

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to Claimant [REDACTED]

in re Accounts of Sara (Särle) Levi, Martha Baldauf and Ilse Lebrecht

Claim Number: 601466/MC¹

Award Amount: 2,939,449.88 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished account of Sara (Särle) Levi, née Steiner. This Award is to the unpublished accounts of Sara (Särle) Levi, née Steiner, (“Account Owner Levi”), Martha Baldauf, née Steiner, (“Account Owner Baldauf”), and Ilse Lebrecht, née Bergmann, (“Account Owner Lebrecht”) (together the “Account Owners”) 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 a claim to the Holocaust Claims Processing Office (“HCPO”) identifying Account Owner Levi as her mother-in-law, Sara (Särle) Levi, née Steiner, who was born on 13 October 1872 in Laupheim, Germany, and was married to [REDACTED] on 10 May 1898. The Claimant stated that her mother-in-law, who was Jewish, resided on Kapellenstrasse in Laupheim until 1898, and that she lived in Münsingen, Germany, from 1898 until 1942. The Claimant indicated that Sara and [REDACTED] Levi had one child, [REDACTED], the Claimant’s late husband, who was born on 26 November 1900 in Münsingen.

The Claimant stated that Sara Levi had relatives in Switzerland who resided at 35 General Guisanstrasse in St. Gallen and that she toured Switzerland in 1908 with “Tour Engelberg.” The Claimant submitted documents showing that Sara Levi had four siblings: [REDACTED], née [REDACTED], who was born in 1870; [REDACTED], who was born in 1871; Martha Baldauf, née Steiner, (Account Owner Baldauf) who was born in 1877; and [REDACTED], née [REDACTED], who was born in 1881.

¹ The Claimant submitted a claim, numbered B-00262, on 3 November 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601466.

The Claimant explained the origin of her relatives' Swiss accounts, as confirmed also in the documentation, as stemming from an inheritance from [REDACTED], who was the brother of Sara Levi and Martha Baldauf and the uncle of Ilse Lebrecht. The Claimant indicated that [REDACTED] emigrated to New York, New York, the United States, as a young man and there entered into a partnership with his cousin, [REDACTED]. When [REDACTED] died in 1923, [REDACTED] was the executor of his estate. According to [REDACTED]'s last will and testament, which the Claimant submitted in support of her claim, [REDACTED] included as his beneficiaries his nephew and nieces as well as his four sisters. The Claimant stated that the four sisters made a joint decision to have their inheritance deposited at the Bank in four separate accounts, one in each of their names.

The Claimant stated that [REDACTED] died in Laupheim in 1934, and that her only child, [REDACTED], who was born in 1893, planned to move to Freiburg im Breisgau, Germany, in 1935 or 1936. Instead, the Claimant explained, she crossed into Switzerland at that time, collected the funds that her uncle had bequeathed to her and her mother, which had been deposited at the Bank, and took the funds, amounting to 63,000.00 United States Dollars ("US \$"), with her to the United States, where she arrived in 1936.

According to information provided by the Claimant, [REDACTED] was married to [REDACTED], and they had two daughters, [REDACTED] and Ilse. According to documents submitted by the Claimant, Ilse Bergmann (Account Owner Lebrecht) was married to [REDACTED] and resided at Wielandstrasse 50 in Ulm, Germany. The Claimant stated that [REDACTED] immigrated via Lichtenstein and Switzerland to the United States, where she arrived in 1937, also with her inheritance of US \$63,000.00.

The Claimant further submitted documents that show that Martha Baldauf was killed in a hospital in Mannheim on 13 November 1940 and that Sara Levi was deported to the concentration camp at Theresienstadt, where she perished in 1943. The Claimant stated that her husband, Sara Levi's son, died on 24 January 1972 in Lindenhurst, New York, the United States. The Claimant indicated that there had not been any recovery from the Bank of the funds Martha Baldauf and Sara Levi had inherited and there deposited.²

In support of her claim, the Claimant submitted documents, including a copy of [REDACTED]'s will, naming his four sisters, including Sara Levi of Münsingen and Martha Baldauf of Dillingen, and his nephew and nieces, including Ilse Bergmann of Laupheim and [REDACTED] of Münsingen, among his beneficiaries; a waiver of citation from the Surrogate's Court, County of New York, relating to the probate of [REDACTED]'s estate and signed by his four sisters on 16 May 1923 before the Vice Counsel of the United States in Stuttgart, Germany; a copy of the Claimant's marriage certificate, dated 23 March 1932, which indicates that she was married to Dr. [REDACTED]; and a copy of her husband's birth certificate identifying his mother as Sara (Särle) Levi, née Steiner. The Claimant indicated that she was born on 10 August 1910 in Stuttgart, Germany.

² The CRT notes that, in the restitution proceedings to recover the assets of Sara Levi, listings of confiscated assets at the Ulm branch of the Deutsche Bank included the securities that had initially been lodged at the Bank. This proves that the assets transferred from the Bank to the Reich were confiscated. The CRT, in calculating the amount of the Award, took note of the partial restitution of the value of these securities to Sara Levi's heirs.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Sara Levi-Steiner.

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 accounts belonging to Sarah (Särle) Levi, Martha Baldauf or Ilse Lebrecht during their investigation of the Bank. The Bank's documents were obtained from the Bank by the HCPO on the Claimant's behalf and were forwarded to the CRT.

The documents forwarded by the HCPO consist of correspondence between the Bank and the HCPO, starting 25 February 1998, but referring to a request for information from the HCPO dated 8 December, 1997; copies of customer cards and client correspondence; account statements; internal copies of post-War correspondence dating from 1958 to 1967 between the Bank and Mr. Berthold Wolf, a German lawyer from Ulm, acting on behalf of the estate of Martha Baldauf, and seeking information about Martha Baldauf's account in support of a restitution proceeding against the German Reich; a decision by the district court ("*Landgericht Frankfurt (Main)*") of Frankfurt, Germany, dated 13 March 1962; and a settlement agreement, dated 19 August 1958 between the German government and the heirs of Martha Baldauf regarding compensation for an unrelated account in a German bank held by Martha Baldauf that was seized by the Nazis.

The letter from the Bank to the HCPO, dated 7 April 1998, enclosed account cards that indicate that Sara (Särle) Levi and Dr. Hans Levi jointly held a custody account, numbered 49152, that was opened either on 28 March 1933 or 10 April 1933 (both dates are noted in conjunction with the opening of the account). At some date, which is not indicated in the Bank's records, the name of Dr. Hans Levi was crossed out, leaving Sara Levi as the sole owner of the account. According to these records, in 1933 the account contained securities (the name and type of which are not legible) worth US \$62,500.00. Further, the records indicate that these securities were completely withdrawn from the account by June 1933. Additional account cards pertaining to this account indicate that, in addition to the securities denominated in United States Dollars, in 1933 the account also contained 4% *Eid. Anleihe von 1931* bonds with a nominal value of 70,000.00 Swiss Francs ("SF") and 3½% British War Loan 1932 bonds with a nominal value of 8,000.00 British pounds ("£"). The records indicate that these securities were withdrawn from the account on an illegible date in 1938, and that the account was closed on 5 November 1938. In the letter from the Bank to the HCPO, dated 7 April 1998, the Bank wrote: "We also found documentation related to the movement of securities in and out of the account. Those records indicate that some of the securities were withdrawn during 1933. The records also show that in 1938, Ms. Levi-Steiner transferred 4% *Eid. Anleihe von 1931* bonds valued at 17,000.00 Swiss Francs [sic] and 3½% British War Loan 1932 bonds valued at 8,000.00 British pounds to a safe-keeping account with [the Bank] in the name of *Deutsche Bank und Diskonto-Gesellschaft Berlin* (which later changed its name to *Deutsche Bank*)." The CRT notes that the original records pertaining to the account that were forwarded to the HCPO do not indicate that the securities

were transferred to an account in the name of *Deutsche Bank und Diskonto-Gesellschaft*, nor does the Bank's 7 April 1998 letter indicate the source of this information. The CRT further notes that the Bank's records clearly indicate that the nominal value of the 4% *Eid. Anleihe von 1931* bonds was SF 70,000.00, not SF 17,000.00 as indicated in the Bank's letter to the HCPO.

The documents provided by the Bank to the HCPO also refer to accounts held at the Bank by Martha Baldauf and by Ilse Lebrecht, née Bergmann, who was the daughter of Thekla and Theodore Bergmann. With regard to the account held by Ilse Lebrecht, née Bergmann, the documentation consists of a letter, dated 29 September 1938, to the Bank from Curt Lebrecht, who resided in Ulm, regarding an account held by his wife, Ilse Lebrecht, née Bergmann. The letter requested that the Bank transfer immediately 3½% British War Loan 1932 bonds worth £ 1,750.00 and 4% *Eid. Anleihe von 1931* bonds worth SF 18,000.00, which were lodged in a custody account at the Bank held by his wife (who also signed the letter in agreement), to the Ulm branch of the Deutsche Bank.

With regard to the accounts owned by Martha Baldauf, the records include account cards and account statements. According to these records, Martha Baldauf, whose correspondence was addressed in care of [REDACTED] at Kappellenstrasse 47 in Laupheim, Germany, held a custody account numbered L52260 that was closed on 8 July 1935. The records also indicate that Martha Baldauf owned a demand deposit account, numbered 40061, in United States Dollars that was opened on an illegible date in 1935 and closed on 31 October 1936. According to an account statement dated 24 December 1935, the demand deposit account contained US \$25,428.20 as of that date. According to a second account statement for the period from 6 July 1935 to 27 October 1936, the demand deposit account was credited with US \$25,454.30 from the sale of securities ("*Rückbez. Titel*") in July 1935. According to this record, on 26 October 1936, a check was issued for US \$25,376.50, the entire amount in the account, and the check was deposited with the Guaranty Trust Company of New York. The Bank's letter to the HCPO, states that the Bank "located documents that shed light on the disposition of Martha Baldauf's assets. As you may know, all Germans were compelled to report and in many cases transfer their foreign assets to the German government in exchange for Reichsmark. Although we do not have records as to whose order the mentioned check was payable, subsequent documents indicate that the dollars ultimately were transferred to the German Reichsbank in exchange for a payment of 63,000.00 Reichsmark." The latter transaction is confirmed in the correspondence between the Bank and the German lawyer acting on behalf of Martha Baldauf's heirs in their restitution claim against the German Reich, although the path of the funds into the Reichsbank's coffers is described differently, as set out below.

The Bank's letter to the HCPO refers to this correspondence as follows: "Correspondence during the 1950's and 1960's between [the Bank] and a German lawyer who represented the heirs of Martha Baldauf shows that the lawyer sought and received assistance from [the Bank] in his attempt to obtain compensation from the German government. [The Bank] assisted Martha Baldauf's heirs' lawyers by confirming to him for use in the German court that the balance of about USD 25,500 represented the counter value of the securities in Martha Baldauf's safe-keeping account with [the Bank]. Ms. Baldauf's heirs were apparently successful in obtaining compensation from the German government for these assets."

The Bank's internal copies of the correspondence during the 1950s and 1960s, which were forwarded to the HCPO by the Bank, detail the "assistance" provided by the Bank to Berthold Wolf, the German lawyer who attempted to obtain restitution from the German government for the heirs of Martha Baldauf. Summaries of the correspondence are provided below, in chronological order.

28 October 1958 (Letter from Berthold Wolf to the Bank)

In his first letter to the Bank, Mr. Wolf enclosed a copy of a letter, dated 29 September 1938, to the Bank from [REDACTED] regarding an account held by his wife, Ilse Lebrecht, née Bergmann. That letter requested the Bank to transfer immediately 3½% British War Loan 1932 bonds worth £ 1,750.00 and 4% *Eid. Anleihe von 1931* bonds worth SF 18,000.00, which were lodged in a custody account at the Bank held by his wife, to the Ulm branch of the Deutsche Bank. Mr. Wolf explained that Ilse Lebrecht was the niece of Martha Baldauf and that he represented the heirs of both Ilse Lebrecht and Martha Baldauf with respect to their claims for restitution from the German government. Mr. Wolf explained that Martha Baldauf and the Bergmann family were among the heirs of [REDACTED], who died in 1923 in the United States. Mr. Wolf wrote that the heirs, specifically Ilse Lebrecht and her mother, [REDACTED], received securities denominated in Swiss Francs and Pound sterling as part of their inheritance and that the documents indicated that Ilse Bergmann held the securities in a custody account at the Bank until the fall of 1938, at which time the German government forced her to repatriate them to Germany. A handwritten note following this sentence, apparently written by a Bank employee, indicates that securities held at the Bank by [REDACTED] were also forcibly repatriated ("*und von [REDACTED]*") ("*and those [securities] belonging to [REDACTED]*"). Mr. Wolf wrote that it was likely that Martha Baldauf also held a custody account at the Bank, whose contents were also forcibly repatriated and that he would be grateful if the Bank would inform him whether Martha Baldauf indeed had a custody account the contents of which were repatriated. If the Bank indicated the existence of such an account, he would provide the necessary proof of his authorization to act as the heirs' legal representative. Mr. Wolf concluded with the request that the Bank respond as soon as possible, because the deadline for filing restitution claims against the former German Reich was 31 December 1958. The letter contains additional handwritten notations from Bank employees, of which only a portion is legible. One notation refers to a custody account numbered 29404, but does not indicate in whose name the account was held. Another notation indicates the existence of a custody account that was closed in 1935 and a demand deposit account, held in United States Dollars, that was closed in 1936. This notation also does not indicate in whose names these accounts were held. Another notation asks: "Can information be given?" ("*Kann Auskunft erteilt werden?*")

10 November 1958 (Letter from the Bank to Berthold Wolf)

In response to Mr. Wolf's letter, the Bank replied that, as a general principle, the Bank could not provide any information about account activities that took place over ten years ago, because its files are destroyed after this period of time, and that it therefore was not in a position to accommodate his wishes. ("*In Beantwortung Ihres Schreibens von 28. Oktober 1958 teilen wir Ihnen mit, dass wir grundsätzlich keine Auskünfte erteilen können über Angelegenheiten, die mehr als 10 Jahre zurückliegen, weil unsere Akten nach dieser Frist vernichtet werden. Wir sind deshalb nicht in der Lage, Ihrem Wunsch zu entsprechen.*")

22 December 1958 (Letter from Berthold Wolf to the Bank)

In his response, Mr. Wolf, referring to the policy cited by the Bank, requested they reconsider their position. Mr. Wolf wrote that, in the related case of [REDACTED], the Bank was able, a few years earlier, to provide extraordinarily useful information on account activities that went back more than ten years. Mr. Wolf questioned why it should be possible for one branch of a family to prove their claims in Germany and not for another branch of the same family to do the same because they were unable to provide adequate evidence. Mr. Wolf wrote that it might be easier for the Bank to research the matter with the information that the liquidation of the custody account belonging to Martha Baldauf in the fall of 1936 was effected through the "*Bankhaus L. Mainz sen. Frankfurt*," whose files were no longer accessible because it was liquidated in 1938. Mr. Wolf then wrote that the Bank's research might also be made easier if he assured them that no claims against the Bank could be brought on the basis of its information ("*Vielleicht werden Ihre Nachforschungen auch noch dadurch erleichtert wenn ich Ihnen versichere, dass irgendwelche Ansprüche gegen Sie selbst aus dem Ergebnis Ihrer Auskunft nicht hergeleitet werden können.*") A handwritten notation on the letter, apparently written by a Bank employee, noted the existence of a custody account numbered 52260. Another notation asks, "Can we tell how the custody account was closed?" ("*Können wir feststellen, wie Depot ausgegangen ist?*")

31 December 1958 (Letter from the Bank to Berthold Wolf)

In response, the Bank wrote that, on the basis of renewed research, it unfortunately had to report that it no longer had any documents that would allow it to determine whether assets belonging to Martha Baldauf were handed over to German authorities. With regard to the related case of [REDACTED], the Bank wrote that it was not clear to what type of information Mr. Wolf was referring. It noted that the possibility certainly existed that files that were available a few years earlier were now no longer available.

28 January 1959 (Letter from Berthold Wolf to the Bank)

Mr. Wolf confirmed receipt of the Bank's 31 December 1958 letter and wrote: "You will not hold it against me if I, in carrying out my professional obligation to do everything for my clients in order to bring their claim against the German Reich to a successful completion, turn again to you." ("*Sie werden es mir aber nicht verübeln wenn ich mich, aus meiner Berufspflicht heraus alles für meine Mandanten zu tun um den gestellten Anspruch gegen das Deutsche Reich zur Durchführung zu verhelfen, noch einmal an Sie wende.*") Mr. Wolf wrote that he had recently learned that the securities in Martha Baldauf's custody account at the Bank were not repatriated to the Reich, but rather sold in Zurich and that the proceeds of the sale, in the amount of US \$25,376.27, were transferred to an account at the Bank belonging to the *Bankhaus L. Mainz sen.* in Frankfurt. According to Mr. Wolf's letter, Mrs. Baldauf was then forced to sell these dollars, and in return 63,074.73 Reichsmark ("RM") was credited to her account at the *Bankhaus Mainz* in Frankfurt. A notation on the letter asks: "Can we confirm this?" Mr. Wolf wrote that this transaction took place during the year 1936, as was evident from a letter from the *Bankhaus Mainz* of 29 October 1936, which however was no longer available. Mr. Wolf concluded that he would be grateful if the Bank would turn its attention once again to this matter in light of these circumstances.

6 February 1959 (Letter from the Bank to Berthold Wolf)

The Bank confirmed receipt of Mr. Wolf's 28 January 1959 letter and wrote that, on the basis of renewed research, it must unfortunately confirm the contents of its letter of 31 December 1958.

17 June 1959 (Mr. Wolf visits the Bank)

As is evident from the following letter, Mr. Wolf visited the Bank on 17 June 1959 and spoke to Dr. Pache, the director of the Bank's Legal Department. According to subsequent correspondence, Mr. Wolf presented a copy of a document demonstrating the existence of an account held by Martha Baldauf at the Bank.

18 June 1959 (Letter from the Bank to Berthold Wolf)

The Bank refers to Mr. Wolf's visit the day before with Dr. Pache, during which Mr. Wolf presented the Bank with a "new document" (*"neue Unterlage"*). The Bank wrote that on the basis of this document, it took another look in its books and found, through this new document, entries, which although incomplete, allowed the Bank to provide Mr. Wolf with at least partial confirmation of certain facts. (*"Gestützt auf diese Unterlage haben wir nochmals in unseren Büchern Nachschau gehalten und sind dabei durch dieses neue Dokument auf zwar nicht vollständige Eintragungen gestossen, die es uns gestatten, Ihnen wenigstens teilweise gewisse Bestätigungen abzugeben."*) The Bank requested that, in order to be able to provide these confirmations, Mr. Wolf forward to the Bank the "usual papers" (*"die gewöhnlichen Ausweise"*) to prove that he was authorized to act as representative of the heirs, including a certificate of inheritance and power of attorney forms made out to him from all the heirs.

24 June 1959 (Letter from Berthold Wolf to the Bank)

Mr. Wolf thanked the Bank for its warm reception during his visit to Dr. Pache at the Bank on 17 June. He acknowledged receipt of the Bank's 18 June letter and noted his satisfaction that the Bank now would look once more at its books to see if it could provide the needed evidence. Mr. Wolf then summarized the case: According to the Bank's account statement of 24 December 1935, addressed to the brother-in-law of Martha Baldauf, [REDACTED], at Kapellenstrasse 47 in Laupheim, the account balance was US \$25,428.20 as of 31 December 1935. In October 1936, US \$25,376.27 was transferred from the Bank to the *Bankhaus L. Mainz sen.* in Frankfurt. Mr. Wolf wrote that it was his task to offer proof of this transfer to Germany. Mr. Wolf enclosed the certificate of inheritance of Martha Baldauf, which indicates that her heirs were her sisters Särle Levi and [REDACTED] and her niece [REDACTED]. He also enclosed power of attorney forms completed by [REDACTED] and [REDACTED] and explained that the power of attorney forms for Särle Levi or her son, Dr. [REDACTED] of the United States were not at hand at the moment.

He enclosed, however, a settlement reached in the District Court of Stuttgart, dated 19 August 1958,³ in which he was recognized as the legal representative of Särle Levi and her son and noted that these documents should suffice to satisfy their demands for proof of his authorization to act as legal representative of the heirs. Mr. Wolf wrote that he would be very grateful if the Bank would provide several copies of the promised confirmation of the account activity to him.

26 June 1959 (Letter from the Bank to Berthold Wolf)

The Bank confirmed receipt of Mr. Wolf's letter of 24 June and wrote that, on the basis of the authorization papers he provided, it now could inform him that, according to entries in its books, a dollar account in the name of Martha Baldauf at the Bank showed a balance of US \$25,376.50 on 26 October 1936. The Bank wrote: "We cannot determine anything further." (*"Mehr können wir nicht feststellen."*)

3 July 1959 (Letter from Berthold Wolf to the Bank)

Mr. Wolf acknowledged receipt of the Bank's 26 June letter with its confirmation regarding Martha Baldauf's account. Mr. Wolf asked the Bank to check if it were possible to further confirm that the account was debited US \$25,276.50 on 26 October 1936 and thereby reduced to zero, or, alternatively, confirm that it was not possible to determine to whom the remaining balance was transferred. Mr. Wolf wrote that the question whether the account had been debited was of central importance in the ongoing claim for restitution against the German Reich. Mr. Wolf asked, "Would it not be possible to provide me with a photocopy of the account statement located in your files, the costs of which I would bear?" (*"Wäre es nicht möglich mir eine Fotokopie des bei Ihren Akten befindlichen Kontoblatts gegen Kostenerstattung zur Verfügung zu stellen?"*)

6 July 1959 (Letter from the Bank to Berthold Wolf)

The Bank wrote: "In response to your letter of 3 June [sic] 1959, we confirm the content of our letter of 26 June 1959, according to which we cannot determine anything further. Providing you with a photocopy of our books is out of the question." (*"In Beantwortung Ihres Schreibens von 3. Juni 1959 bestätigen wir Ihnen den Inhalt unserer Zuschrift vom 26 Juni 1959, laut welcher wir nichts näheres feststellen können. Die Erstellung einer Photokopie unserer Bücher kommt nicht in Frage."*)

9 July 1959 (Letter from Berthold Wolf to Herr Direktor Jenny, the Director of the Bank)

Mr. Wolf wrote to Mr. Jenny, the Director of the Bank and reminded him that he might be familiar with his name from previous years because they had friends in common in Buchau. (A handwritten note following this sentence in the letter, apparently made by a Bank employee, notes the years 1954 - 1955 and mentions a mortgage and the city Ulm.) Mr.

³ The settlement agreement is between the heirs of Martha Baldauf, [REDACTED], and Sara Levi and the Deutsche Reich, as represented by the Stuttgart Finance Office (*"Oberfinanzdirektion Stuttgart"*). It addresses restitution for shares of *Dresdner Bank* stock, worth RM 5,000.00, that were confiscated from the Ulm branch of the *Deutsche Bank*. The settlement agreement does not indicate who owned these shares, nor does it address compensation of any securities previously held at the Bank.

Wolf wrote that this earlier contact caused him to turn to him with a personal request. Mr. Wolf explained that he had been exchanging letters with the Bank for some time regarding a matter relating to the estate of Martha Baldauf, who had a balance of US \$25,376.50 at the Bank until 26 October 1936 and who then, on the basis of a decree of the German Reich, was forced to transfer this amount to a German foreign currency bank. Mr. Wolf explained that he was required to provide evidence regarding these transactions in a restitution claim against the German Reich. Mr. Wolf wrote that, on 17 June of this year [1959], he met with the director of the Bank's legal department, Dr. Pache, and that unfortunately, to date he had not been able to obtain confirmation from the Bank that Mrs. Baldauf's account had been debited the sum mentioned above and that the account was thereby reduced to zero. Mr. Wolf wrote that he would be grateful if Mr. Jenny could see whether it were possible to provide him with the necessary evidence to prove the confiscation [of the assets].

14 July 1959 (Letter from the Bank to Berthold Wolf)

The Bank wrote: "We received your letter of the 9th of this month. As you know, we are not obliged, according to Swiss law, to preserve our books and files for more than ten years. Accordingly, our files from the year 1936 have long since been destroyed, and it is not possible for us to provide you with complete and binding information about the situation at that time. Nevertheless, from our books we can tell, as our legal department already informed you, that in October 1936 a dollar account existed in the name of Martha Baldauf and that it had a balance of US \$25,376.50. This account was reduced to zero on 27 October 1936. Unfortunately, it is not possible to determine from the files that are still remaining what happened to this balance. We are therefore not in the position to provide you with further information." (*"Wir sind im Besitze Ihrer Zuschrift vom 9. dies. Wie Sie wissen, sind wir nach schweizerischem Recht nicht gehalten, unsere Bücher und Akten mehr als zehn Jahre aufzubewahren. Unsere Dossiers aus dem Jahre 1936 sind daher längst vernichtet worden, und es ist uns nicht möglich, Ihnen eine über die damalige Lage vollständige und verbindliche Auskunft zu erteilen. Aus unseren Büchern geht immerhin hervor, wie es Ihnen unsere Rechtsabteilung schon mitgeteilt hat, dass im Oktober 1936 ein Dollar-Konto auf den Namen von Frau Martha Baldauf und zwar mit einem Guthaben von \$25,376.50 bestand. Dieses Konto ist am 27. Oktober 1936 ausgeglichen worden. Was mit dem Saldo geschah ist aus den noch vorhandenen Akten leider nicht ersichtlich. Wir sind daher nicht in der Lage, Ihnen weitere Angaben zu machen."*)

29 March 1962 (Letter from Berthold Wolf to the Bank)

Mr. Wolf wrote that he had engaged in an exchange of letters with the Bank regarding the dollar account, numbered 40061, belonging to Martha Baldauf, in the summer of 1959 and that he met with Dr. Pache on 17 June 1959. He wrote that at that time, the Bank provided him with written confirmation, dated 26 June 1959 and 14 July 1959, of certain facts. Mr. Wolf explained that on the basis of the confirmation provided by the Bank, a suit was started in the District Court of Frankfurt against the former German Reich in which the heirs of Martha Baldauf were seeking restitution of the dollar account at the Bank that Martha Baldauf had been forced to turn over to the German Reich. Mr. Wolf wrote that the suit had not yet been decided in favor of the plaintiffs, because the defendant German Reich maintained that, at the time when the assets in the dollar account were repatriated, the Deutsche Reichsbank was not yet an institution of the National Socialist government, but

rather an independent entity. Mr. Wolf explained that in a continuation of the proceedings, the Court had obtained an opinion from the *Deutsche Bundesbank* (the German Central Bank), a copy of which Mr. Wolf enclosed. Mr. Wolf wrote that, according to this opinion, it was conceivable that his clients' claim for compensation might be recognized if it could be proved that the dollars that were confiscated came from the sale of securities that had been deposited in a custody account at the Bank.⁴ He wrote that it was known that, in 1923, Martha Baldauf's brother, who lived in the United States, died and that he left her an inheritance, out of which securities were passed to her that were then deposited at the Bank in a custody account. Mr. Wolf explained that this knowledge came from similar suits that the sisters of Martha Baldauf won out against the German Reich. Mr. Wolf wrote that, given that the Bank still had Martha Baldauf's account statement in 1959, could the Bank determine whether the balance of the account on 31 December 1935 of US \$25,428.20 came from the sale of securities? If so, he would be grateful if the Bank could confirm this fact. Mr. Wolf noted that the Bank's Director, Mr. Jenny, who was familiar with his work in Ulm, was aware of his exchange of letters with the Bank's legal department, and asked the Bank to extend greetings to him and to provide him with a copy of his letter.

Handwritten notations on the letter, apparently made by Bank employees, indicate the existence of a custody account numbered 52260. Another notation questions "Possible?" ("*Möglich?*") Another notation refers to "\$25,500.-- 3½% U.S.A. 1st Liberty loan bonds per 15.6.1947."

3 April 1962 (Letter from the Bank to Berthold Wolf)

The Bank thanked Mr. Wolf for his inquiry of 29 March 1962 and stated that, on the basis of its books, it could determine that the balance of approximately US \$25,500.00 did indeed constitute the equivalent value of securities ("*tatsächlich den Gegenwert von Wertschriften darstellt*"). The Bank wrote: "However, because, according to Swiss law, we destroy correspondence that goes back over ten years, we unfortunately cannot tell you the origin of these securities." ("*Da wir aber nach schweizerischem Recht die Korrespondenzen, die mehr als zehn Jahre zurückliegen, vernichten, können wir Ihnen leider die Herkunft der Titel nicht*")

⁴ The opinion submitted by the *Deutsche Bundesbank*, dated 13 March 1962, takes as an undisputed fact that the balance of about US \$25,000.00 in Martha Baldauf's account at the Bank stemmed from the sale of securities in Zurich that she had deposited at the Bank at the time of her inheritance in 1923. Further, it was beyond dispute that the dollar balance was sold to the Reichsbank for about RM 63,000 via *Bankhaus L. Mainz sen.* The opinion then notes that if one looked solely at the matter of the dollar balances, a sale to the Reichsbank would have been in accordance with at the time existing foreign currency regulations and that these regulations applied to all residents of the Reich regardless of their nationality or race ("*Diese Anordnung...galt für Jedermann im Inland ohne Rücksicht auf seine Staatsangehörigkeit oder Rassezugehörigkeit.*") However, because the dollar balances stemmed from the sale of securities that had been deposited at the Bank for many years (*Altbesitz*), and because the regulation requiring the repatriation of long-held foreign currency denominated securities or their foreign currency proceeds did not come into force until 16 March 1939, then a forced sale would have been "in all likelihood connected with special measures [that were promulgated] against non-aryans" ("*Die Wahrscheinlichkeit spricht in diesem Falle dafür, dass die Weisung zum Verkauf mit den Sondermassnahmen gegen nichtarische Bürger im Zusammenhang stand.*") The opinion notes, however, that many "non-Jewish" owners of foreign securities were asked to repatriate such securities pursuant to a decree by *Reichsmarschall* Göring, but repeats that the general directive to register and repatriate such assets did not come into effect until the promulgation of the Second Implementation Decree of the Law on Foreign Currency Regulations on 16 March 1939. The opinion does not provide any recommendation regarding whether the restitution claims should or should not be paid.

bekanntgeben.”)

3 July 1967 (Letter from Berthold Wolf to the Bank)

Mr. Wolf referred to the Bank’s letter of 3 April 1962 and explained that in the process regarding the compensation claims, the question had been raised as to the meaning of “equivalent value of securities” (“*Gegenwert von Wertschriften*”). Mr. Wolf noted that it is known that the dollars in the account originated from the forced sale of securities that were deposited for years in a custody account at the Bank. Mr. Wolf wrote that the restitution authorities in Berlin wanted to know if the word “*Wertschriften*” meant “*Wertpapiere*.”

12 July 1967 (Letter from the Bank to Berthold Wolf)

The Bank confirmed that in local (Swiss) terminology, the words “*Wertschriften*” and “*Wertpapiere*” meant the same thing (namely, “securities”). The Bank wrote: “This fact can be confirmed in the Duden dictionary, in which “*Wertschriften*” is identified as a Swiss expression [for “*Wertpapiere*”].

Information from the German Restitution Office

In support of the Claimant’s claim, the HCPO submitted documents it obtained from the *Landesamt für Besoldung und Versorgung Baden-Württemberg (Wiedergutmachungsstelle)* (State Office for Salaries and Welfare Baden Württemberg (Restitution Office)) (the “Restitution Office”) in January 2003. The Restitution Office, in response to a query from the HCPO, enclosed copies from the files of Sara Levi, née Steiner, numbered ET 2654. The Restitution Office wrote that there were no restitution documents in the file of [REDACTED] and that there were no files at that office pertaining to [REDACTED], Martha Baldauf, née Steiner, [REDACTED], née [REDACTED], or [REDACTED][sic], née [REDACTED].

The documents from the Restitution Office include an application by Dr. [REDACTED] of Lindenhurst, New York, for restitution of assets belonging to Sara Levi, née Steiner, that were confiscated by the Nazi regime; documents confirming the confiscation of these assets, issued by the *Finanzamt Urach (Württ.)* (Department of Finance, Urach (Württemberg)), the Ulm branch of the *Deutsche Bank*, and the *Kreissparkasse Münsingen*; and three decisions, dated 28 May 1953, 2 December 1959, and 20 September 1960, regarding Dr. [REDACTED]’s application.

In his application, Dr. [REDACTED] indicated that Sara Levi paid atonement tax (“*Judenvermögensabgabe*”) totaling RM 42,550.00 and that, on 23 October 1942, after Sara Levi had been deported, her accounts at the Ulm branch of the *Deutsche Bank*, with assets totaling RM 53,056.00, were confiscated. His application also indicates that, according to information provided by the Department of Finance, Urach, securities held by Sara Levi at the Ulm branch of the *Deutsche Bank* as well as at the *Kreissparkasse Münsingen* were sold and the proceeds partly immediately confiscated and partly first credited to her demand deposit account and, as noted above, later confiscated. His application neither included the total value of the securities that were confiscated nor did he list the securities Sara Levi held at the Bank. Dr. [REDACTED]’s application indicates that household goods belonging to his mother were auctioned and sold and that the proceeds were confiscated by the Reich. His application includes a confirmation from

the Department of Finance, Urach, which estimates the value of the household goods to have been RM 8,000.00. The letter from the Department of Finance, Urach, confirms that Sara Levi's accounts at the Ulm branch of the *Deutsche Bank*, valued at RM 53,056.00, were confiscated on 23 October 1942 and lists the securities that she had held there and at the *Kreissparkasse Münsingen*, that were confiscated. The application also includes a confirmation from the Ulm branch of the *Deutsche Bank* that lists securities contained in Sara Levi's account as of 1938. This list includes the 4% *Eid. Anleihe von 1931* bonds with a nominal value of SF 70,000.00 and the 3½% British War Loan 1932 bonds with a nominal value of £ 8,000.00 that previously were held at the Bank. According to this list, these bonds were sold on 16 December 1938 and the proceeds, totaling RM 41,669.98 and RM 92,337.31, respectively, were credited to the account.

In its decision of 28 May 1953, the Restitution Office awarded Dr. [REDACTED] 1,490.00 Deutschmark ("DM") for damages to Sara Levi's assets ("*zum Ausgleich eines Schadens an Vermögen der Geschädigten*") and DM 8,510.00 as restitution for the RM 42,550.00 paid in discriminatory taxes (atonement tax) Sara Levi was forced to pay ("*für zu [illegible] Judenvermögensabgabe*"). Claims for restitution based on loss of freedom of Sara Levi were rejected as these rights could not be transferred to heirs. In its decision, the Restitution Office wrote that Baden Württemberg's law regarding restitution limited the amount of restitution to DM 10,000.00, which corresponded, at the official exchange rate of RM 5 to DM 1, to RM 50,000.00.

In its decision of 2 December 1959, the Stuttgart Finance Office ("*Oberfinanzdirektion Stuttgart*") (the "Stuttgart Office"), in a supplement to a decision dated 1 October 1959 (which is not among the documents provided by the Restitution Office), referred to a decision dated 10 October 1959 which awarded Dr. [REDACTED] an additional DM 58,748.12 in restitution (including DM 4,700.00 for loss of household goods, DM 60.25 for Austrian and Hungarian bonds and DM 12.05 in interest). This decision noted that payment in the amount of DM 26,993.93 had already been made to Dr. [REDACTED] pursuant to the 1 October 1959 decision and ordered that the remaining amount of DM 31,754.19 be paid before the end of 1961.

In a decision dated 20 September 1960, the Restitution Office granted Dr. [REDACTED] an additional DM 4,858.74 as restitution for losses incurred through the confiscatory rates of exchange applied to Sara Levi's purchase of foreign currency through the *Golddiskontbank*. This decision refers specifically to Sara Levi's making available RM 25,000.00 as her share in a transaction that would provide [REDACTED] with the necessary total of RM 280,000.00 to be paid to the *Golddiskontbank* before she was allowed to emigrate to the United States, where a dollar denominated inheritance awaited her. Participants in this transaction, which was blessed by the authorities, would receive the counter value of their contribution in US dollars after paying the confiscatory rate for obtaining *Sperrmark*, which then could be turned into dollars. Thus the decision notes that, in return for the RM 25,000.00, Sara Levi received US \$700.00, and was charged a further RM 1,043.70 in transfer fees. The 1960 decision recognized the loss of RM 24,293.70 in this transfer (RM 25,000.00 plus RM 1,043.70, minus RM 1,750.00 (US \$700.00 at a rate of US \$1.00 = RM 2.50)), which, at an exchange rate of RM 5 per DM 1, equaled DM 4,858.74.

All the restitution documents together show that Dr. [REDACTED] received a total of DM

73,606.86, which corresponds to RM 368,034.30, in restitution of his mother's assets that had been confiscated by the Nazi regime.

The CRT's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant's mother-in-law's name matches the unpublished name of Account Owner Levi and the Claimant's late husband's name matches the second Account Owner name associated with Account Owner Levi's account. The name of the Claimant's mother-in-law's sister matches the unpublished name of Account Owner Baldauf, and the name of the Claimant's mother-in-law's niece matches the unpublished name of Account Owner Lebrecht. The CRT notes that all records associated with the accounts were submitted by the HCPO on behalf of the Claimant, and that these documents were provided to the HCPO by the Bank. This indicates that the Bank concluded that the accounts belonged to the Claimant's relatives.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Sara Levi-Steiner, and indicates that her date of birth was 13 October 1872 and place of birth was Laupheim, Baden Württemberg, Germany, which matches information about the Account Owner 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 Owners as Victims of Nazi Persecution

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish and that they lived in Nazi Germany. The Claimant stated that Account Owner Levi was deported to the Theresienstadt concentration camp in 1942, where she perished in 1943, and that Account Owner Baldauf was killed in a hospital in Mannheim in 1940. As noted above, a person named Sara Levi Steiner was included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were her mother-in-law, her mother-in-law's sister, and her mother-in-law's niece. These documents include a copy of the Claimant's marriage certificate to Dr. [REDACTED], dated 23 March 1932; a copy of her husband's birth certificate identifying his mother as Sara (Särle) Levi, née Steiner; and a copy of [REDACTED]'s will, naming his four sisters, including Sara Levi of Münsingen and Martha Baldauf of Dillingen, and his nephew and nieces, including Ilse Bergmann of Laupheim and [REDACTED] of Münsingen, among his beneficiaries. There is no information to indicate that the Account Owners have other surviving heirs.

The Issue of Who Received the Proceeds

In this case, in a letter to the HCPO dated 7 April 1998, the Bank wrote that “the lawyer [Mr. Wolf] sought and received assistance from [the Bank] in his attempt to obtain compensation from the German government” and that “Ms. Baldauf’s heirs were apparently successful in obtaining compensation from the German government for these assets [the approximately US \$25,500.00 from the forced sale of the securities]. A close examination of the documents, however, indicates that the “assistance” provided to Mr. Wolf came about only after the Bank initially refused to provide him with information; only after Mr. Wolf visited the Bank in person with a document substantiating the existence of an account; only after Mr. Wolf called upon the Director of the Bank, whom he knew through mutual contacts, to intervene on his behalf; and that assistance then was provided only reluctantly and in qualified terms.

Moreover, despite the statement in the Bank’s letter of 7 April 1998, there is no evidence at hand that the heirs of Martha Baldauf were successful in obtaining compensation from the German government for the proceeds of the securities she held at the Bank which she was forced to repatriate. Nor is there evidence that the securities held by Ilse Lebrecht at the Bank that were forcibly repatriated were ever compensated. The CRT, through the good offices of the HCPO, is making efforts to ascertain the outcome of the restitution proceedings regarding Martha Baldauf’s assets from various Restitution Offices in Germany. Similarly research has been put in train with regard to information on restitution files concerning Ilse Lebrecht’s assets. These efforts are still ongoing and should conclude shortly.

The CRT notes that in the course of its correspondence with Mr. Wolf, the Bank repeatedly asserted that it could provide no information about any activities that occurred more than ten years ago, in spite of the fact that the various notations on the letters clearly indicate that the Bank did indeed have information about the accounts in question and in spite of the fact that the actual records still exist (and were forwarded to the HCPO and CRT). The presumption that the Bank was withholding or misstating account information in response to Mr. Wolf’s inquiries because of its concerns regarding double liability was implicitly addressed in Mr. Wolf’s letter of 22 December 1958, when he assured the Bank that no action against it could be brought on the basis of any information it might provide.

In its Memorandum and Order of February 19, 2004, the United States District Court for the Eastern District of New York specifically addressed this type of stonewalling behavior and the reasons behind it:

First, Swiss banks were often aware of the fact that they had made improper transfers during the Nazi era and that they could be held liable if they released information. ...[T]he banks’ own legal departments had warned them that authorizing a forced transfer could be understood as a breach of their fiduciary duty, and the Swiss courts had repeatedly affirmed this view. *See* Bergier Report, at 276. After the war, many surviving account holders or their heirs approached the banks seeking information about accounts, often with valid legal claims. The banks, which had improperly transferred the funds in the accounts to the Nazis, were afraid that they would be called to account for the breach of their fiduciary

duties. *See, e.g., Albers v. Credit Suisse*, 188 Misc. 229, 234, 67 N.Y.S.2d 239, 244 (N.Y. City Ct. 1946) (holding Credit Suisse liable for transferring a client's assets to a German bank pursuant to the client's orders because "above all it knew that the plaintiff was not likely of his free will to transfer property of his located in Switzerland to a bank in German territory controlled by the German government"). Equally important, the problem was not disappearing. "Although assets transferred to the Third Reich were left out of the inventory of unclaimed assets of Nazi victims in Swiss banks, they were nevertheless part of the restitution claims" that had been filed against the banks. Bergier Report, at 443. In sum, former account holders and their heirs were complaining, and access to records could have shown their claims to be legitimate.

Second, the banks received a direct economic benefit from their silence. The Volcker Committee found that "the problems with dormant accounts appear to be partly a byproduct of the absence of a Swiss escheat law dealing with unclaimed property in banks." Volcker Report, at ¶ 45. "Unlike other countries (such as the United States) where dormant assets are transferred to state governments, in Switzerland dormant assets remain indefinitely with the banks." *Id.* If no one claimed the assets in an account (or if a bank simply refused to comply with a claim) a Swiss bank could keep the money. ...

Third, the banks anticipated an indirect economic benefit from stonewalling. Before the war, the Swiss banks had been seen as an attractive repository because of their commitment to secrecy and "private property rights." Many bank officials anticipated that steadfast devotion to secrecy would be critical going forward. The ironic result is that the banks turned on Nazi victims based on the very same principles that had previously led the Nazi victims to turn to the banks. *See* Volcker Report, at ¶ 48. ...

The Swiss banks stonewalled as a matter of course. Because claimants typically lacked information as to the exact location or nature of the items deposited, the banks could routinely "entrench themselves behind banking secrecy" and cite the claimant's inability to sufficiently document a legal entitlement as a reason to deny payment. Bergier Report, at 449.

...

In 1950, the General Director of Union Bank of Switzerland and former Secretary of the SBA stated that "the best solution" would be "never to mention the entire affair [of forced transfers] again." Bergier Report, at 445 – 46. He was apparently not the only Swiss bank official to hold this view. The Bergier Commission made the following discovery:

In May 1954, the legal representatives of the big banks coordinated their response to heirs so that the banks would have at their disposal a concerted mechanism for deflecting any kind of

enquiry. They agreed not to provide further information on transactions dating back more than ten years under any circumstances, and to refer to the statutory obligation to keep files for only ten years, even if their records would have allowed them to provide the information.

Id. At 446. As was the case with the decision to transfer assets when the account holder was making the request under duress, the most noteworthy aspect of this Bergier Commission finding may be the fact that it was such a collective decision by the banks. The banks, as a matter of policy, refused to disclose information regarding accounts, even where they had it.⁵

The Court's Memorandum and Order noted that the Swiss banks distinguished among account owners when applying their stonewalling tactics:

Notably, the banks' understanding of where they could be liable and where they most needed to employ stonewalling turned on the identity of the account owners. The Volcker Committee described records found in one of Switzerland's large commercial banks as follows:

Legal department documents from 1953 to 1969 outline recommended procedures for responding to claims of Jewish account holders and their heirs whose assets were transferred to Germany in the 1930s. A letter from 1969 recommends that

in the case of inquiries about Jewish clients whose assets had to be transferred on their instructions to Germany during the 1930s, or with regard to inquiries received from their heirs, we have always responded that we could not supply the requested information as we are only obliged to retain ledgers and correspondence for a period of 10 years.

The legal department recognized that because the transfer orders were made under duress the risk existed that the bank might be liable to restore the accounts to the rightful owners. **However, the legal department noted that claims by non-Jewish German nationals were not considered a liability, which suggests that the bank treated inquiries from Jewish customers differently from those received by non-Jewish German nationals.** The management of the bank apparently endorsed these procedures in December 1969.

Volcker Report, Annex 5, at 83 (emphasis added). The banks considered Jewish

⁵ *In re Holocaust Victim Assets Litig.* 302 F. Supp. 2d 59, 67 (E.D.N.Y. 2004) *as amended* 2004 WL 1211906 (E.D.N.Y. June 1, 2004). *See also, e.g., In re Accounts of Prof. Dr. Albert Uffenheimer* (approved on 19 November 2003), which the Court discusses in its Memorandum and Order.

account holders a special problem.⁶

Given the circumstances outlined above; that the Account Owners were Jewish and lived in Nazi Germany; that Account Owner Levi was deported to the Theresienstadt concentration camp in 1942 and perished there in 1943; that Account Owner Baldauf was killed in 1940; that the Bank itself confirmed that the securities in Account Owner Levi's account were transferred to the *Deutsche Bank und Diskonto-Gesellschaft* Berlin in 1938; that the Bank's documents indicate that Account Owner Baldauf sold the securities in her custody account and that she was forced to sell the proceeds to the German Reich in 1936; that the Bank's records indicate that Account Owner Lebrecht transferred the securities in her custody account to the Ulm branch of the *Deutsche Bank* in 1938; 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 inquiries by account owners because of the banks' concern regarding double liability, and in this case were able to obtain only partial information after a protracted exchange between the Bank and a lawyer acting on their behalf; and given 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 account proceeds 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 the Account Owners were her mother-in-law and the sister and niece of her mother-in-law, and those relationships justify an Award. Third, 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 Levi held one custody account. The Bank's records indicate that the 4% *Eidg. Anleihe von 1931* bonds held in the account had a nominal value of SF 70,000.00 and that the 3½% *British War Loan 1932* bonds had a nominal value of £ 8,000.00. The statement from the Ulm branch of the *Deutsche Bank* indicates that these securities were sold in 1938 and that, in exchange, a total of RM 134,007.29 was credited to the account at the *Deutsche Bank* (RM 41,669.98 and RM 92,227.31, respectively). This was equal to SF 235,155.99.⁷

The CRT notes that, through 1961, Sara Levi's son, Dr. [REDACTED], received restitution from the German government totaling DM 73,606.86, or RM 368,034.30, for assets, including those at

⁶ *In re Holocaust Victim Assets Litig.* 302 F. Supp. 2d 59, 67 (E.D.N.Y. 2004) as amended 2004 WL 1211906 (E.D.N.Y. June 1, 2004).

⁷ The CRT uses official exchange rates in determining currency conversion. According to the rate available to the CRT, in 1938 RM 100.00 was equal to SF 175.48.

the Ulm branch of the *Deutsche Bank*, that were confiscated from his mother. Although the documents provided by the Restitution Office do not explicitly indicate that the restitution payments included payments for the assets that were transferred from the Bank, the CRT has concluded that it is likely that the total restitution of DM 73,606.86, which corresponded to RM 368,034.330, included restitution for the RM 134,007.29 that was confiscated from the sale of these assets. The CRT further notes that the Restitution Office computed restitution amounts at an exchange rate of RM 5 to DM 1, so that Dr. [REDACTED]'s restitution for the RM 134,007.29 was DM 26,801.46, which, in 1961, was equivalent to SF 29,047.42.⁸ Accordingly, the amount of Sara Levi's account at the Bank that has not been restituted was SF 206,108.57 (SF 235,155.99 minus SF 29,047.42).

According to the Bank's records and the post-Second World War correspondence regarding Account Owner Baldauf's accounts, it is clear that the securities in Account Owner Baldauf's custody account were sold and the proceeds deposited into her demand deposit account.⁹ Accordingly, the Claimant is entitled to the assets in that demand deposit account. Additionally, Account Owner Lebrecht held one custody account, to which the Claimant is also entitled. However, the CRT is conducting further research regarding possible restitution payments made prior to this Award with respect to these two accounts, and an Award of any previously unpaid portion of these accounts shall be made in a separate decision. In the meantime, this Award to the account of Account Owner Levi is being released in an effort to expedite the claim of the Claimant to the accounts of her relatives.

The historic value of the account held by Account Owner Levi was SF 235,155.99. The current value of the amount of the award is determined by multiplying the historic value by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount for this in this case is SF 2,939,449.88.

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
25 October 2004

⁸ According to the rate available to the CRT, in 1961 DM 100.00 was equal to SF 108.38.

⁹ As noted above in the Bank's letter to the HCPO, the Bank ultimately confirmed that the US \$25,500.00 represented the counter value of the securities in Martha Baldauf's safe-keeping account.