

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

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

in re Accounts of Liselotte Löhner and Eva Löhner

Claim Number: 770002/AX; 771074/AX²

Award Amount: 2,510,300.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1], née [REDACTED], (the “Claimant”) to accounts belonging to herself, [REDACTED], [REDACTED], Fritz Löhner, [REDACTED], Liselotte Löhner, Eva Löhner, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED].³ This Award is to the published account of Liselotte Loehner (“Account Owner Liselotte Löhner”)⁴ at the Zurich branch of the [REDACTED] (“Bank I”) and at the Zurich branch of the [REDACTED] (“Bank II”) and to the published accounts of Eva Löhner (“Account Owner Eva

¹ [REDACTED 2] submitted four claims, numbered 501078, 501080, 501081, and 501082 dated 3 August 2004, after the deadline for the submission of Deposited Assets Claims. The Claimant has agreed to represent [REDACTED 2] and, accordingly, his claims are being treated here together with those of the Claimant. In turn, [REDACTED 2] has asked to represent his cousin, Claimant [REDACTED 1].

² The Claimant did not submit a Claim Form to the CRT. However, in 1999 she submitted two Initial Questionnaires (“IQs”), numbered ENG 0001 000038 and ENG 0041 000101, to the Court in the United States. Although these IQs were not Claim Forms, 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 IQs were forwarded to the CRT and have been assigned claim numbers 77002 and 771074, respectively.

³ The CRT did not locate an account belonging to the Claimant or the Claimant’s relatives, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [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”). The Claimant should be aware that the CRT will carry out further research on her claims to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources. The CRT will treat the claim to the account of [REDACTED] in a separate decision.

⁴ The CRT notes that on the February 2001 published list of accounts determined by the ICEP to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), Account Owner Liselotte Löhner’s name was published as “Liselotte Loehner,” while the names of her father and sister were published as Fritz Löhner and Eva Löhner, respectively. The CRT notes that, in German, “ö” is equivalent to “oe.” The CRT also notes that, on the ICEP List, Account Owner Liselotte Löhner is identified as owning one account. After careful review of the Banks’ records and the records from the Austrian State Archive, as discussed below, the CRT has determined that Liselotte Löhner held three accounts.

Löhner”) (together the “Account Owners”)⁵ at the Zurich branch of the [REDACTED] (“Bank III”) (together “the Banks”).

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 Initial Questionnaires (“IQs”) with the Court in 1999 identifying the Account Owners as her cousins Liselotte (Liesel) Löhner and Eva Löhner. According to the Claimant’s cousin, [REDACTED 2], whom the Claimant represents, Fritz Löhner was married to the Claimant’s maternal aunt. According to information provided by [REDACTED 2], Fritz Löhner was born on 24 June 1883 in Wildenschwert, Austria, and was married to [REDACTED], née [REDACTED], on 19 April 1925 in Vienna, Austria. According to [REDACTED 2], [REDACTED], née [REDACTED], had four siblings: [REDACTED], who was [REDACTED 2]’s father, [REDACTED], who was the Claimant’s mother, [REDACTED], and [REDACTED], both of whom had no children. [REDACTED 2] stated that Fritz and [REDACTED] had two children: Liselotte, who was born on 17 November 1927 in Vienna, and Eva, who was born on 15 May 1929 in Vienna. [REDACTED 2] stated that Fritz Löhner, who was Jewish, was a well-known lyricist who resided at Langergasse 46 in Vienna. In her IQ, the Claimant stated that her uncle also used the name “Fritz Löhner Beda” and that he was a famous lyricist who wrote with the composer Franz Lehár. [REDACTED 2] indicated that Fritz Löhner, who was also [REDACTED 2]’s uncle, lived in Vienna until 1938, when he was deported to the concentration camp at Dachau, and later to Auschwitz, where he perished on 4 December 1942. In her IQ, the Claimant wrote: “How can one tell these tales of horror in these short explanations?” She wrote that she lost many relatives in the Holocaust, and that of particular concern to her were her maternal grandmother, who lived with [REDACTED] and the Claimant’s two cousins, whose father was Fritz Löhner Beda. The Claimant wrote that her grandmother and [REDACTED], Eva, and Liselotte Löhner “disappeared in the middle of the night, and with all attempts to locate them, to date I do not know how they died, or where, and what happened to all their possessions.” According to [REDACTED 2], in 1938, Liselotte Löhner and Eva Löhner were deported to the concentration camp at Maly Trostinec, where they both perished on 4 September 1942.

In support of the claims, the Claimant’s cousin submitted records from the Austrian State Archive pertaining to Fritz Löhner, Liselotte Löhner, and Eva Löhner; a certificate from the city of Vienna, dated 10 August 1948, that indicates that [REDACTED], née [REDACTED], resided in Vienna in 1938; [REDACTED 2]’s birth certificate, indicating that his father was [REDACTED]; [REDACTED]’s birth certificate; and the change of name deed, dated 8 January 1951, documenting that [REDACTED] changed his name to [REDACTED]. The Claimant

⁵ The CRT notes that, on the ICEP List, Fritz Löhner is shown as an account owner. Upon careful review of the Banks’ records and the records from the Austrian State Archive and as detailed below, the CRT has concluded that the accounts in question were held in the names of Liselotte and Eva Löhner.

indicated that she was born on 7 November 1927 in Vienna. [REDACTED 2] stated that he was born on 5 November 1938 in Vienna.

Research Conducted by the CRT

According to several websites identified by the CRT regarding Fritz Löhner, the Claimant's relative was a well-known cabaret artist who was born on 24 June 1883 in Wildenschwert (also known as Usti nad Orlici) in Czechoslovakia.⁶ According to this information, Löhner studied law at the University of Vienna, where he received his doctorate in 1908. As a student, Löhner published short literary works under the pseudonym "Beda," which was short for the Czech "Bedrich," the equivalent of the German "Friedrich" and by which Löhner was known to his family. After finishing his studies, Löhner, who was an active Zionist, worked in a law firm, but remained interested in music. He began publishing many musical pieces as well as essays, poems, and sketches for newspapers and magazines under the names "Löhner," "Löhner-Beda," and "Beda." According to one of the websites, in 1919, Löhner had a son named [REDACTED], who was the only member of the family to later immigrate to the United States. According to this information, Löhner married [REDACTED] in 1925, and had two daughters with her.

According to the information available to the CRT, in the 1920s, Löhner was one of the most sought-after lyricists and writers in Vienna. Later, he teamed with the well-known composer Franz Lehár, with whom he wrote the operetta "*Friederike*" (1928), "*Das Land des Lächelns*" ("The Country of Smiles") (1929), and "*Giuditta*" (1934). The copyright for these musical successes made Löhner a millionaire. Löhner was also the author of "*Freunde, das Leben ist lebenswert*" ("Friends, life is worth living"), which became one of the most popular songs in Germany in the 1940s. According to the information available to the CRT, on 13 March 1938, immediately after the German annexation of Austria (the *Anschluss*), Löhner was arrested and interned in the prison on Elisabethpromenade in Vienna. On 1 April 1938 he was deported in the "*Prominenten-Transport Nr. 1*" (the first transport, specially reserved for prominent persons) to the concentration camp at Dachau. In September 1938 he was deported to Buchenwald. There, he wrote, together with the composer Hermann Leopoldi, the "Buchenwald March," which was played every morning during the prisoners' roll-call and as they marched to work.⁷ In captivity, Löhner continued to hope that his former friend and colleague, Fritz Lehár, would help secure his release. Instead, Lehár quickly adapted himself to the new political situation, and developed good contacts with the Nazi party. During this time, Lehár dedicated the popular "*Giuditta*" to Benito Mussolini. In 1940, Lehár celebrated his seventieth birthday in the Vienna Opera by

⁶ See, e.g., www.kabarettarchiv.at/Bio/Loehner-Beda.htm; www.klassika.info/Librettisten/Loehner_Fritz/lebenslauf_1.html; www.culturalall.com/neudegggasse/Veranstaltungen/loehner.htm; and www.sfb.de/fernsehen/kulturreport/030204_5.html (last visited 23 October 2004).

⁷ *"O Buchenwald, ich kann dich nicht vergessen,
weil du mein Schicksal bist.
Wer dich verließ, der kann es erst ermessen,
wie wundervoll die Freiheit ist!
O Buchenwald, wir jammern nicht und klagen,
und was auch unser Schicksal sei,
wir wollen trotzdem ja zum Leben sagen,
denn einmal kommt der Tag, da sind wir frei."*

*Oh Buchenwald, I cannot forget you,
Because you are my destiny
Whoever leaves you, only then can he measure
How wonderful freedom is!
Oh Buchenwald, we do not moan or complain
And whatever our fate may be
We will still say Yes to life,
Because someday we will be free!*

See www.sfb.de/fernsehen/kulturreport/030204_5.html (last visited 23 October 2004).

conducting, in the presence of Adolf Hitler himself (who listed Lehár as one of his favourite composers), “*Das Land des Lächelns.*” The name of the song’s co-writer and Lehár’s former friend was conveniently dropped from the program. In 1942, Löhner’s wife [REDACTED], their two daughters, and [REDACTED]’s mother were deported to Minsk.⁸ According to online information supplementing a television program featuring a report about Fritz Löhner-Beda, in 1942, Fritz Löhner was deported to the concentration camp in Auschwitz-Monowitz, where he was a slave laborer building a factory for *IG Farben*. According to this information, one day, five directors of *IG Farben* saw Fritz Löhner working too slowly, and commented that “the Jew there could work faster” (“*Der Jude da könnte auch schneller arbeiten*”), which proved to be his death sentence. A *Kapo* (a leader of a work unit) beat Fritz Löhner to death on 4 December 1942. His official cause of death was listed as old age (“*Altersschwäche*”).⁹

Information Available in the Banks’ Records

Bank I

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 identify any original bank documents pertaining to accounts held at Bank I. The auditors prepared a printout based upon records from the Austrian State Archive, numbered 46713, that were made available to them. The auditors’ printout indicates that the records from the Austrian State Archive show that Fritz Löhner held assets at Bank I, including 45,000.00 Swiss Francs (“SF”) and 5,000.00 pounds sterling (“£”), both in the name of his daughter Liselotte Löhner.

Bank II

Bank II’s records consist of an account statement and a list of accounts, with balances, that had been transferred to a suspense account. According to these records, the Account Owner was *Frl.* (Miss) Liselotte Loehner (Löhner), who was born in 1927, and who resided in Vienna, Austria. Bank II’s records indicate that Account Owner Liselotte Loehner held one demand deposit account, which was opened on an illegible date in 1931. Bank II’s records indicate that the initial balance of the account was SF 2,071.10. Bank II’s records further indicate that correspondence was to be sent to Fritz Löhner-Beda. Bank II’s records indicate that the account was transferred to a suspense account on 8 May 1957. The records indicate that on 8 May 1957, commission and fees totaling SF 50.10 for the years 1938 to 1957 were charged to the account. The balance of the account on the date of its transfer to the suspense account, 8 May 1957, was SF 2,021.00.

⁸ The CRT notes that, according to information available from the United States Holocaust Memorial Museum, between November 1941 and October 1942, over 20,000 Jews from Germany and the Protectorate of Bohemia and Moravia were deported to Minsk. Many were shot or gassed in special gas vans upon arrival in Maly Trostinets, a small village about eight miles to the east. See www.ushmm.org/wlc/en (last visited 24 October 2004).

⁹ See www.sfb.de/fernsehen/kulturreport/o30204_5.html (last visited 23 October 2004).

The ICEP auditors did not find this account in Bank II's system of open accounts, and they therefore presumed that it was closed. There is no evidence in Bank II's records that the Account Owner or her heirs closed the account and received the proceeds themselves.

Bank III

Bank III's records consist of an account opening card. According to this record, the Account Owner was *Frl.* (Miss) Eva Löhner, a minor who resided in Vienna, Austria. Bank III's records indicate that Account Owner Eva Löhner owned one custody account, numbered L 47115, that was opened on 15 March 1932, and one demand deposit that was opened on 10 March 1931. According to these records, the custody account was closed on 18 October 1938, and the demand deposit account was closed on 31 December 1938. The amount in the accounts on the date of their closures is unknown. There is no evidence in Bank III's records that Account Owner Eva Löhner or her heirs closed the accounts and received the proceeds themselves.

Information Available from the Austrian State Archive

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, and/or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the "1938 Census"). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Fritz, Liselotte, and Eva Löhner, as described below.

Fritz Löhner

The records pertaining to Dr. Fritz Löhner are numbered 46713. According to these records, Fritz Löhner was born 24 June 1883 and was married to [REDACTED], née [REDACTED]. These records indicate that Fritz Löhner was an author (*Schriftsteller*) and lyricist (*Librettist*) who resided at Langergasse 46 in Vienna, but that, at the time of the completion of the forms, he was interned in the concentration camp at Dachau. The records contain a copy of a letter written by Fritz Löhner to Dr. [REDACTED], dated 15 July 1938 from Dachau, Block XX, barrack (*Stube*) 1, granting Dr. [REDACTED] power of attorney and requesting that he complete the 1938 Census documents for him. The letter is written on paper indicating that the writer was a prisoner in the Dachau concentration camp and that includes instructions regarding the content and frequency of letters to inmates in the camp. In this letter, Fritz Löhner writes that he had accounts in the name of his daughter Liselotte at Bank I containing securities worth £ 5,000.00 and SF 45,000.00. He also notes that he had accounts in the name of his daughter Eva Marie at Bank III, including securities worth SF 20,000.00. The letter lists other bank accounts and assets he held and requests that Dr. [REDACTED] complete the necessary forms by 31 July 1938. The records also contain a letter written by Dr. [REDACTED], dated 23 July 1938, to the Nazi authorities, explaining that he had encountered difficulties in completing the form. Dr. [REDACTED] requests that Dr. Löhner be given the opportunity from Dachau to personally request the various banks to provide statements of his accounts directly to the Nazi authorities, because he was not able to obtain the statements without the proper authorization. Dr. [REDACTED] further explains that Fritz Löhner's wife, [REDACTED], was, together with her

two daughters, currently in the couple's Villa Felicitas in Bad Ischl and could not provide any documentation regarding the family's assets. Dr. [REDACTED] notes that Dr. Löhner was one of the lyricists for the composer Franz Lehár, that he possessed ownership rights to various operettas and chansons, and that he was a member of the *Gesellschaft der Autoren, Komponisten- und Musikverleger* (Society of Authors, Composers, and Music Publishers).

The records contain a letter from the Nazi authorities to Dr. [REDACTED], dated 3 August 1938, stating that, as the person authorized by Fritz Löhner to complete the census documents, he was obligated to do so, and that he should take the necessary steps to obtain all the requested information. The letter notes that, if he were to identify himself as the authorized representative of Fritz Löhner, the banks would furnish him the required information (“*Wenn Sie sich als Bevollmächtigter des Dr. Fritz Löhner ausweisen, werden Sie auch von den Bankstellen die erforderlichen Auskünfte erhalten.*”) The letter grants Dr. [REDACTED] an extension for the registration and valuation of Dr. Löhner's assets until 25 August 1938.

In a letter dated 24 August 1938, Dr. [REDACTED] submitted a supplemental declaration on behalf of Fritz Löhner. According to this letter, Dr. [REDACTED] had obtained a statement from Bank I that indicates that Dr. Fritz Löhner-Beda's daughter, Liselotte Löhner, who was born in 1927, held accounts at Bank I. This letter also indicates that Dr. Scherbak had obtained a statement from Bank III that indicates that Dr. Fritz Löhner's daughter Eva, a minor, held accounts at Bank III. Dr. [REDACTED] wrote that he would therefore submit separate asset declarations for Liselotte and Eva Löhner. Dr. [REDACTED] attached a letter from the music publishing company *Glocken-Verlag*, dated 13 August 1938, which indicates that Dr. Fritz Löhner-Beda was entitled to share in the profits of various music titles, including “*Giuditte*” (20%), “*Land des Lächelns*” (12.5%), “*Libellentanz*” (5%), “*Schön ist die Welt*” (10%), “*Sterngucker*” (10%), and “*Friederike*” (25%). This letter indicates that, in 1937, Fritz Löhner received payments worth 13,985.93 Reichsmark (“RM”) for four of these compositions.

These records indicate that, as of 13 January 1939, Fritz Löhner held real estate assets worth RM 30,280.00 and securities and other bank assets worth RM 79,324.78. The records indicate that, by that date, Dr. Löhner had been deported to the concentration camp at Buchenwald. The records indicate that Fritz Löhner was assessed flight tax (“flight tax”) of RM 40,000.00, which was due on 10 March 1939.

Liselotte Löhner

The records concerning the assets of Liselotte Löhner are numbered 16295 and are dated 24 August 1938. According to these records, Liselotte Löhner was a minor who was born in 1927. The records indicate that she was the daughter of Fritz Löhner and resided at Langergasse 46 in Vienna. According to these records, Liselotte Löhner held a custody account at Bank I containing *4½% Eidgenössische Anleihe 1927* bonds with a nominal value of SF 48,000.00, that, according to a statement from Bank I, were valued at 107.30%, for a market value of SF 51,504.00, and *4% Funding Loan Obligationen (England) 1960/90* with a nominal value of £ 5,000.00 that, according to Bank I, were valued at 112.5%, for a market value of SF 122,000.00. The records also indicate that Liselotte Löhner had cash or savings worth SF 1,117.30. The

records indicate that they were completed by Dr. [REDACTED], who was able to obtain a statement of Liselotte Löhner's accounts at Bank I after repeated correspondence with Bank I.

Eva Löhner

The records concerning the assets of Eva Löhner are numbered 9796 and are dated 24 August 1938. According to these records, Eva Löhner was a minor who was born in 1928. The records indicate that she was the daughter of Fritz Löhner and resided at Langergasse 46 in Vienna. These records indicate that Eva Löhner held a custody account at Bank III containing 4% *Stadt Zurich 1932* bonds with a nominal value of SF 20,000.00, which, according to a statement from Bank III, were worth 104½%, for a market value of SF 20,900.00. The records also indicate that Eva Löhner held cash or savings worth SF 384.00. The records indicate that they were completed by Dr. [REDACTED], who was able to obtain a statement of Eva Löhner's accounts at Bank III after repeated correspondence with Bank III.

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 Claimant in one proceeding.

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The name of the Claimant's cousin, Eva Löhner, and her country of residence match the published names and country of residence of Account Owner Eva Löhner. The name, city and country of residence of the Claimant's cousin Liselotte Löhner match the unpublished name, city and country of residence of Account Owner Liselotte Löhner. The Claimant also identified the relationship between the published names of Fritz Löhner and Account Owner Eva Löhner and Account Owner Liselotte Löhner, even though they were published separately on the February 2001 published list of accounts determined by the ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), and even though Account Owner Liselotte Löhner's last name was published as "Loehner." The CRT also notes that the Claimant indicated that her uncle used the name "Beda," which matches unpublished information about the father of Account Owner Liselotte Löhner contained in Bank II's records. The CRT notes that the Claimant submitted IQs to the Court in 1999, asserting her entitlement to accounts owned by the Account Owners and their family, prior to the publication of their names on the ICEP List.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Fritz Löhner, who was born in Wildenschwert in 1883 and who resided in Vienna; a person named [REDACTED], who was born on 21 July 1902; a person name Liselotte Löhner, who was born on 17 November 1927; and a person name Eva Löhner, who was

born on 15 May 1929, all of which matches information about the Account Owners and their family provided by the Claimant's cousin. 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, that Fritz Löhner perished in Auschwitz in 1942, and that Liselotte Löhner and Eva Löhner were killed in Maly Trostinec in 1942.

As noted above, persons named Fritz Löhner, [REDACTED], Liselotte Löhner, and Eva Löhner were included in the CRT's database of victims.

The Claimant's Relationships to the Account Owners

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting specific information, demonstrating that Account Owners Liselotte Löhner and Eva Löhner were the Claimant's cousins. The CRT notes that the Claimant and her cousin identified information about the Account Owners as contained in the Banks' records and in the records from the Austrian State Archive. The CRT further notes that the Claimant filed IQs with the Court in 1999, identifying the relationship between the Account Owners and the Claimant, prior to the publication in February 2001 of the ICEP List. Finally, the CRT notes that the Claimant's cousin also identified information which matches information contained in the Yad Vashem records. All this information supports the plausibility that the Claimant is related to the Account Owners, as she has asserted in her Claim Form. There is no information to indicate that the Account Owners have surviving heirs other than the party whom the Claimant represents.

The Issue of Who Received the Proceeds

With regard to Account Owner Liselotte Löhner's accounts at Bank I and Account Owner Eva Löhner's accounts at Bank III, 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. The CRT notes that, in this case, the records from the Austrian State Archive provide concrete evidence that the Nazis corresponded with Dr. [REDACTED], whom Fritz Löhner had granted power of attorney for the purpose of completing his 1938 Census declaration, in order to ensure that assets held by the Löhner family were turned over to the Nazis. The CRT further notes that Bank I and Bank III provided account statements of the Account Owners' accounts to Dr. [REDACTED], even though Fritz Löhner's letter granted Dr. [REDACTED] power of attorney only with regard to the completion of his 1938 Census declaration and not to the accounts belonging to his daughters, and even though this power of attorney was expressed in a letter that clearly indicated that the writer was imprisoned in the Dachau concentration camp. 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

the Account Owners reported the accounts in the 1938 Census; that the Account Owners lived in Austria until 1938 when they were deported to concentration camps and eventually killed by the Nazis, and therefore could not have repatriated the accounts without losing ultimate control over their proceeds; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules, 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.

With respect to Account Owner Liselotte Löhner's account at Bank II, given that the Account Owner Liselotte Löhner perished in the concentration camp at Maly Trostinec in 1942; that the account was transferred to a suspense account on 8 May 1957, after her death; that there is no record of the payment of the Account Owner Liselotte Löhner's account to her heirs, nor any record of a date of closure of Account Owner Liselotte Löhner's demand deposit account; that Account Owner Liselotte Löhner's heirs would not 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, the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Liselotte Löhner's 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 Account Owners Liselotte Löhner and Eva Löhner were her cousins, 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, the Account Owners Liselotte Löhner owned one custody account and one demand deposit account at Bank I and one demand deposit account at Bank II, and Account Owner Eva Löhner owned one custody account and one demand deposit account at Bank III.

With regard to the Account Owners' demand deposit accounts at Bank I and Bank III, the 1938 Census documents indicate that the value of Account Owner Liselotte Löhner's demand deposit account at Bank I was SF 1,117.30 and that the value of Account Owner Eva Löhner's demand deposit account at Bank III was SF 384.00. However, the CRT determines that it is unable to rely on the balance amounts declared in the 1938 Census. The CRT notes that, as evidenced in a number of cases, the person who completed the 1938 Census on behalf of Fritz Löhner's minor children may not have declared all their assets, or may have understated their value, in the belief

that this might help the family safeguard some of them. Accordingly, and pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), if the amount in a demand deposit account is less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00. The total average value for these two accounts is SF 4,280.00.

With regard to the Account Owners’ custody accounts, the 1938 Census documents indicate that, as of 24 August 1938, the value of the securities in Account Owner Liselotte Löhner’s custody account at Bank I totalled SF 173,504.00, and the value of the securities in Account Owner Eva Löhner’s custody account at Bank III totalled SF 20,900.00. In this case, the values of the custody accounts, as declared on the 1938 Census form, exceed the presumptive value of a custody account, as set forth in Article 29 of the Rules. Accordingly, the CRT concludes that the declared value should govern the determination of the award amount, as the respondents to the 1938 Census clearly would not have overvalued their declared assets. The total historical value of these two accounts is SF 194,404.00.

With regard to Account Owner Lisolette Löhner’s demand deposit account at Bank II, Bank II’s records indicate that in 1938, the amount in the account was SF 2,071.00. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 2,140.00.

The total historic value of the five accounts is SF 200,824.00.

The current value of the amount of the award is determined by multiplying this amount by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 2,510,300.00.

Division of the Award

According to Article 23(1)(d) of the Rules, if neither the Account Owner’s spouse, nor any descendants of the Account Owner’s parents have submitted a claim, the award shall be in favor of any descendants of the Account Owner’s grandparents who have submitted a claim, in equal shares by representation. In this case, the Claimant is representing her cousin, [REDACTED 2]. The Claimant and [REDACTED 2] are both cousins of Liselotte Löhner and Eva Löhner. Accordingly, the Claimant and [REDACTED 2] are each entitled to one-half of the total award amount.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claims 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
18 November 2004