

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Account of the Heirs of the Estate of Emil Klopfer

Claim Number: 787857/BW¹

Award Amount: 379,327.01 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the account of Ludwig and Bertha Mannheim. This award is to the published accounts of Bertha Mannheim-Klopfer (“Account Owner Mannheim-Klopfer”), Claire Klopfer (“Account Owner Claire Klopfer”), Philip Klopfer (“Account Owner Philip Klopfer”), and Siegfried Otto Eberhardt (“Account Owner Eberhardt”) (together, the “Account Owners”), who were the unknown and missing heirs of the Estate of Emil Klopfer (the “Decedent”), that were held at the [REDACTED] (“Bank 1”). As detailed below, the Decedent’s assets, a portion of which were later deposited into the Account Owners’ accounts at Bank 1 and which are the subject of this Award, were originally on deposit at the London and Zurich branches of the [REDACTED] (“Bank 2”) and at [REDACTED] (“Bank 3”).

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 identifying Account Owner Mannheim-Klopfer as her mother-in-law, Bertha Mannheim, née Klopfer, who was born on 23 December 1886 in Munich, Germany, and who was married to [REDACTED]. The Claimant stated that Bertha and [REDACTED] Mannheim resided at Waitzstrasse 7 in Berlin-Charlottenburg, Germany and had a son (the Claimant’s late husband) [REDACTED], who was born on 14 December 1915 in Berlin, and died on 15 September 1987 in Richmond Hill, Ontario, Canada. According to the Claimant, her late husband’s parents, who were Jewish, were in possession of valid visas for Chile, and attempted to flee Nazi Germany, but were ultimately unable to emigrate. The Claimant stated that Bertha and [REDACTED] Mannheim were deported to Auschwitz on 12 January 1943, where they both perished.

¹ The Claimant submitted one additional claim, which is registered under the Claim Number 753063. The CRT has treated that claim in a separate determination.

In support of her claim, the Claimant submitted copies of documents, including:

- (1) her late husband's birth certificate, indicating that [REDACTED] was born on 14 December 1915 in Berlin and that his parents were [REDACTED] and Bertha Mannheim, née Klopfer, who both were Jewish;
- (2) her birth certificate, indicating that [REDACTED] was born on 19 November 1919 in Berlin, and was the daughter of [REDACTED], née [REDACTED], and [REDACTED], who were Jewish and resided in Berlin;
- (3) her marriage certificate, dated 28 December 1938, indicating that [REDACTED] and [REDACTED], the son of [REDACTED] and Berta Mannheim, née Klopfer, were married in Berlin on 2 January 1939; and
- (4) her husband's death certificate indicating that [REDACTED], who was born on 14 December 1915 in Berlin and whose parents were [REDACTED] Manheim and Berta, née Klopfer, died on 15 September 1987 in Richmond Hill.

The Claimant indicated that she was born on 19 November 1919 in Berlin. The Claimant previously submitted an ATAG Ernst & Young claim form in 1997, asserting her entitlement to a Swiss bank account owned by her father Arthur Cassirer.²

Information Available in the Bank 1'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 Berta Mannheim-Klopfer, Claire Klopfer, Philip Klopfer, or Siegfried Otto Eberhardt during their investigation of the Bank 1. The documents referencing the relevant accounts were obtained from archival sources in Switzerland.

Information Available in the Swiss Federal Archive

By Federal Decree of 20 December 1962 (the "Federal Decree"), the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945 and who were known or presumed to have been victims of racial, religious, or political persecution ("the 1962 Survey"). In the records of the Swiss Federal Archive in Bern, Switzerland, there are documents concerning the assets of Bertha (Berta) Mannheim-Klopfer, numbered 925; Claire Klopfer, numbered 921; Philip Klopfer, numbered 923; and Siegfried Otto Eberhardt, numbered 906. These documents consist of a letter from the Guardianship Authority of the City of Zurich (*Vormundschaftsbehörde der Stadt Zürich*) ("Guardianship Authority") to

² The CRT did not locate an account belonging to Arthur Cassirer in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the "Rules").

the Registration Office for the Assets of Missing Foreigners, Federal Justice Department (*Meldestelle für Vermögen verschwundener Ausländer, Eidgenössische Justizabteilung*) (the “Registration Office”) regarding the registration of assets of the Account Owners pursuant to the 1962 Survey, a decision from the Guardianship Authority regarding the commencement of proceedings to have the Account Owners declared dead, *in absentia*, as well as four corresponding asset registration forms. The records do not contain information about the disposition of these accounts.

According to these documents, the Account Owners were the missing and unaccounted for heirs of the Decedent, who died on 9 December 1955. These documents indicate that the share of the estate of the Decedent belonging to the Account Owners was managed by a Zurich attorney (the “Guardian”) who was appointed by the Guardianship Authority on 24 July 1959, and that the value of the assets managed for the Account Owners by the Guardian was valued at 86,862.90 Swiss Francs (“SF”) as of 17 October 1969. These documents further indicate that the Guardianship Authority was unable to find any further information regarding the whereabouts of the Account Owners, and authorized the Guardian to institute a proceeding to have the Account Owners declared legally dead, *in absentia* (*Verschollenheitsverfahren*) according to the special provisions of the Federal Decree.

As noted above, the Swiss Federal Archive’s records also contain the asset registration forms, each dated 25 February 1964, regarding the registration of assets of Bertha (Berta) Mannheim, née Klopfer, Claire Klopfer, Philip Klopfer, and Siegfried Otto Eberhardt. According to these registration forms, Account Owner Mannheim-Klopfer was Bertha (Berta) Mannheim, née Klopfer, who was Jewish and was born on 23 December 1886 in Munich to [REDACTED] and [REDACTED], née [REDACTED], and resided at Waitzstrasse 7 in Berlin-Charlottenburg until she was deported to Auschwitz with the 26th Transport to the East (*26 Osttransport*);³ Account Owner Claire Klopfer was Claire Klopfer, who was Jewish and assumed born in 1887 or later in Germany, and was the child of [REDACTED], who was born on 15 February 1857 in Hürber, Germany, and [REDACTED], née [REDACTED]; Account Owner Philip Klopfer was Philip Ferdinand Klopfer, who was Jewish and was born on 6 August 1852 in Hürben (Krumbach), Germany, to [REDACTED] and [REDACTED], née [REDACTED], and was married to [REDACTED] on 25 December 1873 in Munich, which was his last known residence; and Account Owner Eberhardt was Siegfried Otto Eberhardt, who was Jewish and was born on 29 July 1882 in Munich to [REDACTED] and [REDACTED], née [REDACTED].

Information Available in the Archive of the Guardianship Authority of the City of Zurich

Subsequently, the CRT made a request to the Guardianship Authority for any additional information regarding the assets of the Account Owners, and received a file which contained documents and correspondence regarding the initiation and execution of the guardianship of the assets of the Account Owners by the Guardian.

³ The CRT notes that the *26 Osttransport* took place on 12 January 1943. See Deutsches Technikmuseum http://www.dtm.de/medieninfo/Mi_051020_judendeportationen_texte.pdf.

According to these documents, and as mentioned above, Emil Klopfer (the “Decedent”), was a British national who resided in Zurich, and died in an accident while travelling in London on 9 December 1955, without leaving a will. His immediate relatives contacted an attorney in London who was then tasked with determining the legitimate heirs of the Decedent and executing the procedural and administrative tasks required to properly qualify the Decedent’s estate for distribution. As the Decedent was resident in Switzerland at the time of his death, the estate was distributed in accordance with Swiss law. Additionally, the file of the Guardianship Authority contained the following pertinent documents:

- 1) a submission to the Zurich District Court (*Bezirksgericht Zurich*) (the “District Court”) dated 9 December 1957, from the London attorney, which requests permission to begin the process of qualifying the Decedent’s estate for distribution. According to this submission, the London attorney indicates that the Decedent was Emil Klopfer, who was born on 17 May 1876 in Munich, the son of [REDACTED] and [REDACTED], née [REDACTED]. The submission further indicates that the Decedent was forced to leave his home in Munich in 1934 due to pressure from the Nazi Regime, whereupon the Decedent traveled throughout Europe and the United States before settling with his wife [REDACTED], née [REDACTED], in Dublin, Ireland, until her death on 3 February 1955, whereupon the Decedent returned to Zurich on 31 August 1955 with the intention of establishing residency there. Further, the submission indicates that the Decedent’s assets consisted of an account at the London branch and a safe deposit account at the Zurich branch of Bank 2, as well as an account at the Zurich branch of Bank 3. The submission further indicates that 157 possible heirs of the Decedent had at that time been identified; however a separate attachment to the submission indicates there were a certain number of heirs, including the Account Owners, whose whereabouts were at that time unknown. According to this attachment, the whereabouts of the Account Owners, and whether the Account Owners had any children, were unknown, however next to the entry regarding Account Owner Mannheim-Klopfer, there is a hand-written note, presumably added at a later date, which indicates the following: “[REDACTED], in Santiago”;
- 2) a decision from the District Court, dated 11 March 1958, in which the Court appoints the London attorney as the executor of the estate (the “Executor”), and orders an official inventory of the Decedent’s assets to be compiled by a Zurich-based notary;
- 3) a year-end report filed with the District Court by the Executor, dated 3 December 1958, which indicates the progress made in the identification of the heirs, and notes that the Executor had received information which indicates that Account Owner Mannheim-Klopfer had one son, probably named [REDACTED], who was married and who had immigrated to Chile. An attachment to this report also mentions [REDACTED], and indicates that he is the probable son of Account Owner Mannheim-Klopfer, and that he had possibly immigrated to Chile, but that his whereabouts were at that time unknown;
- 4) a letter from the Executor to the heirs, dated 15 April 1959, which sets forth a provisional plan for the distribution of the estate, and indicates that the shares belonging to the missing heirs would be distributed to other known heirs, only upon initiation of the proper proceeding to declare the missing heirs legally dead, *in absentia*. According to this letter, the share of Account Owner Philip Klopfer was to

- be distributed amongst all the Klopfer relatives, the shares of Account Owner Mannheim-Klopfer and Account Owner Claire Klopfer were to be distributed to [REDACTED] and the share of Account Owner Eberhardt was to be distributed to two other known heirs of the Eberhardt family. This letter also contains a copy of the inventory of the assets of the estate prepared for the District Court, which indicates the Swiss accounts of the Decedent held various securities, including various tranches of bonds with series dates indicating they had been purchased in the 1930s and 1940s;
- 5) a decision from the Guardianship Authority, dated 24 July 1959, which indicates that a guardianship had been created to protect the interests of the Account Owners, and that a Zurich-based attorney was appointed as the Guardian, and was directed to protect the interests of the Account Owners, to endeavor to locate information regarding their circumstances, to participate in the death, *in absentia*, proceeding, and to either approve the provisional plan for the distribution of the estate presented by the Executor, or lodge any complaints to the plan on behalf of the Account Owners, and to review the remuneration requested by the Executor (*Honorarforderung*) on account of his work performed on behalf of the estate. The decision further indicates that the value of the entire estate on 4 December 1958 was SF 680,000.00, and that the Executor had requested remuneration of SF 210,000.00 for his work performed on behalf of the estate, in addition to SF 30,750.00 already received, which was considered by the District Court to be in excess of what was warranted. The decision further states that the District Court chose to appoint a different individual as the Guardian, rather than the Executor, in order to avoid a conflict of interest;
 - 6) a letter from the Zurich branch of Bank 1 to the Guardian, dated 5 August 1960, which indicates that SF 20,333.30 was received as the amount owed to the Account Owners based on the first payment of the estate funds to the heirs, and was deposited into an account at Bank 1 styled “the unknown and missing heirs of the estate of Emil Klopfer, deceased” (*unbekannt abwesende Erben im Nachlass des Herrn Emil Klopfer sel.*);
 - 7) a decision from the Guardianship Authority, dated 19 August 1960, which grants the Guardian’s request to manage the funds held for the Account Owners, and invest them into Swiss bonds and other securities;
 - 8) an agreement between a group of heirs of the Decedent and the Executor, dated 24 January 1961, which indicates that the Executor and the heirs agreed that the Executor would receive SF 170,000.000 as remuneration for his work on account of the estate;
 - 9) a decision from the Guardianship Authority, dated 7 July 1961, directing the Guardian to accept the terms of the agreement concerning the Executor’s remuneration, and to sign the agreement on behalf of the Account Owners;
 - 10) a yearly report from the Guardian, dated 12 February 1962, which indicates that no proceeding to have the Account Owners declared dead, *in absentia*, had begun, as according to the law, the initiation of such a process was the sole responsibility of the heirs of the missing or unaccounted for persons, and that nothing could be done by the Guardian to initiate such a proceeding. This report further indicates an accounting to date of the share of the Decedent’s estate that had been received by the Guardian, and indicates that in total SF 34,540.65 had been received and deposited in the account of the Account Owners;

- 11) a letter from the Guardian to the District Court, dated 28 May 1962, which indicates the Guardian informed the court that it was his opinion that the initiation of the proceeding to have the Account Owners declared dead, *in absentia*, was solely the responsibility of the Executor and not the Guardian, and further explains that his responsibility was to protect the interests of the missing and unaccounted for Account Owners as if they were still alive, and that requiring the Guardian to initiate the proceeding to have the Account Owners declared dead, *in absentia*, would create a conflict of interest for the Guardian;
- 12) a letter from the Guardian to the Guardianship Authority, dated 17 February 1964, which indicates the Guardian had recently read an article in a Zurich newspaper regarding the Federal Decree and the 1962 Survey, that the Guardian had discussed the matter with the Guardianship Authority, and that it had been decided that the Guardianship Authority would register the assets of the Account Owners;
- 13) a letter from the Guardianship Authority to the Guardian, dated 26 February 1964, which indicates that although the assets of the Account Owners could definitely be paid out to the remaining heirs of the Decedent following the initiation of a proceeding to have the Account Owners declared dead, *in absentia*, the Guardianship Authority had nevertheless registered the assets of the Account Owners pursuant to the requirements of the Federal Decree;
- 14) a decision from the Guardianship Authority, dated 26 June 1964, which indicates that the final and definitive plan of distribution of the Decedent's estate had been approved, and that the value of the share of the Decedent's estate received by the Guardian for the Account Owners amounted to SF 77,634.00 which was held in an investment account for the benefit of the Account Owners;
- 15) a yearly report from the Guardian to the Guardianship Authority, dated 2 March 1967, which indicates that the Guardian re-iterated the position that a proceeding to have the Account Owners declared dead, *in absentia*, could only occur at the initiation of the heirs of the Decedent, and states that the heirs had not yet undertaken any such proceeding, presumably due to the cost of such an undertaking. This yearly report also indicates that the investments in the account of the Account Owners had matured and been reinvested, and were worth SF 81,438.30 as of 31 December 1966;
- 16) a report, dated 3 March 1969, from the Guardian to the Guardianship Authority covering the period of 1 January 1967 to 31 December 1968, which indicates the value of the assets of the Account Owners as of 31 December 1968 was SF 86,862.90. In this report, the Guardian also indicates that the Account Owners could be declared dead, *in absentia*, according to the simplified procedure that was approved by the Federal Decree pursuant to the 1962 Survey, which the Guardian notes could be initiated by the Guardianship Authority, however the Guardian indicates that as the original distribution of the Decedent's estate to the other known heirs was very complicated, and that as many of the original known heirs of the Decedent had probably since died, one might ask whether it would not be best to leave the initiation of such a proceeding to the remaining known heirs;
- 17) a decision of the Guardianship Authority, dated 24 October 1969, which indicates that the Guardianship Authority authorized the Guardian to commence the proceedings to declare the Account Owners dead, *in absentia*, according to the simplified procedure enunciated by the Federal Decree pursuant to the 1962 Survey;

- 18) a submission from the Guardian to the District Court, dated 8 December 1969, which indicates the Guardian requested the District Court to find the Account Owners dead, *in absentia*, according to the procedure outlined in the Federal Decree, and which further indicates that the Account Owners were Jewish and were presumed to have perished in a concentration camp. According to this submission, the Guardian indicates that the value of the assets held in the account of the Account Owners was SF 86,862.90;
- 19) a report, dated 16 February 1971, from the Guardian to the Guardianship Authority covering the period of 1 January 1969 to 31 December 1970, which indicates the Guardian contacted the District Court in the summer of 1970 for a status update on his submission to the court regarding the commencement of proceedings to have the Account Owners declared dead, *in absentia*, and which further indicates that the Guardian was told by the District Court that due to a large number of submissions received, the court was in the process of creating a new office to handle the submissions. According to this report, the Guardian indicates that the value of the assets held in the account of the Account Owners as of 31 December 1970 was SF 90,182.80;
- 20) a report, dated 5 February 1973, from the Guardian to the Guardianship Authority covering the period of 1 January 1971 to 31 December 1972, which indicates the Guardian had not heard anything from the District Court regarding the proceedings, and that upon his last contact with the District Court in December 1972 he was very much surprised when the District Court informed him that the file had been lost. The Guardian further indicates that the city of Zurich was liable for losing the file, and that he had filed a claim against the city of Zurich to prevent the claim for the loss of the file from lapsing, and further notes that he assumed the District Court was endeavoring at great lengths to currently find the file. Finally, the Guardian notes that the value of the assets held in the account of the Account Owners as of 31 December 1972 was SF 92,891.85;
- 21) a letter from the Guardian to the Guardianship Authority, dated 21 June 1974, in which the Guardian indicates he had been informed that the District Court had found the missing file and that the case was to be presented to the High Court of the Canton of Zurich (*Obergericht des Kantons Zürich*) (the “High Court”) soon;
- 22) a decision of the High Court, dated 29 August 1974, which indicates that the High Court had reviewed the circumstances regarding the unknown whereabouts of Account Owner Philip Klopfer, Account Owner Claire Klopfer, and Account Owner Eberhardt, and directed the District Court to commence supplemental procedures to publish the names of these persons (...*gemäss dem ergänzten Publikationsentwurf aufzurufen*). This decision further indicates that the High Court had received information from [REDACTED], a nephew of Account Owner Claire Klopfer, which indicated that Account Owner Claire Klopfer had been married with one son, but that she had died before the war in Berlin, and that both her husband and son were also dead;
- 23) a report, dated 21 February 1975, from the Guardian to the Guardianship Authority covering the period of 1 January 1973 to 31 December 1974, which indicates that the High Court had directed that a publication proceeding be commenced (*Aufrufverfahren*) for Account Owner Philip Klopfer, Account Owner Claire Klopfer

- and Account Owner Eberhardt, and that the proceeding to declare these persons dead, *in absentia*, was not yet finished, as another decree from the High Court was necessary. This report also indicates the Guardian had been informed that Account Owner Mannheim-Klopfer had already been declared legally dead by a decision of the Berlin-Charlottenburg City Court (*Amtsgericht Berlin-Charlottenburg*) on 11 November 1959, which further indicates that she was deported to Auschwitz on the 26th Transport to the East (26th *Ost-transport*)⁴ and that she was missing as of that time. Finally, the Guardian notes that the value of the assets held in the account of the Account Owners as of 31 December 1974 was SF 98,205.05;
- 24) a final report, dated 26 July 1976, from the Guardian to the Guardianship Authority covering the period of 1 January 1975 to 30 June 1976, which indicates that the proceedings to declare Account Owner Claire Klopfer, Account Owner Philip Klopfer and Account Owner Eberhardt as legally dead, *in absentia*, had been successfully completed as evidenced by decision of the High Court of 17 March 1976. The Guardian further indicates that as all the Account Owners were now declared legally dead, his duty had been fulfilled. The Guardian further notes that the value of the assets held in the account of the Account Owners as of that date was SF 99,419.05, which was available to the Guardianship Authority for payment into the fund established by the Federal Decree pursuant to the 1962 Survey; and
- 25) a decision of the Guardianship Authority, dated 13 August 1976, which indicates that the Account Owners had been declared legally dead, and directs the Guardian to transfer the value of the assets held in the account of the Account Owners of SF 99,419.05 to the Heirless Assets Fund (*Erblose Vermögen*) at the Federal Ministry of Finance (*Eidgenössische Kassen- und Rechnungswesen*) in Bern, Switzerland.

Information Available in the Swiss Federal Register

On 19 January 1999, additional information regarding the Federal Decree and the 1962 Survey was published in the Swiss Federal Register (*Bundesblatt*) pursuant to a decree from the Swiss Federal Council (*Bundesrat*).⁵ According to the information contained in this decree, the balance of the funds deposited into the Heirless Assets Fund which had not been claimed were paid out to two organizations in 1975 and 1979: two-thirds to the Swiss Federation of Jewish Communities (*Schweizerischen Israelitischen Gemeindebund*) and one-third to the Swiss Refugee Council (*Schweizerischen Zentralstelle für Flüchtlingshilfe*). The decree further indicates that because conducting a deeper level of research into the whereabouts of potentially entitled individuals was at that time not possible, and because some of those entitled parties were then living in communist countries in Eastern Europe, the Federal Council decided to republish the names of those persons whose assets were reported in the 1962 Survey and remained unclaimed, to allow any potentially entitled persons to make claims to the assets until 30 September 1999. The names of the Account Owners were included on the re-published list of unclaimed assets reported in accordance with the Federal Decree and the 1962 Survey.

⁴ See footnote 3, *supra*.

⁵ See BBl 1999 1, pp 470-492, “*Schweizerische Eidgenossenschaft Entschädigung für Vermögenswerte, die in Rahmen des Vollzugs des Bundesbeschlusses 1962 über die in der Schweiz befindlichen Vermögen rassistisch, religiös oder politisch verfolgter Ausländer oder Staatenloser für humanitäre Zwecke verwendet worden sind.*”

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified Account Owner Mannheim-Klopfers. The Claimant's mother-in-law's name matches the published name of Account Owner Mannheim-Klopfers. The Claimant identified Account Owner Mannheim-Klopfers' date and place of birth, address, and the date of her deportation, which matches unpublished information about Account Owner Mannheim-Klopfers contained in the archival records. In support of her claim, the Claimant submitted documents, including her husband's birth and death certificates, which indicate that his mother's name was Bertha Mannheim, née Klopfers, and her own marriage certificate, which indicates that her husband's mother's name was Bertha Mannheim, née Klopfers, who resided at Waizstrasse 7 in Berlin-Charlottenburg, and which provides independent verification that the person who is claimed to be Account Owner Mannheim-Klopfers had the same name and resided at the same address recorded in the archival records as the name and address of Account Owner Mannheim-Klopfers. Further, the CRT notes that the Claimant's husband's name matches unpublished information contained in the archival records concerning the account of the Account Owners.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Bertha Mannheim, née Klopfers, and indicates that her date of birth was 23 December 1886 and place of birth was Munich, which matches the information about Account Owner Mannheim-Klopfers provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Accordingly, as the Claimant has indicated a familial relationship to Account Owner Mannheim-Klopfers, and as all the Account Owners were related, the CRT considers that the Claimant has constructively also plausibly identified the Decedent, Emil Klopfers, as well as Account Owner Claire Klopfers, Account Owner Philip Klopfers and Account Owner Eberhardt. The CRT notes that the archival records indicate that Account Owner Mannheim-Klopfers, Account Owner Claire Klopfers, Account Owner Philip Klopfers and Account Owner Eberhardt were closely related and were listed among the missing heirs of Emil Klopfers, that Klopfers is the maiden name of both Account Owner Mannheim-Klopfers, as well as the mother of Account Owner Eberhardt, and is the surname of Account Owner Claire Klopfers and Account Owner Philip Klopfers. In addition, the CRT notes that [REDACTED], née [REDACTED], is indicated in the archival records as the mother of both Account Owner Mannheim-Klopfers and Account Owner Claire Klopfers.

The CRT notes that the other claim to the account of Account Owner Mannheim-Klopfers was disconfirmed because that claimant provided a different maiden name than the maiden name of Account Owner Mannheim-Klopfers. Finally the CRT notes that there were no other claims to the accounts of Account Owner Claire Klopfers, Account Owner Philip Klopfers, and Account Owner Eberhardt.

Status of Account Owner Mannheim-Klopfers and the Decedent as Victims of Nazi Persecution

The Claimant has made a plausible showing that Account Owner Mannheim-Klopfer was a Victim of Nazi Persecution. The Claimant stated that Account Owner Mannheim-Klopfer was Jewish, and that she was deported to Auschwitz on 12 December 1943. The Claimant also submitted her husband's birth certificate and her own marriage certificate, indicating that Bertha Mannheim, née Klopfer, was Jewish. Finally the archival records note that Account Owner Mannheim-Klopfer was deported to Auschwitz on 12 December 1943 and that her heirs could not be located. As noted above, a person named Bertha Mannheim, née Klopfer, was included in the CRT's database of victims.

Additionally, the CRT notes that the Decedent was a Victim of Nazi Persecution. The archival records indicate that the Decedent was Jewish and was forced to leave his home in Munich in 1934 due to pressure from the Nazi Regime, whereupon the Decedent traveled throughout Europe and the United States before settling first in Dublin before he returned to Zurich in August 1955.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that she is related to Account Owner Mannheim-Klopfer by submitting specific information and documents, demonstrating that Account Owner Mannheim-Klopfer was the mother of the Claimant's late husband. These documents include her late husband [REDACTED]'s birth certificate and her own marriage certificate, indicating that [REDACTED]'s mother was Account Owner Mannheim-Klopfer. Additionally, the CRT notes that the archival records indicate that [REDACTED] was a relative of the Account Owners.

The CRT also notes, that the archival records indicate that the Account Owners were all relatives and heirs of the Decedent. Therefore, the CRT concludes that the Decedent and Account Owner Claire Klopfer, Account Owner Philip Klopfer, and Account Owner Eberhardt were also relatives of the Claimant's late husband.

There is no information to indicate that the Decedent or the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

The archival records indicate that the value of the assets held in the account of the Account Owners was paid to the Heirless Assets Fund established by the Federal Decree pursuant to the 1962 Survey.

The CRT notes that information contained within the archival records indicates that the Claimant's husband, [REDACTED], was known by the Guardian to be the heir of Account Owner Mannheim-Klopfer. Additionally, the archival records also indicate the District Court was aware of [REDACTED]'s existence, as presumably he was the source of the information regarding the fact that Account Owner Mannheim-Klopfer had already been declared dead by the Berlin-Charlottenburg City Court, as she was ultimately excluded from the death, *in absentia*, proceedings that were initiated by the Guardian on behalf of the remaining Account Owners.

The CRT also notes, however, that despite the fact that [REDACTED]'s existence was known to the Guardian and the District Court, the assets of the Account Owners were nevertheless paid to the Heirless Assets Fund in 1976. It is not clear why the archival records show no evidence that [REDACTED] was contacted with regard to his possible claim to the share of the assets belonging to Account Owner Mannheim-Klopfner, especially given the extensive record demonstrating that the distribution of the Decedent's estate, which ultimately proved a quite complex and litigious undertaking, and the actions of the Guardian and the Guardianship Authority in administering the guardianship appear to have been conducted appropriately.

Finally, the CRT notes that the names of the Account Owners were re-published on the 1999 list of those persons whose assets were reported in the 1962 Survey and remained unclaimed, which indicates that the assets of the Account Owners were not able to be claimed by the Claimant's husband, or any other relative, in the years between 1976 and 1999. The CRT notes that the Claimant filed an Initial Questionnaire regarding an account of Account Owner Mannheim-Klopfner with the CRT on 29 October 1999, and there is no indication that the Claimant was aware of the re-publication of the 1962 Survey unclaimed asset list or was able to file a claim, as the deadline expired on 30 September 1999.

Given these facts, the CRT concludes that these assets were not previously returned to the Account Owners or their heirs.

Basis for the Award

According to Article 14 of the Rules, the CRT "shall have jurisdiction to resolve claims to Accounts of Victims open or opened in Swiss banks during the Relevant Period and to certify to the Court for payment of the value of Accounts." The Rules further define the Relevant Period as the period from 1 January 1933 to 31 December 1945. The CRT notes that the Decedent was a Victim, as he was Jewish and was forced to flee Germany in 1934 due to pressure from the Nazi Regime, and further notes that the archival records indicate the Decedent's Swiss accounts held tranches of bonds with series dates that indicate they had been purchased in the 1930s and 1940s, which the CRT considers as plausible evidence that the Swiss accounts of the Decedent were open during the Relevant Period.

The CRT has therefore 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 Account Owner Mannheim-Klopfner was her husband's mother, and that relationship justifies an Award. The CRT notes that the Claimant has constructively also plausibly demonstrated that she is related to Account Owner Philip Klopfner, Account Owner Claire Klopfner and Account Owner Eberhardt, 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, the assets of the Account Owners were collectively managed by the Guardian in an investment account, which the CRT considers to be a custody account. According to the

decision from the Guardianship Authority, dated 26 June 1964, which indicates that the final and definitive plan of distribution of the Decedent's estate had been approved, the total value of the share of the Decedent's estate received by the Guardian for the Account Owners amounted to SF 77,634.00. The assets in this account were actively managed by the Guardian over the twelve-year period of the guardianship, and were worth SF 99,419.05 on 13 August 1976, when the Guardianship Authority directed the Guardian to transfer the value of the assets held in the account of the Account Owners to the Heirless Assets Fund at the Federal Ministry of Finance in Bern.

In accordance with Article 31(1) of the Rules, it is the usual practice of the CRT to adjust the value of an account with a post-1945 known value, in order to compensate a claimant for the standardized bank fees which were usually charged to an account between 1945 and the year of the known balance. This adjusted 1945 account value is then multiplied by a factor of 12.5 to determine the current value of the award, in order to compensate the claimant for the lost time-value (*i.e.*, interest and investment potential) of the assets in the period between 1945 and the present. Utilization of this multiplier results in a compound annual growth rate of the assets of approximately 3.9%.

The CRT has determined, however, that this procedure is not appropriate in this case. The Decedent did not die until 1955, and the full value of the share of the estate due to the Account Owners was not fully determined until 1964. Furthermore, the Guardian actively managed the account of the Account Owners which resulted in a net increase in the value of the assets of the Account Owners from SF 77,634.00 in 1964 to SF 99,419.05 in 1976. This increase resulted in a compound annual growth rate of the value of the assets of approximately 2.08%.

As the Claimant's entitlement to the assets of the Account Owners did not constructively fully vest until 1964, and since the assets of the Account Owners were actively managed in the twelve-year period between 1964 and 1976, resulting in a net increase in value of the assets, the CRT has determined that the appropriate measure of the current value of the award should be based on a calculation of the lost time-value of the assets in the period between 1976, the year they were paid into the Heirless Assets Fund, and the present, using the usual CRT compound annual growth rate of 3.9%. The current value of the amount of the award is thus calculated by multiplying the 1976 value of the assets of the Account Owners of SF 99,419.05 by a 3.9% compound annual growth rate over 35 years, which produces a total award amount of SF 379,327.01.

Certification of the Award

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

Claims Resolution Tribunal
24 March 2011