & Blum*, located at Friedrichstrasse 32 in Heppenheim, Germany. The Claimant added that in 1934 her father acquired an additional factory that operated under the name *Gebrueder Liebholz*, which was located in Heidelberg, Germany, the town in which he also resided. The Claimant also indicated that her father traveled on business, often to the Netherlands, and at times to Switzerland. According to the Claimant, in approximately 1937, by Nazi decree, her father’s firm was “aryanized” by a company called *Rinn & Cloos*, which took over his company’s operations. The

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<sup>1</sup> The Claimant submitted a claim, numbered B-01966, on 23 August 1999, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was forwarded by the HCPO to the CRT on 1 December 2004 but has not been assigned a claim number.

<sup>2</sup> [REDACTED] did not submit a Claim Form to the CRT. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 0042 004, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned Claim Number 771095.

Claimant stated that in approximately June 1938, her father fled Germany, first briefly to the Netherlands because of his many contacts there, and then to the United States in approximately December 1938. Finally, the Claimant indicated that her parents died in New York, the United States; her father on 5 December 1970 and her mother on 12 March 1974. In support of her claim, the Claimant provided her father's birth certificate, confirming that he was born to Jewish parents in Berwangen on 25 October 1889.

The Claimant stated that she was born on 18 September 1921 in Frankfurt am Main, Germany.

### **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 Kirchheimer, who resided at 24 Innere Rosenbergstrasse in Heilbronn, Germany. The Bank's record indicates that the Account Owner held a custody account numbered 37898. The Bank's record further indicates that the account was opened no later than 5 July 1934, and that was closed on 20 July 1934. The amount in the account on the date of its closure is unknown.

There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

### **The CRT's Analysis**

#### Identification of the Account Owner

The Claimant's father's name and place of birth and country of residence match the published name and country of residence of the Account Owner. The CRT notes that the Claimant indicated that her father resided in Heidelberg, whereas the Bank's record indicates that the Account Owner resided in the city of Heilbronn. However, given that the Claimant's father was born in Berwangen, which is situated in the province of Heilbronn in Germany, and is only 25 kilometers from the city of Heilbronn, and that Heidelberg is located only approximately 70 kilometers from the city of Heilbronn, the CRT finds it plausible that the Claimant's father may have provided Heilbronn as his address to the Bank. In support of her claim, the Claimant submitted documents, including her father's birth certificate, showing that he was born in Berwangen, Germany on 25 October 1889, 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 record as the name and country of the Account Owner.

The CRT notes that the Claimant filed an IQ with the Court in 1999, as well as an HCPO claim form in 1999, asserting her entitlement to a Swiss bank account owned by Max Kirchheimer, prior to the publication in February 2001 of the 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"). This indicates that the Claimant has based her 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 her relative, but rather on a direct family relationship that was known to

her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her relative 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 notes that there are no other claims to this account. Taking all 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, that his business was aryanized, and that he fled Germany for the Netherlands and then the United States.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information, demonstrating that the Account Owner was the Claimant's father.

The CRT notes that the Claimant filed an IQ with the Court in 1999 and an HCPO claim form in 1999, identifying the relationship between the Account Owner and the Claimant, prior to the publication in February 2001 of the ICEP List. The CRT further notes that the Claimant submitted a copy of her father's birth certificate and that it is plausible that this document is a document which most likely only a family member would possess. 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 she has asserted in her Claim Form.

There is no information to indicate that the Account Owner has other surviving heirs.

#### The Issue of Who Received the Proceeds

Given that after coming to power in 1933, the Nazi regime embarked on a campaign to seize the domestic and foreign assets of the Jewish population through the enforcement of discriminatory taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until 1938, and would not have been able to repatriate his account to Germany without losing ultimate control over its proceeds; 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 Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A) and Appendix C,<sup>3</sup> 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

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<sup>3</sup> Appendix C appears on the CRT II website --- [www.crt-ii.org](http://www.crt-ii.org).

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 her father, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her 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 investigation carried out pursuant to the instructions of ICEP (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 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  
30 December 2004