

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED 1],  
also acting on behalf of [REDACTED 2],

and Claimant [REDACTED 3]

**in re Accounts of Erich Loew and *Firma Herzfeld & Fischel***

Claim Numbers: 212809/UM, 785536/UM<sup>1</sup>

Award Amount: 76,125.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 3], née [REDACTED], (“Claimant [REDACTED 3]”) to the account of [REDACTED]<sup>2</sup> and upon the claim of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) (together the “Claimants”) to the published accounts of Erich Loew. This Award is to the published accounts of Erich Loew (“Account Owner Loew”) and to the unpublished account of *Firma Herzfeld & Fischel* (“Account Owner *Herzfeld & Fischel*”) (together the “Account Owners”) at the [REDACTED] (the “Bank”).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 claimants, any relatives of the claimants other than the account owners, and the bank have been redacted.

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<sup>1</sup> Claimant [REDACTED 3] did not submit a Claim Form to the Claims Resolution Tribunal. However, in 1999 she submitted an Initial Questionnaire (“IQ”), numbered ENG 0607 035, to the Court in the United States. Although this IQ was not a Claim Form, the Court, in an Order signed on 30 July 2001, ordered that those Initial Questionnaires which can be processed as claim forms be treated as timely claims. Order Concerning Use of Initial Questionnaire Responses as Claim Forms in the Claims Resolution Process for Deposited Assets (July 30, 2001). The IQ was forwarded to the CRT and has been assigned Claim Number 785536.

<sup>2</sup> The CRT did not locate an account belonging to the Claimant’s relative, [REDACTED], 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”).

## Information Provided by the Claimants

### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying Account Owner Loew as her father, Erich Richard Low (Loew), who was born on 18 June 1903 in Vienna, Austria, the son of [REDACTED] and [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that her father was married to [REDACTED 2] ([REDACTED]), née [REDACTED], on 4 February 1937 in Vienna. Claimant [REDACTED 1] further stated that her parents lived at Leopold Müllergasse 10 in Vienna until 1938. In addition, Claimant [REDACTED 1] identified Account Owner *Herzfeld & Fischel* as a silk manufacturing firm, which was based in Hradsko, Czechoslovakia, and had offices in Vienna. The Claimant indicated that her father, who was Jewish, was a joint owner of the company. In a telephone conversation with the CRT on 23 June 2004, Claimant [REDACTED 1] added that one of [REDACTED]'s brothers, [REDACTED], was also a joint owner of the company. Moreover, in July of 2004, Claimant [REDACTED 1] provided documents to the CRT indicating that [REDACTED]'s second brother, [REDACTED], as well as her husband, [REDACTED], were additional joint owners of the company. Claimant [REDACTED 1] further indicated that in 1938, her father and his pregnant wife fled from Vienna to Budapest, Hungary, where Claimant [REDACTED 1] was born. Claimant [REDACTED 1] indicated that her family then left for Prague, Czechoslovakia, in 1939, and subsequently fled to the United Kingdom via Lugano, Switzerland. Moreover, Claimant [REDACTED 1] indicated that her father died in Oldham, the United Kingdom, on 2 August 1968, and that her mother currently resides in Oldham.

Claimant [REDACTED 1] submitted a copy of her certified birth entry with the Registrar's Office in Budapest, identifying her parents as Erik Rikárd Löw (Erich Richard Löw) and [REDACTED]; her father's will, identifying her father as Erich Richard Low and her mother as [REDACTED 2], and containing her father's signature; and her father's birth certificate, identifying his parents as [REDACTED] and [REDACTED], née [REDACTED]. In addition, Claimant [REDACTED 1] submitted an undated document, describing Account Owner *Herzfeld & Fischel*, listing [REDACTED], [REDACTED] and [REDACTED] as the company's partners, and specifying that Erich Löw had both made a capital contribution to the company and was registered as a silent partner of the company's Czechoslovakian head office. The document also indicates that [REDACTED] and [REDACTED] were brothers, and that [REDACTED] was their brother-in-law. Moreover, the document states that both [REDACTED] and [REDACTED] emigrated to London, the United Kingdom; and that [REDACTED] emigrated to Prague in 1938, and that he died there during the summer of 1939. Finally, the document refers to an August Fischel, indicating that he was deceased, and that he was previously involved in the company's ownership, but does not specify the extent of his involvement. Claimant [REDACTED 1] also submitted a copy of a letter from the liquidator of the company, bearing an illegible date, identifying [REDACTED], Erich Löw, [REDACTED] and [REDACTED] as its partners. Claimant [REDACTED 1] indicated that she was born on 1 November 1938 in Budapest. Claimant [REDACTED 1] is representing her mother, [REDACTED 2], who was born on 29 June 1904 in Vienna.

Claimant [REDACTED 3]

Claimant [REDACTED 3] submitted an Initial Questionnaire (“IQ”) identifying her father, [REDACTED], as one of the owners of Account Owner *Herzfeld & Fischel*, a silk manufacturing company. Claimant [REDACTED 3] indicated that her father was born on 20 May 1889 in Vienna, Austria, and that he resided at Zaunergasse 1, and at Schwarzenbergplatz in Vienna. According to Claimant [REDACTED 3], her father, who was Jewish, was imprisoned by the Nazis in 1938. Claimant [REDACTED 3] stated that her family, including her father, fled Austria after he was released from prison in July of 1938. Claimant [REDACTED 3] further stated that her father’s home and business were confiscated by the Nazis. Claimant [REDACTED 3] indicated that her father attempted to obtain visas to Switzerland for his family, but did not specify whether or not he was successful. Finally, Claimant [REDACTED 3] stated that her father died in Los Angeles, California, the United States, on 26 June 1965. Claimant [REDACTED 3] indicated that she was born on 17 May 1930 in Vienna.

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

The Bank’s records consist of a customer card, a custody account opening contract, an acknowledgment of general terms and conditions applicable to custody accounts, a power of attorney form, and printouts from the Bank’s database. According to these records, Account Owner Loew was Erich Loew, who resided at Leopold Müllergasse 10 in Vienna XIII, and the Power of Attorney Holders were [REDACTED] (“Power of Attorney Holder [REDACTED]”), who also resided at Leopold Müllergasse 10 in Vienna; [REDACTED] (“Power of Attorney Holder [REDACTED]”), who resided at Schwarzenbergplatz 5A in Vienna I; and [REDACTED] (“Power of Attorney Holder [REDACTED]”) (together the “Power of Attorney Holders”), who resided at Kasernengasse 6 in Vienna VI. The Bank’s records indicate that Account Owner Loew held one custody account, numbered 26101, which was opened in 1926, and into which Account Owner Loew deposited *Österr. Völkerbundanleihe amerik. Tranche* bonds with a face value of 14,000.00 United States Dollars in 1926. The Bank’s records further indicate that Account Owner Loew held one demand deposit account, but do not show its balance. According to the Bank’s records, the custody account was closed on 11 August 1931, but there is no indication of the date of closure of the demand deposit account, or to whom it was paid.

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 find this account in the Bank’s system of open accounts, and they therefore presumed that it was closed. There is no evidence in the Bank’s records that Account Owner Loew, his heirs or the Power of Attorney Holders closed the demand deposit account and received the proceeds themselves.

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

By decree on 26 April 1938, the Nazi Regime required Jews residing within the Reich, and/or were nationals of the Reich, including Austria, and who held assets above a specified level to

register all their assets (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Erich Löw, numbered 35506, [REDACTED], numbered 28900, and [REDACTED], numbered 40652.

### Erich Löw

Record 35506, submitted by Erich Löw, indicates that he was born on 18 June 1903, and that he resided at Leopold Müllergasse 10/12 in Vienna XIII. The record states that Erich Löw had a right to 25% of Account Owner *Herzfeld & Fischel*’s profits, and specifies that the company was based in Hradsko, Czechoslovakia. According to this record, Erich Löw did not hold any shares in Account Owner *Herzfeld & Fischel*. The record additionally indicates that one office of Account Owner *Herzfeld & Fischel* was located at Kasernengasse 6 in Vienna X, and that Erich Löw owned one-third of the house located at that address. Moreover, the record indicates that Erich Löw was a beneficiary of the will of August Fischel. The record also indicates that “flight tax” (*Reichsfluchtsteuer*) of 85,293.00 Reichsmark (“RM”) was imposed on Erich Löw on 20 January 1940. Finally, the record indicates that all Erich Löw’s properties and assets, including his share in the house located at Kasernengasse 6, were seized on 20 June 1941. This record makes no mention of assets held in a Swiss bank account.

### [REDACTED]

Record 40652, submitted by [REDACTED], indicates that he was born on 17 October 1883, and that he was married to [REDACTED], née [REDACTED]. The record further indicates that [REDACTED] owned one-third of the house located at Kasernengasse 6, and identifies [REDACTED] and Erich Loew as the owners of the remaining two-thirds. In addition, the record indicates that [REDACTED] was a partner in Account Owner *Herzfeld & Fischel*, and that he owned a 13.45% share of the company’s Czech assets and 12.4% of the company’s Austrian assets. The records also indicate that “flight tax” (*Reichsfluchtsteuer*) of RM 103,090.00 was imposed on [REDACTED] in April of 1939. This record makes no mention of assets held in a Swiss bank account.

### [REDACTED]

Record 28900, submitted by [REDACTED], indicates that he was born on 10 December 1865, and that he was widowed. The record further indicates that [REDACTED] owned a 43.79% share of Account Owner *Herzfeld & Fischel*’s Czech assets, and a 47.73% share of Account Owner *Herzfeld & Fischel*’s Austrian assets. In addition, the record indicates that the Vienna branch of the company was “aryanized” by its sale to the *Firma Gebhard & Schroeder*. The record also indicates that Account Owner *Herzfeld & Fischel* owned a bank account, the type of which cannot be ascertained, at the Bank with a value of 3,428.29 Schillings as of 31 December 1937.<sup>3</sup> Finally, the record indicates that “flight tax” (*Reichsfluchtsteuer*) of RM 242,881.00 and atonement tax, first tranche, of RM 63,800.00 was imposed on [REDACTED] on 28 April 1939,

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<sup>3</sup> 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 any accounts belonging to Account Owner *Herzfeld & Fischel* during their investigation of the bank.

that the flight tax assessment was reduced on account of the second tranche of the atonement tax to RM 233,226.00 on 30 April 1940, and further reduced to RM 195,214.00, on 16 September 1941.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the two claims of the Claimants in one proceeding.

### Identification of the Account Owners

#### Account Owner Loew

#### Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly identified Account Owner Loew. Claimant [REDACTED 1]'s father's name and city and country of residence match the published name and city and country of residence of Account Owner Loew.<sup>4</sup> Claimant [REDACTED 1] identified Account Owner Loew's street address, which matches the unpublished street address of Account Owner Loew contained in the Bank's records. In addition, Claimant [REDACTED 1] identified Power of Attorney Holder [REDACTED], Power of Attorney Holder [REDACTED] and Power of Attorney Holder [REDACTED],<sup>5</sup> whose names were published, as her two great-uncles and her grandfather, respectively. In support of her claim, Claimant [REDACTED 1] submitted documents, including a copy of her certified birth entry, identifying her father as Erich Löw, providing independent verification that the person who is claimed to be Account Owner Loew had the same name recorded in the Bank's records as the name of Account Owner Loew; her father's birth certificate, identifying his parents as [REDACTED] and [REDACTED], née [REDACTED], providing independent verification that the person who is claimed to be Power of Attorney Holder [REDACTED] had the same name recorded in the Bank's records as the name of Power of Attorney Holder [REDACTED]; and a copy of a letter from the liquidator of Account Owner *Herzfeld & Fischel*, identifying [REDACTED] and [REDACTED] as two of the company's partners, providing independent verification that the persons who are claimed to be Power of Attorney Holder [REDACTED] and Power of Attorney Holder [REDACTED] had the same names recorded in the Bank's records as the names of Power of Attorney Holder [REDACTED] and Power of Attorney Holder [REDACTED].

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<sup>4</sup> The CRT notes that Claimant [REDACTED 1] identified her father's last name as Low and Loew, and that the documents submitted by Claimant [REDACTED 1] identify his last name as Low and Löw. The CRT further notes that "oe" and "ö" are used interchangeably in the German language.

<sup>5</sup> The CRT notes that Power of Attorney Holder [REDACTED] is identified both as "[REDACTED]" and "[REDACTED]" in the Austrian census records and the documents submitted by Claimant [REDACTED 1].

### Claimant [REDACTED 3]

Claimant [REDACTED 3] has plausibly identified her father as Power of Attorney Holder [REDACTED]. Claimant [REDACTED 3]'s father's name matches the published name of Power of Attorney Holder [REDACTED]. Claimant [REDACTED 3] identified her father's street, city and country of residence, which matches unpublished information about Power of Attorney Holder [REDACTED] contained in the Bank's records. The CRT notes that the information submitted by Claimant [REDACTED 1] indicates that Account Owner Loew was Claimant [REDACTED 3]'s cousin, and that Power of Attorney Holder [REDACTED] and Power of Attorney Holder [REDACTED] were her uncles.

The CRT also notes that the name Erich Loew appears only once on the February 2001 published list of accounts determined by ICEP to be probably or possibly those of victims of Nazi persecution. Finally, the CRT notes that the other claims to the accounts of Account Owner Loew were disconfirmed because those claimants failed to identify any of the Power of Attorney Holders, or because they failed to correctly identify Account Owner Loew's country of residence.

### Account Owner *Herzfeld & Fischel*

The Claimants have plausibly identified Account Owner *Herzfeld & Fischel* as a company owned by their relatives. The Claimants identified the company name, specified that the company had an office in Vienna, Austria, and identified [REDACTED] as one of its joint owners. In addition, Claimant [REDACTED 1] specified that the company also had an office in Hradsko, Czechoslovakia, and identified Erich Loew, [REDACTED], and [REDACTED] as its other joint owners. All this information matches that about the company included in the Austrian census records. The CRT notes that there are no other claims to the account of Account Owner *Herzfeld & Fischel*.

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

The Claimants have made a plausible showing that Account Owner Loew and the owners of Account Owner *Herzfeld & Fischel* were Victims of Nazi Persecution. Claimant [REDACTED 1] stated that Account Owner Loew was Jewish, and that he and his wife first fled from Austria to Hungary in 1938, then to Czechoslovakia in 1939, and subsequently to the United Kingdom via Switzerland. In addition, Claimant [REDACTED 3] stated that [REDACTED], who was Jewish, was imprisoned by the Nazis in 1938, and that he and his family subsequently fled Austria in July of 1938. Claimant [REDACTED 3] also indicated that [REDACTED]'s properties and assets were seized by the Nazis. Moreover, Claimant [REDACTED 1] submitted an undated document, which describes Account Owner *Herzfeld & Fischel*, and states that both [REDACTED] and [REDACTED] emigrated to the United Kingdom; and that [REDACTED] emigrated to Czechoslovakia in 1938, and that he died there during the summer of 1939. Furthermore, Claimant [REDACTED 3] stated that the Vienna branch of Account Owner *Herzfeld & Fischel* was aryanized as confirmed by the 1938 Census records.

## The Claimants' Relationships to the Account Owners

### Claimant [REDACTED 1]

Claimant [REDACTED 1] has plausibly demonstrated that she is related to Account Owner Loew, who was also one of the owners of Account Owner *Herzfeld & Fischel*. Claimant [REDACTED 1] submitted specific information and documents, demonstrating that Account Owner Loew was her father, and that he was also a joint owner of the company *Herzfeld & Fischel*. These documents include a copy of her certified birth entry, identifying her parents as Erik Rikárd Löw (Erich Richard Löw) and [REDACTED]. There is no information on other surviving heirs of Account Owner Loew who might have submitted a claim.

Moreover, Claimant [REDACTED 1] has plausibly demonstrated that she is related to Power of Attorney Holders [REDACTED], [REDACTED] and [REDACTED], who are also the other joint owners of Account Owner *Herzfeld & Fischel*. Claimant [REDACTED 1] submitted her father's birth certificate, identifying his parents as [REDACTED] and [REDACTED], née Fischel; and an undated document, describing Account Owner *Herzfeld & Fischel*, listing [REDACTED], [REDACTED] and [REDACTED] as the company's partners, and specifying that [REDACTED] and [REDACTED] were brothers, and that [REDACTED] was their brother-in-law.

### Claimant [REDACTED 3]

Claimant [REDACTED 3] has plausibly demonstrated that she is related to Power of Attorney Holder [REDACTED], who is also one of the owners of Account Owner *Herzfeld & Fischel*, by submitting specific biographical information, demonstrating that he was her father. The CRT notes that Claimant [REDACTED 3] specified that her father was one of the owners of Account Owner *Herzfeld & Fischel*, which matches information contained in the ASA records. The CRT further notes that Claimant [REDACTED 3] identified unpublished information about Power of Attorney Holder [REDACTED] contained in the Bank's records; and that she filed an IQ with the Court in 1999, identifying the relationship between the Power of Attorney Holder [REDACTED] and herself, prior to the publication in February 2001 of the ICEP List. Moreover, the CRT notes that the foregoing information is of the type that family members would possess and indicates that the Power of Attorney Holder [REDACTED] was well known to Claimant [REDACTED 3] as a family member, and all of this information supports the plausibility that Claimant [REDACTED 3] is related to him, as she has asserted in her Claim Form.

Finally, the CRT notes that the information submitted by Claimant [REDACTED 1] establishes that Claimant [REDACTED 3] is related to Account Holder Loew, and to Power of Attorney Holder [REDACTED] and Power of Attorney Holder [REDACTED], who are also the remaining owners of Account Owner *Herzfeld & Fischel*. More specifically, the information indicates that Account Owner Loew was Claimant [REDACTED 3]'s cousin, and that [REDACTED] and [REDACTED] were her uncles.

## The Issue of Who Received the Proceeds

With regard to the custody account held by Account Owner Loew, the CRT notes that that account was closed on 11 August 1931. According to Article 14 of the Rules, the CRT has jurisdiction to resolve claims to Accounts of Victims open or opened in Swiss banks during the Relevant Period, *i.e.*, during the period from 1 January 1933 to 31 December 1945. Consequently, the CRT has no jurisdiction over the account in question. Nevertheless, the CRT notes that the custody account was closed almost seven years before the *Anschluss*, and that Account Owner Loew had access to the account and was able to close it and receive the proceeds.

With regard to the demand deposit account held by Account Owner Loew, given that Account Owner Loew fled from Austria to Hungary in 1938, to Czechoslovakia in 1939, and afterwards to the United Kingdom; that there is no record of the payment of Account Owner Loew's accounts to him or to one of the Power of Attorney Holders, nor any record of a date of closure of the account; that neither Account Owner Loew nor his heirs would have been able to obtain information about the 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 given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, the Power of Attorney Holders, 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.

With regard to the account of unknown type held by Account Owner *Herzfeld & Fischel*, the facts of this case are similar to other cases that have come before the CRT in which Jewish residents and/or nationals of the Reich reported their assets in the 1938 Census, and, subsequently, their accounts are closed unknown to whom or are transferred to banks in the Reich. Given that the CRT's precedent indicates that it is plausible in such situations that the proceeds of the account ultimately were confiscated by the Nazi regime; that [REDACTED], one of the owners of Account Owner *Herzfeld & Fischel*, reported that the company held assets at the Bank in his 1938 Census form; that he fled from Austria to Hungary in 1938, to Czechoslovakia in 1939, and afterwards to the United Kingdom; that Power of Attorney Holder [REDACTED], another owner of Account Owner *Herzfeld & Fischel*, was imprisoned in Austria in 1938 and fled the country upon his release; that Power of Attorney Holder [REDACTED], also an owner of Account Owner *Herzfeld & Fischel*, fled to Czechoslovakia in 1938, and that he died there in May of 1939; that there is no record of the payment of Account Owner *Herzfeld & Fischel's* account to its owners; that the owners of the Account Owner or their heirs would have been able to obtain information about the account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owners, the Power of Attorney Holders, 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 Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that Account Owner Loew, one of the owners of Account Owner *Herzfeld & Fischel*, was her father, and that Power of Attorney Holder [REDACTED], Power of Attorney Holder [REDACTED] and Power of Attorney Holder [REDACTED], the remaining owners of Account Owner *Herzfeld & Fischel*, were her grandfather and great-uncles, respectively. Claimant [REDACTED 3] has plausibly demonstrated that Power of Attorney Holder [REDACTED] was her father. In addition, the information before the CRT establishes that Account Owner Loew was Claimant [REDACTED 3]'s cousin, and that Power of Attorney Holder [REDACTED] and Power of Attorney Holder [REDACTED] were her uncles. All of these relationships justify an Award. Third, the CRT has determined that it is plausible that neither Account Owner Loew, any of the Power of Attorney Holders, or their heirs received the proceeds of the claimed accounts.

### Amount of the Award

#### Account Owner Loew

In this case, Account Owner Loew held one demand deposit account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs ("SF"). The current values of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce an award amount of SF 26,750.00 for the demand deposit account of Account Owner Loew.

#### Account Owner *Herzfeld & Fischel*

With respect to the account of unknown type of Account Owner *Herzfeld & Fischel*, the Austrian census records indicate that the value of this account was 3,428.29 Schillings as of 31 December 1937, which the CRT notes was the equivalent of SF 2,794.74.<sup>6</sup> According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of this amount is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the total award amount of the account of Account Owner *Herzfeld & Fischel* is SF 49,375.00.

Accordingly, the total award amount in this case is SF 76,125.00.

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<sup>6</sup> In calculating historical account values, the CRT uses official average exchange rates.

### Division of the Award

According to Article 23(1)(b) of the Rules, if the Account Owner's spouse and descendants have submitted a claim, the spouse shall receive one-half of the account and any descendants who have submitted a claim shall receive the other half in equal shares by representation. In addition, according to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Moreover, according to Article 23(1)(d), if neither the Account Owner's spouse nor any descendants of the Account Owner have submitted a claim, the award shall be in favor of any descendants of the Account Owner's parents who have submitted a claim, in equal shares by representation. Furthermore, according to Article 23(3), if the Account Owner is a legal or other entity, the Award shall be made in favor of those Claimants who establish a right of ownership to the assets of the entity.

### Accounts Belonging to Account Owner Loew

In this case, Claimant [REDACTED 1] is representing her mother, [REDACTED 2]. Accordingly, Claimant [REDACTED 1] and her mother, as the child and widow, respectively, of Account Owner Loew, are each entitled to one-half of the portion of the total award amount pertaining to the account of Account Owner Loew, or SF 13,375.00 each for this account.

### Account Belonging to Account Owner *Herzfeld & Fischel*

Regarding the account held by Account Owner *Herzfeld & Fischel*, the CRT notes that the Austrian census records and the documents submitted by the Claimants contain incomplete and conflicting information regarding the exact ownership structure of the company. More specifically, some of the documents identify Account Owner Loew as a joint owner of the company, while others indicate that he was merely a capital contributor to the company. Similarly, the documents before the CRT indicate that August Fischel, an unidentified individual, was a joint owner of the company, but does not specify the extent of his involvement. According to Article 27(1), in applying the Rules of Distribution, the CRT shall seek to achieve the result that is most fair and equitable under the circumstances. Here, the CRT determines that it is most fair and equitable to presume equal ownership by four owners: [REDACTED], [REDACTED], [REDACTED], and Account Owner Loew. Moreover, the CRT further notes that, according to Article 23(2)(c), if a claimant bases a claim of entitlement on a chain of inheritance documents but has not submitted an unbroken chain of wills or other inheritance documents, the CRT may use the general principles of distribution established in Article 23(1) to make allowance for any missing links in the chain, consistent with principles of fairness and equity. While the CRT notes that the Claimants established that their relatives were the owners of Account Owner *Herzfeld & Fischel*, the CRT does not have an unbroken chain of inheritance documents connecting the Claimants to any of the relatives who owned the company. Accordingly, in this case, the CRT applies its general principles of distribution with respect to the owners' shares in the company. Therefore, Claimant [REDACTED 1] and her mother, as the child and widow, respectively, of Account Owner Loew, are each entitled to one-half of the share of the account belonging to Account Owner Loew. Claimant [REDACTED 1], as the

descendant of [REDACTED], is entitled to the total share of the account belonging to Power of Attorney Holder [REDACTED]. Claimant [REDACTED 1] and Claimant [REDACTED 3], as descendants of [REDACTED]'s parents, are each entitled to one-half of the share of the account belonging to Power of Attorney [REDACTED]. Claimant [REDACTED 3], as the child of [REDACTED], is entitled to the total share belonging to Power of Attorney Holder [REDACTED]. Accordingly, with respect to the portion of the total award amount pertaining to the account belonging to Account Owner *Herzfeld & Fischel*, Claimant [REDACTED 1] is entitled to one-half of the amount, or SF 24,687.50, Claimant [REDACTED 1]'s mother is entitled to one-eighth of the amount, or SF 6,171.88, and Claimant [REDACTED 3] is entitled to three-eighths of the amount, or SF 18,515.62.

Accordingly, with respect to the total award amount, Claimant [REDACTED 1] is entitled to SF 38,062.50; Claimant [REDACTED 1]'s mother is entitled to SF 19,546.88; and Claimant [REDACTED 3] is entitled to SF 18,515.62.

### **Scope of the Award**

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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  
28 September 2004