

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], [REDACTED 3], and [REDACTED 4]

to Claimant [REDACTED 5],
also acting on behalf of [REDACTED 6] and the Estate of [REDACTED 7]¹

and to Claimant [REDACTED 8],
also acting on behalf of [REDACTED 9]

in re Accounts of Martha Nathan

Claim Numbers: 501539/HS; 221145/HS; 401869/HS; 500576/HS; 500577/HS

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (“Claimant [REDACTED 1]”) to the published account of Martha Nathan (the “Account Owner”), the claims of [REDACTED 5] (“Claimant [REDACTED 5]”) to the published accounts of Heinz Ullmann and Hedwig Ullmann, and the claims of [REDACTED 8] (“Claimant [REDACTED 8]”) (together the “Claimants”) to the published accounts of Erich Ullmann and Hilde Ullmann.² This Award is to the published and unpublished accounts of Martha Nathan, over which [REDACTED] (the “Power of Attorney Holder”) held power of attorney, at [REDACTED] (the “Bank”) in Basel.³

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 owner, and the bank have been redacted.

¹ The CRT notes that [REDACTED 7], née [REDACTED], passed away on 24 December 2004.

² In separate decisions, the accounts of Erich Ullmann, Hilde Ullmann, the *Albert Stiftung*, and Hedwig Ullmann were awarded to [REDACTED 5] (“Claimant [REDACTED 5]”), [REDACTED 8] (“Claimant [REDACTED 8]”), and the parties they represent. See *In re Accounts of Erich Ullmann, Hilde Ullmann, and the Albert Stiftung* (approved on 18 November 2004) and *In re Account of Hedwig Ullmann* (approved on 17 March 2008). In another decision, the accounts of Heinz Ullmann were awarded to Claimant [REDACTED 5] and the parties he represents. See *In re Accounts of Heinz Ullmann* (approved on 12 October 2007). Claimant [REDACTED 5] submitted an additional claim to the account of Paul Wertheim, which is registered under the Claim Number 401866. In another decision, the CRT treated Claimant [REDACTED 5]’s claim to the account of Paul Wertheim. See *In re Accounts of Paul Wertheim* (approved on 31 January 2007).

³ On the February 2001 published list of accounts determined by the Independent Committee of Eminent Persons (“ICEP”) to be probably or possibly those of Victims of Nazi Persecution (the “ICEP List”), the Account Owner is indicated as having one account. Upon careful review, the CRT has concluded that the Bank’s records evidence the existence of two accounts held by the Account Owner.

Information Provided by the Claimants

Claimant [REDACTED 1], who is related to the other Claimants, submitted a Claim Form identifying the Account Owner as his great-aunt, Martha Nathan, née Dreyfus, who was Jewish, was born on 28 November 1874 in Frankfurt am Main, Germany, and was married to [REDACTED] on 15 December 1893 in Frankfurt. Claimant [REDACTED 1] identified the Power of Attorney Holder as his paternal grandfather and Martha Nathan's brother, Dr. [REDACTED], who was born on 25 April 1879, also in Frankfurt, and was married to [REDACTED], née [REDACTED]. Claimant [REDACTED 1] stated that [REDACTED] was a medical doctor and professor of medicine, specializing in neuropathy, in Frankfurt and later in Switzerland. Claimant [REDACTED 1] explained that Martha Nathan and [REDACTED] had four other siblings, including [REDACTED], who was born in Frankfurt on 14 March 1885 and was married to [REDACTED], née [REDACTED].

According to the information provided by Claimant [REDACTED 1], [REDACTED] and his wife [REDACTED] had two children, [REDACTED], née [REDACTED], and [REDACTED]. [REDACTED] had one child, [REDACTED 4]. [REDACTED] married [REDACTED], and together they had three children, [REDACTED 1] (Claimant [REDACTED 1]), [REDACTED 2], née [REDACTED], and [REDACTED 3].

Claimant [REDACTED 1] stated that Martha and [REDACTED] did not have any children, that [REDACTED] died in 1922, and that in February 1937, Martha Nathan fled Germany to Paris, France. According to the information and documents submitted by Claimant [REDACTED 1], Martha Nathan returned to Germany in May or June 1938 in order to sell her villa at Mendelssohnstrasse 68 in Frankfurt. According to this information, Martha Nathan was forced by the Nazi authorities to sell the villa for 29,350.00 Reichsmarks ("RM"), which was approximately one-half of its assessed value, and the proceeds of that sale were placed in a blocked bank account in her name at the [REDACTED]. According to Claimant [REDACTED 1], Martha Nathan paid a flight tax of RM 87,431.25, and she was allowed to take only RM 15,000.00 with her upon leaving Germany. Claimant [REDACTED 1] stated that Martha Nathan settled in Geneva, Switzerland, in August 1939. According to the information submitted by Claimant [REDACTED 1], Martha Nathan sought restitution for her losses after the Second World War. However, by 1951, her economic situation was "extraordinarily difficult," and she survived by selling artwork that she had owned for many years. Claimant [REDACTED 1] stated that Martha Nathan resided in Geneva until her death on 9 December 1958.

The CRT notes that neither Claimant [REDACTED 5] nor Claimant [REDACTED 8] identified Martha Nathan as their relative or claimed her accounts. However, according to the information provided by the Claimants, Martha Nathan's husband, [REDACTED], was the brother of [REDACTED], née [REDACTED], who was the paternal grandmother of Claimant [REDACTED 5]. According to this information, [REDACTED], who later changed her name to [REDACTED], had two sons, [REDACTED] and [REDACTED]. [REDACTED] had two sons, [REDACTED 6] and [REDACTED 5] (Claimant [REDACTED 5]). [REDACTED] had two daughters, [REDACTED 7] and [REDACTED]. [REDACTED] had two children, [REDACTED 9] and [REDACTED 8] (Claimant [REDACTED 8]).

In support of his claim, Claimant [REDACTED 1] submitted various documents, including:

- 1) a German police registration form (*polizeiliche Anmeldung*), dated 20 June 1938, indicating that Martha Nathan, née Dreyfus, was born on 28 November 1874 in Frankfurt, that she was a widow, that she was Jewish, that her registered address was Mendelssohnstrasse 68 in Frankfurt, and that she had arrived in Frankfurt from Paris;
- 2) a certificate issued by the Zurich police department, dated 6 August 1941, indicating that medical doctor [REDACTED] and his wife, [REDACTED], were Swiss citizens, that [REDACTED] resided at Tödistrasse 16 in Zurich, and that he was a neuropathy specialist;
- 3) a certified extract from the family register in Basel (*Familienschein, Auszug aus dem Familienregister Basel des Zivilstandskreises Basel-Stadt*), dated 25 August 1941, indicating that [REDACTED], who was from Basel, and his wife [REDACTED] had six children, all born in Frankfurt, including Martha Nathan, [REDACTED], and [REDACTED];
- 4) Claimant [REDACTED 1]'s father's marriage certificate, dated 10 June 1954 in Medmenham, the United Kingdom, indicating that [REDACTED] was married to [REDACTED], née [REDACTED], and that [REDACTED]'s father was medical professor [REDACTED];
- 5) an application signed by Martha Nathan for compensation from a German hardship fund (*Härtefonds*), dated 24 May 1956, indicating that Martha Nathan, née Dreyfus, was born on 28 November 1874; that she resided in Geneva, and that she claimed 13,743.13 *Deutschmark* in compensation for flight tax (*Reichsfluchtsteuer*) that she had paid to the Nazi authorities; that she was 81 years old, and that she had no source of income;
- 6) a written statement, signed and dated by Martha Nathan, née Dreyfus, on 6 March 1958 and certified by the German Consulate in Geneva, which states that, after the Nazi takeover of Germany, Martha Nathan left Germany in February 1937, arriving first in Paris, where she had relatives; that her household belongings were placed in a warehouse in Paris; that in August 1939, Martha Nathan settled in Geneva; and that in June 1942, the German occupation authorities in Paris confiscated her household belongings;
- 7) [REDACTED]'s will, dated 3 July 1995, indicating that, should his wife, [REDACTED], predecease him, his children, Claimant [REDACTED 1], [REDACTED 3], and [REDACTED 2], née [REDACTED], would inherit his residual estate in equal shares.
- 8) [REDACTED]' death certificate, dated 13 July 1998, indicating that he was Claimant [REDACTED 1]'s father;
- 9) the death certificate of [REDACTED]'s widow, [REDACTED], née [REDACTED], dated 28 August 2001, indicating that she was the mother of [REDACTED 3];
- 10) a certificate of appointment from the guardianship authority (*Vormundschaftsbehörde*) of Basel, dated 1 November 2002, appointing [REDACTED 4] as the guardian of [REDACTED]; and
- 11) letters dated 2 April 2004, 15 October 2004, and 18 August 2005, addressed to seventeen heirs of Martha Nathan, née Dreyfus, including Claimant [REDACTED 1], Claimant [REDACTED 5], [REDACTED 6], [REDACTED 2], [REDACTED 3], and [REDACTED 4], from attorneys pursuing restitution claims on their behalf in courts in the United States for paintings owned by Martha Nathan, including works by Vincent van Gogh and Paul Gauguin, which were apparently confiscated or sold under duress during

the Nazi era. According to these letters, Martha Nathan's will names her heirs as [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. These letters provide additional, although incomplete, information regarding the heirs of Martha Nathan's heirs. The CRT notes that the Claimants did not submit Martha Nathan's will.

In support of his claims, Claimant [REDACTED 5] submitted:

- 1) his grandmother's birth certificate, indicating that [REDACTED] was born on 21 November 1872 in Frankfurt;
- 2) the birth certificate of [REDACTED 7], née [REDACTED], indicating that her father was [REDACTED]; and
- 3) [REDACTED]'s change of name declaration, indicating that on 10 July 1939 in Melbourne, [REDACTED], formerly of Frankfurt, changed her surname to [REDACTED].

In support of his claims, Claimant [REDACTED 8] submitted documents, including:

- 1) his own birth certificate and that of his sister, [REDACTED 9], née [REDACTED], which indicate that their mother was [REDACTED], née [REDACTED];
- 2) [REDACTED]'s death certificate, dated 5 September 1958, which indicates that his mother was [REDACTED], née [REDACTED], and that his children are [REDACTED] and [REDACTED]; and
- 3) [REDACTED]'s death certificate, dated 23 July 1976, which indicates that her father was [REDACTED] and that her children are [REDACTED 8] and [REDACTED 9].

Additionally, [REDACTED 7]'s husband, [REDACTED], submitted:

- 1) [REDACTED 7]'s death certificate, which indicates that her father was [REDACTED], and that she died on 24 February 2004; and
- 2) [REDACTED 7]'s will, dated 3 March 1994, which identifies her husband as her sole heir and executor of her estate.

Claimant [REDACTED 1] indicated that he was born on 25 June 1942 in Beaconsfield, the United Kingdom. Claimant [REDACTED 1] is representing his sister, [REDACTED 2], née [REDACTED], who was born on 17 October 1944 in Beaconsfield; his brother, [REDACTED 3], who was born on 21 June 1956 in London, the United Kingdom; and his cousin (the daughter of [REDACTED]'s daughter [REDACTED]), [REDACTED 4], née [REDACTED], who was born on 20 October 1939 in Basel.

Claimant [REDACTED 5] indicated that he was born on 20 September 1937 in Milan, Italy. Claimant [REDACTED 5] is representing his brother, [REDACTED 6], who was born on 29 April 1930 in Frankfurt; and his late cousin (one of the two children of [REDACTED]'s son [REDACTED]), [REDACTED 7], née [REDACTED], who was born on 5 July 1924 in Berlin, Germany. Claimant [REDACTED 8] (who is the child of [REDACTED]'s other child, [REDACTED], née [REDACTED]) indicated that he was born on 5 February 1958 in

Melbourne. Claimant [REDACTED 8] is representing his sister, [REDACTED 9], née [REDACTED], who was born on 11 February 1956 in Melbourne.

Publicly Available Information

The CRT conducted independent research regarding the Bank and the Dreyfus family. Both the Bank and the German bank *J. Dreyfus & Co.*, the latter of which had branches in Frankfurt am Main and Berlin, were founded by members of the same family, which had its roots in Sierentz in Alsace, France.⁴ [REDACTED], who lived from 1786 to 1845, emigrated to Basel, where in 1823 he founded the banking firm that later became known as the Bank.⁵ One of his sons, [REDACTED], founded the bank *J. Dreyfus & Co.* in Germany in 1868. In 1909, [REDACTED] took over leadership of *J. Dreyfus & Co.*⁶ Following the Nazi rise to power, *J. Dreyfus & Co.* was gradually “aryanized,” the Frankfurt branch of *J. Dreyfus & Co.* was liquidated in 1937, and the Berlin branch was taken over by the German bank *Merck, Finck & Co.* in 1938.⁷

As noted above, the heirs of Martha Nathan have sought restitution of certain paintings in United States courts. A United States District Court decision summarizes the information provided by Martha Nathan’s heirs regarding her circumstances before, during, and after the Second World War:⁸

In February 1937, Martha Nathan left Germany in order to escape Nazi persecution. She moved to Paris, France where she obtained French citizenship. Around May 1938, she returned to Germany to sell her house. At that time, the Nazi government required her to turn over six paintings remaining in her home to the Staedel Art Institute. The paintings she turned over did **not** include [“Street Scene in Tahiti” by Paul Gauguin, emphasis in the original] which she had moved sometime earlier along with other artwork to Basel, Switzerland. ... Martha Nathan moved permanently to Switzerland around 1939.

In December 1938, a year and a half after living in France and before the German occupation of France, Martha Nathan sold some of her artwork, including [the Gauguin painting] then located in Basel, Switzerland.

...

⁴ *Historische Lexikon der Schweiz*, entry for ‘Dreyfus,’ available at www.lexhist.ch.

⁵ *Id.*

⁶ Rudolf Meilbrunn, *Das Bankhaus J. Dreyfus & Co. Frankfurt a.M. – Berlin 1868-1939* 18 (1962).

⁷ *Id.* at 44-45.

⁸ *Toledo Museum of Art v. Ullin*, 477 F. Supp. 2d 802, 804 - 805 (N.D. Ohio 2006). This is the version of the facts submitted by Martha Nathan’s heirs in their suit against the Toledo Museum of Art. The District Court, which ruled that the claim of Martha Nathan’s heirs was barred by Ohio’s four-year statute of limitations, did not reach a determination as to the facts of the case.

Following World War II and the fall of the Nazi regime, Martha Nathan pursued claims for her wartime losses that resulted from Nazi persecution including the exit tax she paid, the sale of her home for less than its fair market value, the six paintings she turned over to the Staedel Art Institute and the household items she left in storage in France. Martha Nathan continued to live in Switzerland until she died in 1958 at the age of eighty-three. Her brother, [REDACTED], was Co-Executor of her estate until his death in 1977.

...

Martha Nathan and later her estate successfully pursued restitution and damages for wartime losses that resulted from Nazi persecution. [REDACTED] also actively pursued compensation for his family's wartime losses and even filed a civil action in U.S. Federal Court in 1973 to obtain further compensation for his interest in the family's German banking firm which allegedly was sold in 1938 under duress for below its actual value.⁹

Information Available in the Bank's Records

The Bank's records consist of customer cards, account ledgers, and correspondence, dated from 1923 to 1937, between the Bank, the Account Owner, the Power of Attorney Holder and [REDACTED]. According to these records, the Account Owner was *Frau* (Mrs.) Martha Nathan, née Dreyfus, who provided correspondence addresses of Mendelssohnstrasse 68 in Frankfurt am Main, Germany; followed by Tödistrasse 16 in Zurich as of 10 February 1937; in Paris, France, as of 30 September 1937; and at the *Hotel de la Residence* in Geneva, Switzerland, as of 24 November 1939.

The Bank's records indicate that the Power of Attorney Holder was the Account Owner's brother, Prof. Dr. [REDACTED], who resided in Basel, Switzerland, in 1923, and, according to Bank correspondence dated between 1927 and 1931, at Waidmannstrasse 18 in Frankfurt. According to the Bank's records, the Power of Attorney Holder was the director of the neuropathy (*Nervenkrankheiten*) department and clinic at the municipal hospital in Frankfurt (*Direktor der Abteilung und Poliklinik für Nervenranke im Städtischen Krankenhaus*). These records also indicate that the Power of Attorney Holder resided at Tödistrasse 16 in Zurich as of 1933 or earlier.

The Bank's records indicate that the Account Owner initially held a custody account and a demand deposit account, both numbered 1125. Upon the verbal instructions of [REDACTED] of Berlin, Germany, on 26 April 1935 both of those numbered accounts were liquidated and transferred into a custody and a demand deposit account held under the Account Owner's own

⁹ *Id.* at 804-805. See also *Detroit Institute of Arts v. Ullin*, 2007 U.S. Dist. LEXIS 28364 (E.D. Mich. 2007); and *Dreyfus v. von Finck*, 534 F. 2d 24 (2d Cir. 1976).

name, as opposed to a numbered account relationship, with retroactive effect as of 1 January 1935.¹⁰

The Bank's records also contain a handwritten and signed letter from the Account Owner to the Bank dated 10 February 1937, in which she requested that her brother, [REDACTED], who resided in Zurich, manage all of her assets, and directed the Bank going forward to access her custody account only with her brother's express permission.¹¹ The letter also indicates that the Account Owner resided at Tödistrasse 16 in Zurich as of the date of the letter.

According to a letter in the file dated 27 December 1932 to a man named Julius Kaufman, care of *J. Dreyfus & Co.* in Berlin, interest and coupon payments from the Account Owner's accounts at the Bank were credited to an account in her name at *J. Dreyfus & Co.* in Berlin.

The records also contain a letter from [REDACTED] of *J. Dreyfus & Co.* in Berlin to the Bank, dated 30 September 1937. In that letter, [REDACTED] wrote that he was changing his prior instructions to the Bank regarding the transfer of interest and dividend payments from the Account Owner's demand deposit and custody accounts, which had previously been sent to *J. Dreyfus & Co.* in Berlin. Rather, [REDACTED] wrote, all such payments should henceforth be sent to the *Deutsche Bank und Disconto-Gesellschaft*, Frankfurt branch, in the Account Owner's name.¹² The letter also indicates that the Account Owner resided in Paris as of the date of the letter. In the letter, [REDACTED] also requested confirmation of his instructions, but the file made available to the CRT contains no record of the Bank's confirmation. Aside from a handwritten notation of the Account Owner's address in Geneva on 24 November 1939, [REDACTED]' letter of 30 September 1937 is the last document contained in the Bank's records pertaining to the Account Owner. The Bank's records do not indicate the balance of these accounts.

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 these accounts in the Bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no activity on the accounts after 1945. There is no evidence in the Bank's records that the Account Owner, the Power of Attorney Holder, or her heirs closed the accounts and received the proceeds themselves.

¹⁰ The German original reads: "Gemäss mündlichen Instruktionen von Herrn Willy Dreyfus, Berlin, ist mit Wirkung ab 1. Januar 1935 das Konto & Depot No. 1125 aufzulösen & auf Konto resp. Depot Frau Martha Nathan, Frankfurt a/M zu übertragen. Basel, 26. April 1935."

¹¹ The German original reads: "[B]itte ich Sie hierdurch höfl. über mein Depot bei Ihnen fürderhin nur mit seinem ausdrücklichen Einverständnis zu verfügen."

¹² The German original reads: "Unter Abänderung meiner früheren ständigen Instruktion bitte ich Sie, in Zukunft den Gegenwert von fälligen Zins- und Dividendenscheinen nicht mehr an mein Berliner Haus, sondern an die Deutsche Bank und Disconto-Gesellschaft Filiale Frankfurt (Main), Frankfurt am Main, für Rechnung von Frau Martha Nathan zu überweisen."

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 five claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1] has plausibly identified the Account Owner. Claimant [REDACTED 1]'s great-aunt's name and city of residence match the published name and city of residence of the Account Owner. Additionally, Claimant [REDACTED 1] identified extensive unpublished information contained in the Bank's records, including the name and location of the Bank, the name and profession of the Power of Attorney Holder and his relationship to the Account Owner, the name of [REDACTED], the Account Owner's maiden name, and the unpublished cities and countries of residence of the Account Owner and the Power of Attorney Holder, including the Account Owner's exact street address in Frankfurt and the Power of Attorney Holder's exact street address in Zurich.

Claimant [REDACTED 1] also submitted a sample of his relative's signature, which matches the signature of the Account Owner contained in the Bank's records.

In support of his claim, Claimant [REDACTED 1] submitted documents, including a German police registration form, indicating that Martha Nathan, née Dreyfus, resided in Paris and at Mendelssohnstrasse 68 in Frankfurt; an extract from the family register in Basel, showing that [REDACTED], Martha Nathan, and [REDACTED] were siblings; a certificate issued by the Zurich police department, showing that [REDACTED] was a medical doctor specializing in neuropathy, and that he resided at Tödistrasse 16 in Zurich; Claimant [REDACTED 1]'s father's marriage certificate, indicating that the latter's father, [REDACTED], was a medical professor; an application for compensation from a German hardship fund from 1956, indicating that Martha Nathan, née Dreyfus, resided in Geneva; and a signed statement by Martha Nathan, née Dreyfus, indicating that she resided in Frankfurt, Paris, and Geneva.

These documents provide independent verification that the persons who are claimed to be the Account Owner and the Power of Attorney Holder had the same names, street addresses, cities of residence, and family relationship to one another, and in the case of the Power of Attorney Holder the same profession, as those of the Account Owner and the Power of Attorney Holder.

The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. According to the information and documents submitted by Claimant

[REDACTED 1], the Account Owner, who was Jewish, fled Germany in February 1937 in order to escape Nazi persecution. Additionally, the Account Owner was forced to pay a flight tax, to surrender ownership of several valuable paintings, and to sell her home for approximately one-half its value; and her household belongings were seized by Nazi authorities in France.

The Claimants' Relationship to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he and the parties he represents are related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was their great-aunt. These documents include an extract from the family register in Basel, indicating that the Account Owner and [REDACTED] were siblings; Claimant [REDACTED 1]'s father's marriage certificate, indicating that [REDACTED]'s father was [REDACTED]; [REDACTED]' will, indicating that his children are Claimant [REDACTED 1], represented party [REDACTED 3], and represented party [REDACTED 2], née [REDACTED]; and [REDACTED]' death certificate, indicating that he was Claimant [REDACTED 1]' father.

Claimant [REDACTED 1] also submitted letters addressed to seventeen heirs of Martha Nathan, née Dreyfus, including Claimant [REDACTED 1], Claimant [REDACTED 5], and represented parties [REDACTED 6], [REDACTED 2], [REDACTED 3], and [REDACTED 4], from attorneys pursuing restitution claims on their behalf in courts in the United States for paintings owned by the Account Owner.

Additionally, Claimant [REDACTED 5] submitted the birth certificate of his grandmother, [REDACTED], née [REDACTED], and Claimant [REDACTED 8] submitted the death certificate [REDACTED]'s son, [REDACTED], showing that [REDACTED]'s maiden name was the same as the Account Owner's married name.

The CRT notes that Claimant [REDACTED 1] indicated that the Account Owner has other surviving relatives and potential heirs, in addition to Claimant [REDACTED 5], Claimant [REDACTED 8], and the parties they represent, but that because they are not represented in the Claimants' claims, the CRT will not treat their potential entitlement to the Account Owner's accounts in this decision.

The Issue of Who Received the Proceeds

The CRT notes that the Bank was owned by members of the Account Owner's family and that the Account Owner was in Switzerland in February 1937, at which time she instructed the Bank not to access her account without the express permission of the Power of Attorney Holder, who resided in Zurich. Additionally, the Bank noted in its records that the Account Owner resided in Switzerland in November 1939, when the Account Owner provided the Bank with her address in Geneva, suggesting that an account relationship continued to exist after she moved to Switzerland.

However, in September 1937 the Account Owner's other brother, [REDACTED], directed the Bank to send all dividend payments from the Account Owner's custody account at the Bank to

the [REDACTED], rather than sending the dividends to the Account Owner's account at [REDACTED] in Berlin as previously instructed. Therefore, it is clear that the [REDACTED], and hence, the German authorities, became aware that the Account Owner held assets at a Swiss bank no later than this date. Additionally, as noted above, at the time [REDACTED] wrote to the Bank regarding the Account Owner's account, [REDACTED] in Germany was in the process of being "aryanized." Finally, the CRT notes that the Account Owner was obliged to return to Germany in May or June 1938 in order to sell her house.

The CRT notes that the Account Owner was forced to pay a flight tax of RM 87,431.25, for which she sought restitution from the German government after the Second World War. However, the restitution of the flight tax does not affect the outcome of this Award, as there is no indication in the Bank's records or the Claimants' submissions that the above-mentioned interest and dividend payments destined for the [REDACTED], or the principal of the Account Owner's accounts at the Bank, were used to pay the Account Owner's flight tax.

In light of the facts above, and given that the Account Owner's brother, [REDACTED], and possibly other relatives, remained in Germany after the Account Owner fled, and that the Account Owner may therefore have yielded to Nazi pressure to turn over her accounts to ensure their safety, that the Bank's records do not indicate when the accounts were closed, or by whom, and given the application of Presumption (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 Owner, the Power of Attorney Holder, or the Account Owner'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 Claimant [REDACTED 1] and the parties he represents. 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 the Account Owner was his great-aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, nor the Power of Attorney Holder, nor the Account Owner's heirs received the proceeds of the claimed accounts.

Further, the CRT notes that, in the absence of a complete chain of wills or other inheritance documents pertaining to the Account Owner and her heirs, Claimant [REDACTED 1] and the parties he represents, as the Account Owner's great-nephews and nieces, have a better entitlement to the accounts than Claimant [REDACTED 5], Claimant [REDACTED 8], and the parties they represent, who are related to the Account Owner by marriage only.

Amount of the Award

In this case, the Account Owner held a demand deposit account and a custody account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the

average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs (“SF”) and the average value of a custody account was SF 13,000.00. Thus, the combined 1945 average value for the two accounts at issue is SF 15,140.00.¹³ The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 189,250.00.

Division of the Award

Because the Claimants have not submitted a complete chain of wills or other inheritance documents pertaining to the Account Owner, the CRT shall proceed according to the General Rules on Distribution as set forth in Article 23(1) of the Rules, which provides criteria for awards in the absence of a will or other inheritance documents. Under 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.

In this case, Claimant [REDACTED 1], [REDACTED 2], [REDACTED 3], and [REDACTED 4], are descendants of the Account Owner's brother, [REDACTED]. Claimant [REDACTED 5], [REDACTED 6], [REDACTED 7], Claimant [REDACTED 8], and [REDACTED 9] are descendants of the Account Owner's husband's sister, [REDACTED]. Therefore, in the absence of the Account Owner's will or other inheritance documents, Claimant [REDACTED 1] and the parties he represents, as descendants of the Account Owner's parents, are better entitled to the Account Owner's accounts than Claimant [REDACTED 5], Claimant [REDACTED 8], and the parties they represent, who are related to the Account Owner by marriage only.

Accordingly, as the child of one of the two children of the Account Owner's brother, [REDACTED], represented party [REDACTED 4] is entitled to one-half of the award amount. As the children of [REDACTED]'s other child, Claimant [REDACTED 1], [REDACTED 2], and [REDACTED 3] are entitled to equal shares of the other half of the award amount, or one-sixth each.

As noted above, according to the information submitted by Claimant [REDACTED 1], the Account Owner has additional relatives and potential heirs, in addition to the Claimants and represented parties addressed in this Award. The CRT notes that the Acknowledgement Form accompanying this Award provides that in the event that other heirs of the Account Owner entitled under Article 23 make a claim to these accounts, Claimant [REDACTED 1] and the parties he represents shall share any payment with them.

¹³ The CRT notes that, in an Order dated 16 June 2010, the Court amended Article 29 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), which establishes value presumptions for accounts with unknown or low values. Full information regarding the methodology and procedure used to determine the revised Article 29 presumptive values is available at www.swissbankclaims.com. The CRT notes that any adjustment for accounts awarded at the previous presumptive value amounts, such as the custody and demand deposit accounts described herein, will be addressed to the Claimants separately.

Certification of the Award

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

Claims Resolution Tribunal
17 December 2010