

# 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 [REDACTED 3]

### **in re Accounts of Emma and Carl Popper**

Claim Numbers: 401732/TC; 401733/TC<sup>1</sup>

Award Amount: 374,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 1] (the “Claimant”) to the published accounts of Emma Popper (“Account Owner Emma Popper”) and Dr. Carl Popper (“Account Owner Carl Popper”) (together the “Account Owners”) at the Zurich branch of the [REDACTED] (“Bank I”), and at the Zurich branch of the [REDACTED] (“Bank II”) (together the “Banks”).<sup>2</sup>

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 owners, and the bank have been redacted.

### **Information Provided by the Claimant**

The Claimant submitted two Claim Forms identifying the Account Owners as his paternal grandparents, Emma (Emilie) Popper, née Grünbaum, who was born in approximately 1880 in Falkenau, Germany, and Dr. Carl Popper, who was born in approximately 1868 in Kralowice, Austria-Hungary (now the Czech Republic). The Claimant indicated that his grandparents, who were Jewish, were married in Vienna, Austria, in approximately 1902, and that they resided in Praterstrasse in Vienna until 1939. The Claimant stated that while his grandmother was a homemaker, his grandfather was a physician, who also had his medical practice in Praterstrasse. The Claimant explained that his grandparents fled Austria in 1939 and after a short stay in Prague, Czechoslovakia (now the Czech Republic), emigrated to Chicago, Illinois, the United

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<sup>1</sup> The Claimant submitted an additional claim, which is registered under the Claim Number 401731. In a separate decision, the CRT treated the Claimant’s claim to the account of Franz Grünbaum. See *In re Account of Franz Grünbaum* (approved on 14 September 2007).

<sup>2</sup> The CRT notes that 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”), only the name Emma Popper appears. Upon careful review, the CRT has concluded that the account was jointly held by Emma and Carl Popper.

States, in 1940. The Claimant further indicated that his grandparents had one son, [REDACTED], who married [REDACTED 2], née [REDACTED]. Finally, the Claimant stated that [REDACTED] and [REDACTED 2], née [REDACTED], had two sons, the Claimant, [REDACTED 1], and his brother, [REDACTED 3].

In support of his claim, the Claimant submitted copies of the following documents: (1) his grandparents' United States Certificates of Naturalization, indicating that Dr. Carl Popper and Emilie Popper were both from Austria, and were 77 and 65 years old, respectively, on 27 July 1945; (2) his father's death certificate, indicating that [REDACTED] was born in Austria to Carl Popper and Emma Popper, née Grünbaum, and that he was married to [REDACTED 2], née [REDACTED]; (3) his father's last will, indicating that [REDACTED] was married to [REDACTED 2] and had two sons, [REDACTED 3] and [REDACTED 1], and indicating that his wife, [REDACTED 2], is his sole heir; and (4) the Claimant's own birth certificate, indicating that [REDACTED 1] is the son of [REDACTED] and [REDACTED 2], née [REDACTED], both born in Austria.

The Claimant indicated that he was born on 26 March 1944 in Chicago. The Claimant is also representing his mother, [REDACTED 2], née [REDACTED], who was born on 4 July 1917 in Vienna, and his brother [REDACTED 3], who was born on 30 March 1946 in Chicago.

## **Information Available in the Banks' Records**

### Bank I

Bank I's records consist of a contract for a joint account and printouts from Bank I's database. According to these records, the Account Owners were Emma Popper and Dr. Carl Popper, both of whom resided in Praterstrasse 15 in Vienna, Austria.

These records indicate that the Account Owners jointly owned two accounts at Bank I, one custody account,<sup>3</sup> opened 1 November 1929, and one account, the type of which is not indicated, which was opened in 1931. Bank I's records do not indicate the value 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 Bank I's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on these accounts after 1945. There is no evidence in Bank I's records that the Account Owners or their heirs closed the accounts and received the proceeds themselves.

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<sup>3</sup> Bank I's records contain a contract for a joint account form that references a "*Titeldepot*," which is a custody account. Such forms were typically used by the Bank at the time regardless of whether the account in question was in fact a custody account. Although this form therefore does not necessarily demonstrate that the Account Owners held a custody account, in the absence of evidence to the contrary, the CRT concludes that it is plausible that they held such an account.

## Bank II

Bank II's record consists of a report compiled by the auditors who carried out the ICEP Investigation (the "Auditor's Report"). According to the Auditor's Report, the Account Owner was Emma Popper, who resided in Vienna. Bank II's record indicates that Account Owner Emma Popper held a numbered custody account, number 11118, which was opened on 28 May 1931.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended ("the Rules"), the CRT requested the voluntary assistance of Bank II to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents, which consist of a list of custody accounts closed by 31 December 1941 and a ledger sheet. These documents indicate that Emma Popper and Dr. Carl Popper jointly owned the custody account numbered 11118, and that it was closed on 10 August 1938. The amount in the account on the date of its closure is unknown. There is no evidence in Bank II's records that the Account Owners or their heirs closed the account 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, 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 Dr. Carl Popper, numbered 12087.

These records include Dr. Carl Popper's 1938 Census declaration, dated 9 July 1938, and various updates in which he stated that he was born on 11 July 1867, was married to Emilie Popper, née Grünbaum, and was a medical doctor with a practice at Praterstrasse 15 in Vienna II, Austria, where he also resided. Dr. Carl Popper further stated that as of 27 April 1938 the value of his medical practice was 2,000.00 Reichsmark ("RM"), and that he owned various securities worth RM 29,847, cash amounting to RM 19,361 and jewelry valued at RM 2,534.00. The records do not indicate the location of the securities, but in a letter to the *Vermögensverkehrsstelle* ("VVSt." (the Department in the Economics Ministry charged with administering Jewish-owned assets)), dated 6 September 1938, Dr. Popper noted that most of these securities were sold on 31 May 1938, 28 June 1938, and 22 July 1938 and that the proceeds were deposited into his accounts at the *Postsparcasse* [sic] and at the *Länderbank*.

In a statement declaring his assets as of 12 November 1938, filed on 13 December 1938, Dr. Carl Popper stated that his remaining securities were in his account at the *Länderbank* in Vienna. He further indicated that he owned 100 R.M. *Realisations* shares and 250 shares of Selection Trust, together valued at 250 Pound Sterling ("£"), against which there was a claim of £ 438.14, in a custody account of Bailey, Kindersley & Co, London, the United Kingdom and that one half of these assets belonged to his wife. According to an internal VVSt. note to file, dated 27 January 1939, by that time most of Dr. Carl Popper's securities had been sold and the proceeds had been used to pay "flight tax" (*Reichsfluchtsteuer*) to the approximate amount of RM 21,750.00, as

well as other taxes in the amount of RM 5,000.00, and remaining securities had been exchanged for treasury paper valued at RM 13,000.00 and placed in a “blocked account” (*Sperrkonto*). According to this note, Dr. Popper’s liquid assets had been reduced to RM 5,000.00 by expenditures associated with his and his family’s emigration and cost of living.

The records of Dr. Carl Popper make no mention of assets held in a Swiss bank.

The records in the Austrian State Archive also contain documents concerning the assets of Emilie Popper, numbered 12088. According to these records, Emilie Popper, neé Grünbaum, who was born on 8 July 1879, was married to Dr. Carl Popper and resided at Praterstrasse 15 in Vienna II. On 9 July 1938, Emilie Popper declared that she owned financial assets, jewelry and other belongings valued at RM 4,050.00 as of 27 April 1938. Emilie Popper’s 1938 Census declaration also indicates that she held two Swiss Federal Railway (*Schweizer Bundesbahnen*) bonds in the value of 1,425.00 Swiss Francs (“SF”) and SF 2,280.00 as of 27 April 1938. Emilie Popper indicated in her 1938 Census declaration that she had assets at Bank II with a value of £ 385.18 as of 27 April 1938, against which there was a claim amounting to £ 438.14 relating to holdings in a custody account at Bailey, Kindersley & Co, London, of 100 R.M. *Realisation* shares and 250 *Selektion* Trust shares. The documents do not indicate the type of account that Emilie Popper held at Bank II.

With respect to the accounts held at Bank I, Emilie Popper initially did not mention an account when she filed her 1938 Census declaration on 9 July 1938. However, Emilie Popper’s records contain a letter dated 6 September 1938 relating to this account. In this letter, Emilie Popper stated that she sold £386.12.3 held in a custody account at Bank I on 3 August 1938 to the *Reichsbank* and received the exchange value of RM 4,715.67 by postal check (*Postbarscheck*). While Emilie Popper’s 1938 Census declaration indicates this specific transaction, the value of this account remains unknown, as Emilie Popper’s 1938 Census declaration does not contain any further information on this account.

## **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 Claimant’s grandparents’ names match the published names of the Account Owners. The Claimant also identified Emma and Carl Popper’s street address and city and country of residence, as well as Carl Popper’s doctor title, which matches unpublished information about Account Owners Emma Popper and Dr. Carl Popper contained in the Banks’ records.

Furthermore, the Claimant's information on Emma Popper's and Dr. Carl Popper's street address, city and country of residence, and Dr. Carl Popper's profession, professional title and street address of employment also matches information contained in Emilie Popper's and Carl Popper's 1938 Census declarations.

In support of his claim, the Claimant submitted certificates of naturalization of Emilie and Carl Popper, providing independent verification that the persons who are claimed to be the Account Owners had the same name and country of residence recorded in the Banks' records as the name and country of residence of the Account Owners.

The CRT notes that the other claims to these accounts were disconfirmed because those claimants did not provide the doctor title of the Account Owner Carl Popper or provided different countries of residence than the country of residence of the Account Owners.

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

The Claimant has made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimant stated that the Account Owners were Jewish, and that they resided in Vienna, Austria, until 1939. The CRT notes that the Account Owners' 1938 Census declarations confirm that they resided in Vienna and were targeted as Jewish after the incorporation of Austria into the Reich in March 1938 (the "Anschluss").

#### The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that he is related to the Account Owners by submitting specific information and documents, demonstrating that the Account Owners were the Claimant's grandparents. These documents include: (1) [REDACTED]'s certificate of death, indicating that he is the son of Carl Popper and Emma Grünbaum; (2) [REDACTED]'s last will, indicating that he was married to [REDACTED 2] and had two sons, [REDACTED 3] and [REDACTED 1]; and (3) the Claimant's own birth certificate, identifying him as the son of [REDACTED] and [REDACTED 2], née [REDACTED]. There is no information to indicate that the Account Owners have other surviving heirs other than the parties the Claimant is representing.

#### The Issue of Who Received the Proceeds

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 the Account Owners reported the accounts in the 1938 Census; that the Account Owners lived in Austria until they emigrated in 1939, and therefore could not have repatriated the accounts without losing ultimate control over its proceeds; and given the application of Presumptions (d), (h) and (j) as provided in Article 28 of the Rules (See Appendix A), the CRT concludes that it is plausible that the proceeds were not paid to the Account Owners or their heirs. Based on its precedent and the

Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant and represented party [REDACTED 3]. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owners were his grandparents and that relationship justifies 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 account.

Further, the CRT notes that the Claimant and represented party [REDACTED 3], as the Account Owners' grandsons, have a better entitlement to the accounts than represented party [REDACTED 2], the Account Owners' daughter-in-law.

### Amount of the Award

In this case, the Account Owners held three accounts: one custody account and one account of unknown type at Bank I, and one custody account at Bank II. 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 custody account was SF 13,000.00 and the average value of an unknown account was SF 3,950.00. Therefore the combined 1945 value of the three accounts at issue is SF 29,950.00. 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 374,375.00.

### Division of the Award

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. In this case, the Claimant is representing his mother, [REDACTED 2], née [REDACTED], and his brother, [REDACTED 3], in these proceedings. Accordingly, the Claimant and represented party [REDACTED 3] are each entitled to one-half of the total award amount. As noted above, represented party [REDACTED 2] is not entitled to share in the award.

### **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 his claim to determine whether there are additional Swiss bank accounts to which he 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  
24 September 2008