

# 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],  
[REDACTED 4] and [REDACTED 5]

and to Claimant [REDACTED 6]  
also acting on behalf of [REDACTED 7]

## **in re Accounts of the Estate of Berta Trier**

Claim Numbers: 218040/MI;<sup>1</sup> 218042/MI; 224269/MI

Award Amount: 189,250.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED 1] (“Claimant [REDACTED 1]”) to the accounts of Estate of Berta Trier and the claim of [REDACTED 6] (“Claimant [REDACTED 6]”) (together “the Claimants”) to the account of Hans Brunner.<sup>2</sup> This Award is to the published accounts of the Estate of Berta Trier (the “Account Owner”) at the Zurich branch of the [REDACTED] (the “Bank”).<sup>3</sup>

All awards are published, but where a claimant has requested confidentiality, as Claimant [REDACTED 6] has in this case, the names of the claimants, any relatives of the claimants other than the account owner, and the bank have been redacted.

---

<sup>1</sup> Claimant [REDACTED 1] submitted seven Claim Forms, which are registered under the Claim Numbers 218040, 218041, 218042, 218043, 218044, 218055, and 401185. The CRT has determined that claims 218040 and 218041 are duplicate claims and is treating them under the consolidated Claim Number 218040. The CRT will treat claims 218043, 218045, and 401185 in separate determinations. With respect to claim 218044, in a separate decision, the CRT awarded the accounts of Maria Brunner to Claimant Brunner. See *In re Accounts of Maria Brunner* (approved on 25 October 2002).

<sup>2</sup> In a separate decision, the CRT awarded the account of Hans Brunner to Claimant [REDACTED 6] and two unrelated claimants. See *In re Account of Hans Brunner* (approved on 14 December 2005).

<sup>3</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”), Berta Trier, *Selig* (also known as Berta Brunner, *Selig*) is indicated as having three accounts, and [REDACTED] and [REDACTED] are listed as having power of attorney over these accounts. Upon careful review, the CRT has concluded that the Bank’s records indicate the Account Owner was Berta Trier, née Brunner, that the Account Owner held two accounts, which were transferred to the Account Owner’s Estate after her death, and that [REDACTED] was the beneficiary of the Account Owner’s Estate.

## Information Provided by the Claimants

### Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as the Estate of his paternal great-aunt, [REDACTED], née [REDACTED], who was born on 11 October 1852 in Hohenems, Austria, and was married to [REDACTED] on 10 September 1876 in Darmstadt, Germany. According to Claimant [REDACTED 1], Berta Trier's parents, [REDACTED] and [REDACTED], née [REDACTED] had five children: [REDACTED], [REDACTED] (Claimant [REDACTED 1]'s paternal grandfather), [REDACTED], [REDACTED], and [REDACTED]. Claimant [REDACTED 1] stated that Berta Trier's father, [REDACTED], founded and operated a bank in St. Gallen, Switzerland, called *Marco Brunner Bank*. Claimant [REDACTED 1] stated that his great-aunt, who was Jewish, lived in Frankfurt, Germany, where her husband was a banker, and that she made frequent trips to St. Gallen to see her father and for business purposes.

Claimant [REDACTED 1] indicated that his great-aunt had three children: [REDACTED], [REDACTED], and [REDACTED]. Claimant [REDACTED 1] further indicated that his great-aunt's husband predeceased her in 1904 and that his great-aunt died in 1939. According to Claimant [REDACTED 1], [REDACTED] emigrated to New York, United States, on an unknown date, where he died in 1939. Claimant [REDACTED 1] stated that all three of his great-aunt's children died without issue, and that he and the parties whom he is representing are his great-aunt's only surviving heirs.

Claimant [REDACTED 1] stated that his paternal grandfather, [REDACTED], was married to [REDACTED], and that they had five children: [REDACTED], [REDACTED] (Claimant [REDACTED 1]'s father), [REDACTED], [REDACTED], and [REDACTED]. According to Claimant [REDACTED 1], [REDACTED] was married to [REDACTED], and, prior to the Second World War, they lived in Mödling, Austria, and Vienna, Austria, where his father was a factory owner. Claimant [REDACTED 1] stated that after the incorporation of Austria into the Reich in March 1938 (the "*Anschluss*"), his father, who was Jewish, fled Austria with Claimant [REDACTED 1] and Claimant [REDACTED 1]'s sister, [REDACTED].

According to Claimant [REDACTED 1], his father's sister [REDACTED] married [REDACTED] and had three children: [REDACTED], who was born on 19 October 1917 in Vienna; [REDACTED], who was born on 12 April 1925 in Vienna, and [REDACTED], who has passed away. Claimant [REDACTED 1] indicated that he was born on 13 March 1926 in Vienna. Claimant [REDACTED 1] is representing [REDACTED 2] and [REDACTED 3] (the children of [REDACTED], née [REDACTED]) and their niece and nephew (the children of the late [REDACTED], [REDACTED]): [REDACTED 4], née [REDACTED], and [REDACTED 5], who were born on 8 December 1944 and 6 April 1947, respectively, both in Pasadena, California, United States.

### Claimant [REDACTED 6]

Claimant [REDACTED 6] submitted a Claim Form to claim the account of another relative. In that claim form, Claimant [REDACTED 6] provided extensive family information, in which the

CRT has identified a related person with the name, Berta Trier, who was born in 1852 and was married to [REDACTED]. Claimant [REDACTED 6] indicated that Berta Trier was the daughter of [REDACTED], who was the brother of [REDACTED], Claimant [REDACTED 6]’s great-great-grandfather. Claimant [REDACTED 6] indicated that Berta Trier died in 1939. Claimant [REDACTED 6] submitted a detailed family tree and various documents, including an extract from a family register, which indicates that his maternal grandfather was [REDACTED] of [REDACTED].

Claimant [REDACTED 6] indicated that he was born on 5 July 1960 in Zurich, Switzerland. Claimant [REDACTED 6] is representing his brother, [REDACTED], who was born in 1953, also in Zurich.

The CRT notes that, although Claimant [REDACTED 6] did not claim this account and explicitly stated that he is not entitled to it, his claim is included here because the information he provided substantiates and complements the information provided by Claimant [REDACTED 1].

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

The Bank’s records consist of a customer card, a power of attorney form, documents relating to the 1945 freeze of assets held in Switzerland by the citizens of Germany and the territories incorporated into the Third Reich (the “1945 Freeze”), internal memoranda, a list of accounts, and printouts from the Bank’s database. According to these records, the Account Owner was *Frau* (Mrs.) *Wwe.* (widow) Berta Trier, née [REDACTED], who resided in Frankfurt am Main, Germany. The Bank’s records indicate that Berta Trier, who died on 4 December 1924 held a custody account and a demand deposit account, both numbered [REDACTED], and that the accounts were subsequently transferred to the Estate of Berta Trier. The bank’s records further indicate that Berta Trier’s heir was her son, [REDACTED], who resided in New York, New York, the United States. The Bank’s records indicate that on 25 May 1932, [REDACTED] granted power of attorney over the accounts to [REDACTED], who resided at Wiesenau 18 in Frankfurt am Main.

The Bank’s records indicate that the accounts were blocked in the 1945 Freeze. According to the Bank’s records, as of 17 February 1945 the custody account contained 4 shares in *Société de Bruxelles pour la Finance et l’Industrie S.A. Brufina* of Brussels, Belgium, with a total market value of 40.00 Swiss Francs (“SF”), and the demand deposit account had a balance of 1,069.00 Belgian Francs , which was equivalent to SF 106.90. The Bank’s records further indicate that the accounts were released from the 1945 Freeze on 8 August 1955, that the value of the shares in the custody account as of this date was SF 586.50, and that the balance of the demand deposit account on the same date was SF 342.50.

The Bank’s records indicate that the Bank sent a letter to [REDACTED] on 12 April 1950, but there is no indication whether any response to this letter was received. The Bank’s records further indicate that the shares held in the custody account became valueless, and that the Bank considered booking them out in 1971. The Bank’s records also indicate that the Bank wrote to [REDACTED] on 9 March 1971, and that the letter was returned with a remark “unknown.”

The Bank's records do not indicate when the accounts were closed. 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 evidence of activity on these accounts after 1945. There is no evidence in the Bank's records that the beneficiary of the Account Owner's Estate, the Power of Attorney Holder or their heirs closed the accounts and received the proceeds themselves.

## **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 three claims of the Claimants in one proceeding.

### Identification of the Account Owner

The Claimants have plausibly identified the Account Owner. Claimant [REDACTED 1]'s paternal great-aunt's name, city, and country of residence match the published name, city, and country of residence of the Bertha Trier, whose assets were transferred to the Account Owner. Claimant [REDACTED 1] indicated that his great-aunt had a son named [REDACTED] and that he resided in New York, which matches unpublished information contained in the Bank's records. The information provided by Claimant [REDACTED 6], including the detailed family tree, indicates that Claimant [REDACTED 1] and Claimant [REDACTED 6] are related, and that Claimant [REDACTED 6]'s great-great-grandfather's brother was the father of the person whose assets were transferred to the Account Owner. The CRT notes that the Claimants stated that their relative died in 1939, while the Bank's records indicate that the person whose assets were transferred to the Account Owner died in 1924. However, given that Claimant [REDACTED 1] was born in 1926 and that Claimant [REDACTED 6] was born in 1960, and therefore never met their relative, the CRT concludes that this inconsistency does not affect the Claimants identification of the Account Owner. In support of their claims, the Claimants submitted detailed family trees, providing independent verification that the person who is claimed to be the person whose assets were transferred to the Account Owner had the same name recorded in the Bank's records as the name of the Account Owner. The CRT notes that there are no other claims to these accounts.

### Status of the Account Owner as a Target of Nazi Persecution

The CRT notes that Bertha Trier died in 1924, and thus was not a Victim of Nazi Persecution. However, Claimant [REDACTED 1] has made a plausible showing that the Account Owner, the Estate of Bertha Trier, was a Target of Nazi Persecution. The CRT notes that the accounts were

frozen in the 1945 Swiss Freeze of German assets, which indicates that the Bank considered the accounts to be owned by a German national. The CRT notes that the Account Owner's son and heir had no access to the accounts while they were frozen. The CRT also notes that the Account Owner's nephew, [REDACTED], was a Victim of Nazi Persecution. Claimant [REDACTED 1] stated that the Account Owner's nephew was Jewish and fled Austria with his children after the *Anschluss*.

#### The Claimants' Relationship to the Account Owner

The Claimants have plausibly demonstrated that they are related to the Account Owner by submitting specific biographical information and a detailed family tree, demonstrating that the Account Owner was the Estate of Claimant [REDACTED 1]'s paternal great-aunt and the daughter of Claimant [REDACTED 6]'s great-great-grandfather's brother. There is no information to indicate that the Account Owner has surviving heirs other than the parties whom Claimant [REDACTED 1] is representing. The CRT further notes that Claimant [REDACTED 1] identified unpublished information about the Account Owner as contained in the Bank's records. All of this information supports the plausibility that Claimant [REDACTED 1] is related to the person whose assets were transferred to the Account Owner, as he has asserted in his Claim Forms. The CRT notes that Claimant [REDACTED 1] and the persons he represents, as descendants of the Account Owner's parents, are more entitled to the accounts than Claimant [REDACTED 6] and his brother, who are descendants of the grandparents of the person whose assets were transferred to the Account Owner.

#### The Issue of Who Received the Proceeds

Given that Bertha Trier died in 1924; that the Account Owner's son died in 1939 while living in New York; that there is no record of the payment of the Account Owner's accounts to the beneficiaries of Bertha Trier's Estate, nor any record of a date of closure of the accounts; that the Bank's post-War letters regarding the accounts either went unanswered or were returned marked "unknown"; that the Account Owner and its beneficiaries heirs would not have been able to obtain information about her 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, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the beneficiary of the Account Owner's Estate, the Power of Attorney Holder, 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 Claimant [REDACTED 1] and represented parties [REDACTED 2], [REDACTED 3], [REDACTED 4], and [REDACTED 5]. First, the claim is 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

paternal great-aunt, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the beneficiary of the Account Owner's Estate, nor the Power of Attorney Holder nor their heirs received the proceeds of the claimed accounts.

#### Amount of the Award

In this case, the Account Owner held one demand deposit account and one custody account. The Bank's records indicate that the value of the custody account as of 17 February 1945 was SF 40.00, and that the balance of the demand deposit account on the same date was SF 106.90. According to Article 29 of the Rules, if the amount in a demand deposit account was less than SF 2,140.00 and if the amount in a custody account less than 13,000.00, and in the absence of plausible evidence to the contrary, the amount in the demand deposit account shall be determined to be SF 2,140.00, and the amount in the custody account shall be determined to be SF 13,000.00 for a combined value of SF 15,140.00 for the two accounts at issue. The current value of the amount of the award 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, to produce a total award amount of SF 189,250.00.

#### 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 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 share by representation. In this case, Claimant [REDACTED 1] is representing [REDACTED 2] and [REDACTED 3] (the children of [REDACTED]) and [REDACTED 4] and [REDACTED 5] (the children of [REDACTED]'s late daughter [REDACTED], née [REDACTED]). Accordingly, Claimant [REDACTED 1], as child of [REDACTED]'s son [REDACTED], is entitled to one-half of the total award amount; represented parties [REDACTED 2] and [REDACTED 3], as children of [REDACTED]'s daughter [REDACTED], are each entitled to one-sixth of the total award amount; and represented parties [REDACTED 4] and [REDACTED 5], as grandchildren of [REDACTED]'s daughter [REDACTED], are each entitled to one-twelfth of the total award amount.

As noted above and as Claimant [REDACTED 6] has himself noted in correspondence with the CRT, Claimant [REDACTED 6] and represented party [REDACTED 7] are not entitled to share in the award amount.

#### **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 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  
23 June 2006