

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Jecheskel Gavriel Baer  
also acting on behalf of [REDACTED 1], [REDACTED 2],  
[REDACTED 3], [REDACTED 4], [REDACTED 5], and [REDACTED 6]

## **in re Account of J. G. Bär (Baer)**

Claim Number: 150104/AZ

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of Jecheskel (Yecheskel) Gavriel Baer (the “Claimant”) to the accounts of Jenny Baer and Max Baer.<sup>1</sup> This Award is to the published account of J. G. Bär (Baer) (the “Account Owner”) at the Basel-Spalenberg branch of the [REDACTED] (the “Bank”).

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 a Claim Form identifying himself as the Account Owner. The Claimant stated that he was born on 31 August 1928 in Hamburg, Germany to [REDACTED] and [REDACTED], née [REDACTED]. The Claimant, who is Jewish, indicated that he and his four siblings resided with his parents in Hamburg, where his father was a dentist. The Claimant further indicated that his father’s paternal uncle, Max Baer, who was wealthy and single, financially supported the Claimant’s parents and opened one or more Swiss bank accounts on their behalf. The Claimant explained that during the *Kristallnacht* (“Night of Broken Glass”) pogrom on 10 November 1938, his family’s home was looted by the Nazis and his father arrested and imprisoned in a Hamburg jail and then deported to the concentration camp in Sachsenhausen. According to the Claimant, his mother was able to secure emigration visas to Palestine (now Israel), with the condition that the family leave Germany within two months. In accordance with these terms, his father was released from Sachsenhausen in January 1939 and he and his family then fled to Palestine through Switzerland and Italy. The Claimant stated that all of the family’s assets were confiscated by the Nazis. Finally, the Claimant indicated that his mother and father died in Israel after the Second World War, in 1949 and 1976, respectively.

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<sup>1</sup> The CRT will treat the claim to these accounts in a separate determination.

In support of his claim, the Claimant submitted copies of documents, including: 1) a postcard from Jungfrauojoch in Switzerland, dated 1913, from his great-uncle [REDACTED] to the Claimant's paternal grandparents in Hamburg; 2) a certificate, dated 1991, indicating that Gabriel Jecheskel Baer was born on 31 August 1928; and 3) his own Israeli identification card, issued in 1991, indicating that Jecheskel Baer was born on 31 August 1928 in Germany and that he is Jewish.

The Claimant indicated that he was born on 31 August 1928 in Hamburg. The Claimant is representing his daughters: [REDACTED 1], née [REDACTED], and [REDACTED 2], née [REDACTED], and his siblings: [REDACTED 3], née [REDACTED], [REDACTED 4], née [REDACTED], [REDACTED 5], and [REDACTED 6], née [REDACTED].

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

The Bank's records consist of a list of dormant accounts and printouts from the Bank's database. According to these records, the Account Owner was J. G. Bär (Baer). The Bank's records do not indicate the Account Owner's gender or domicile. The Bank's records indicate that the Account Owner held an account of unknown type, numbered 37141, which was suspended by the Bank on 22 October 1981, as of which date it had a balance of 500.00 Swiss Francs ("SF"). These records indicate that the account was included in a list of dormant accounts that were closed by 31 December 1986. There is no indication in the Bank's records that the Account Owner or his or her heirs closed the account and received the proceeds themselves.

### **The CRT's Analysis**

#### Identification of the Account Owner

The Claimant's initials and surname match the published initials and surname of the Account Owner. The CRT notes that the Bank's records do not contain any specific information about the Account Owner other than his or her initials and surname. The CRT notes that the Claimant was born in 1928 and therefore would have been a child at the time the account was opened. However, the CRT also notes that the Claimant specifically stated that his paternal uncle, Max Baer, was wealthy and financially supported his parents' family, including by opening bank accounts on their behalf. The CRT therefore considers it plausible that an account was opened in the Claimant's name in his behalf by his uncle Max Baer or by another adult family member.

In support of his claim, the Claimant submitted documents, including a certificate and identification card, providing independent verification that the person who is claimed to be the Account Owner had the same initials and surname recorded in the Bank's records as the initials and surname of the Account Owner.

The CRT notes that the other claims to this account were disconfirmed because those claimants failed to identify the Account Owner's middle initial. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

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

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that he was Jewish, that he resided in Nazi Germany, that his family's home was raided during *Kristallnacht* and all his family's possessions confiscated, and that he fled to Palestine (now Israel) in January 1939. The Claimant further indicated that his father was imprisoned and deported to a concentration camp and was only released upon the condition that he and his family leave Germany within two months.

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

As determined above, the Claimant has plausibly demonstrated that he is the Account Owner.

### The Issue of Who Received the Proceeds

The Bank's records indicate that the account was suspended in 1981 and closed by 31 December 1986.

Given that the Account Owner resided in Nazi Germany until he fled to Palestine; that the account was suspended in 1981 and closed with other dormant accounts in 1986; that there is no record of the payment of the Account Owner's account to him; that the Account Owner and his heirs would not have been able to obtain information about his 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 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 or his 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 Governing the Claims Resolution Process (the "Rules"). Second, the Claimant has plausibly demonstrated that he is the Account Owner. Third, the CRT has determined it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Further, the CRT notes that the Claimant, as the Account Owner, has a better entitlement to the account than represented parties [REDACTED 1], [REDACTED 2], [REDACTED 3], [REDACTED 4], [REDACTED 5], and [REDACTED 6], the Account Owner's children and siblings.

### Amount of the Award

In this case, the Account Owner held one account of unknown type. The Bank's records indicate that the value of the account as of 22 October 1981 was SF 500.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 565.00, which reflects standardized bank fees charged to the account between 1945 and 1981. Consequently, the adjusted balance of the account at issue is SF 1,065.00. According to Article 29 of the Rules, if the amount in an account of unknown type was less than SF 3,950.00, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be SF 3,950.00. The current value of 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 49,375.00.

As noted above, the Claimant is more entitled to the account than the parties whom he represents. Consequently, the Claimant is entitled to the entire award amount, and represented parties [REDACTED 1], [REDACTED 2], [REDACTED 3], [REDACTED 4], [REDACTED 5], and [REDACTED 6] are 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  
19 July 2007