

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award upon Request for Reconsideration

to Claimant [REDACTED]
represented by Daniel Bohren

in re Accounts of Arthur Katscher, Helene Katscher, and *Malzfabrik Milchspeiser & Katscher*

Claim Numbers: 218919/HS; 219309/HS
Appeal Numbers: 2610; 2640

Award Amount: 42,250.00 Swiss Francs

This Certified Award upon Request for Reconsideration is based upon the claims of [REDACTED] (the “Claimant”) to the unpublished accounts of Arthur Katscher (“Account Owner Arthur Katscher”) and Helene Katscher (“Account Owner Helene Katscher”) (together the “Account Owners”) at the Lausanne and Zurich branches of the [REDACTED] (the “Bank”); and an account potentially owned by *Malzfabrik Milchspeiser & Katscher* (the “Claimed Account Owner”) at the Zurich branch of 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.

Procedural History

In decisions approved by the Court on 21 January and 17 March 2008, the CRT treated the Claimant’s claims to the accounts of Arthur Katscher, Helene Katscher, and the company *Malzfabrik Milchspeiser & Katscher*. In those decisions, the Claimant was informed that the CRT was unable to locate any accounts belonging to the above-named individuals or the above-mentioned company in the Account History Database (“AHD”) 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”).

In letters dated 2, 7, 19, and 20 May 2008, the Claimant and the Claimant’s representative requested reconsideration of the January and March 2008 decisions and indicated that they had previously submitted documents purportedly showing that Arthur Katscher, Helene Katscher, and the company *Malzfabrik Milchspeiser & Katscher* held accounts at the Bank.

This decision addresses these documents submitted by the Claimant and his representative.

Information Provided by the Claimant

The Claimant submitted two Claim Forms identifying Account Owner Arthur Katscher as the brother of the Claimant's father's aunt by marriage, and Account Owner Helen Katscher as his wife. The Claimant stated that Arthur Katscher and Helene Katscher, née Beran, who were Jewish, were married on 7 April 1914, in Brno, and they had two children, [REDACTED] and [REDACTED], both of whom were born in Brno.

According to family trees submitted by the Claimant, the Claimant's paternal grandmother, [REDACTED], née [REDACTED], had three siblings: [REDACTED], [REDACTED], and [REDACTED]. [REDACTED] was married to [REDACTED], née [REDACTED], and her brother was Arthur Katscher. The Claimant explained that Arthur Katscher and [REDACTED] were Jewish, and that they were born on 8 April 1890 in Wischau, Austro-Hungary (today Vyskov, the Czech Republic) and in 1895 in Brno, Austro-Hungary (today the Czech Republic), respectively. According to the Claimant, Arthur Katscher and his father, [REDACTED], jointly owned fifty percent of *Malzfabrik Milchspeiser & Katscher*, a malt manufacturing company located in Eiwánowitz, Czechoslovakia (today Ivanovice na Hané, the Czech Republic).

The Claimant explained that following the annexation of Bohemia and Moravia by the Nazis in 1939, *Malzfabrik Milchspeiser & Katscher* was aryanized and its ownership transferred to a trustee in March 1940. The Claimant stated that in December 1941, Arthur Katscher's house was also sold and the proceeds of the sale seized by the Nazis. The Claimant stated that Arthur and Helene Katscher and their two daughters were all deported to Theresienstadt, that on 18 April 1942 they were deported to Ostrowo (today Ostrów Wielkopolski, Poland), and that were never heard from again. According to the Claimant, Arthur Katscher's father [REDACTED] was deported from Theresienstadt to Treblinka, where he perished. The Claimant stated that he is the testamentary heir to two-thirds of Arthur Katscher's estate.

In support of his claim, the Claimant submitted copies of:

- (1) A letter to [REDACTED] (the Claimant's mother) from the Jewish Community of Czechoslovakia, dated 15 March 1973, as well as deportation cards and an extract from the memorial book of Theresienstadt, together indicating that Arthur Katscher (born on 8 April 1890), Helena Katscherová (born on 7 June 1892), [REDACTED] (born on 4 November 1916), and [REDACTED] (born on 19 January 1920), all of whom resided in Ivanovice na Hané, were deported from Theresienstadt to Ostrowo on 18 April 1942; that [REDACTED] (born on 18 April 1856) was deported from Theresienstadt to Treblinka on 19 October 1942; that none of them were ever heard from again; and that they were consequently declared dead as of the dates of deportation.
- (2) The last will of [REDACTED], née [REDACTED], dated 15 January 1942, indicating that if her husband did not survive her, half of her estate would be inherited by her brother, Arthur Katscher, and the other half of her estate would be inherited in equal shares by: her husband's nephew, [REDACTED] (the son of [REDACTED]'s sister

[REDACTED]); her husband's grand-nephew, [REDACTED] (the Claimant, who is the grandson of [REDACTED]'s sister [REDACTED]); and her husband's niece, [REDACTED], née [REDACTED] (the daughter of [REDACTED]'s brother [REDACTED]). The will further indicates that if [REDACTED] or [REDACTED] should be unable to take their inheritance, or if they should die before [REDACTED], [REDACTED] would inherit their shares of [REDACTED]'s estate.

- (3) An inheritance certificate issued by the local court in Hannover, Germany, dated 21 December 1950, indicating that [REDACTED], née [REDACTED], died on 22 October 1944, and that her heirs were [REDACTED] of Sao Paulo, Brazil (two-thirds share), and [REDACTED], née [REDACTED] (one-third share).
- (3) A letter to the Claimant from the restitution department of the city of Bremen, Germany, dated 12 January 1998, indicating that it was responsible for ascertaining the heirs to the company *Malzfabrik Milchspeiser & Katscher*, and referring to inheritance certificates issued by the local courts Hannover in 1950 (see above) and Bremen in 1973, which indicate that [REDACTED]'s sole heir was [REDACTED]; Arthur Katscher's heirs were [REDACTED] and [REDACTED]; and [REDACTED]'s heirs were [REDACTED] (two-thirds share) and [REDACTED] (one-third share).
- (4) The death certificate of [REDACTED], formerly [REDACTED], indicating that she was born on 4 October 1911 in Hannover, and that she died on 20 August 1997 in Marseille, France.
- (6) A letter to the Claimant's legal representative at the time from the Bank dated 17 June 1999, regarding assets held by Arthur and Helen Katscher, which is further described below.
- (7) A letter to the Claimant's representative in this case from the Bank dated 5 July 2000, regarding [REDACTED], [REDACTED], a safe deposit box numbered 6291, and the company *Malzfabrik Milchspeiser & Katscher*, and including historical records of lines of credit which *Malzfabrik Milchspeiser & Katscher* held at the Bank in the 1920s and 1930s, all of which are further described below.
- (7) A letter to the Claimant's representative in this case from the Swiss Federal Department of Justice dated 18 May 2000, concerning the Claimant's previous attempt to claim assets held by Arthur and Helen Katscher, which is further described below.

The Claimant indicated that he was born on 2 April 1935 in Berlin, Germany.

The Claimant previously submitted Initial Questionnaires ("IQs") to the Court in 1999, as well as an ATAG Ernst & Young claim form ("ATAG Form") in 1998, asserting his entitlement to Swiss bank accounts owned by, *inter alia*, Arthur Katscher and *Malzfabrik Milchspeiser & Katscher*.

Information Available in the Bank's Records

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 report accounts belonging to Arthur Katscher, Helene Katscher, or *Malzfabrik Milchspeiser & Katscher* during their

investigation of the Bank. The Bank's records were obtained by the Claimant and were forwarded to the CRT.

Account Owners Arthur and Helene Katscher

With respect to accounts held by the Account Owners, the Claimant submitted two letters from the Bank, dated 17 June 1999 and 5 July 2000, and a letter from the Swiss Federal Department of Justice, dated 15 June 2000. According to the Bank's letters, Account Owner Arthur Katscher held two safe deposit boxes, and he and Account Owner Helene Katscher jointly held a demand deposit account.

In its 17 June 1999 letter, the Bank wrote that on 17 February 1939, Arthur Katscher of Eiwanowitz, Czechoslovakia, opened two safe deposit boxes at the Bank's Lausanne branch: one box numbered 5875/1216, over which Helene Katscher held power of attorney, and another box numbered 5880/1093, over which [REDACTED] held power of attorney ("Power of Attorney Holder [REDACTED]").

The Bank further wrote that Arthur Katscher paid the rental fees for both boxes for a two-year period, and arranged that if a short-fall in payment of the rental fees should occur, the fees were to be deducted from a numbered demand deposit account (*Nummernkonto*), numbered 1890, which was held at the Bank's Zurich branch. The Bank wrote that demand deposit account 1890 was jointly held in the names of Arthur Katscher, of the company *Milchspeiser & Katscher* in Eiwanowitz, and *Frau* (Mrs.) Helene Katscher, and that the correspondence regarding this account was to be held at the bank ("*Korrespondenz banklagernd*"). According to this letter, the attorney Dr. Karl Schweinburg of Rathausstrasse 17 in Vienna, Austria, was to be informed in the event of the death of Arthur Katscher or Helene Katscher. In this letter, the Bank wrote that demand deposit account 1890 was suspended (*inaktiviert*) as of either 15 July 1945 or in November 1949, and that the account number was reassigned to a new Bank customer after the required waiting period of at least five years. The Bank did not indicate the value of account 1890. The Bank stated that it did not possess any further documentation regarding account 1890.

With respect to safe deposit box 5880/1093, in its 5 July 2000 letter, the Bank wrote that Power of Attorney Holder [REDACTED] inquired with the Bank in Lausanne in May 1946 whether a diamond ring, which had been placed in the safe deposit box in February 1939, was still there. The Bank stated that correspondence relating to this inquiry was no longer available. The Bank wrote that it did not have any record of [REDACTED] acting as trustee for the Account Owners' family, beyond his power of attorney over safe deposit box 5880/1093, or whether he was a relative of the Katschers. However, the Bank also noted that, according to a letter from the Swiss Federal Department of Justice, dated 19 January 1966, a person named [REDACTED] was identified as the brother of Arthur Katscher's brother-in-law. In its letter of 17 June 1999, the Bank wrote that safe deposit box 5880/1093 was closed on 29 December 1950. The Bank did not provide any information regarding the content or value of safe deposit box 5880/1093.

There is no information in the records submitted by the Claimant that the Account Owners, the power of attorney holders, or their heirs closed safe deposit box 1093 or demand deposit account 1890 and received the proceeds themselves.

As for safe deposit box 5875/1216, in its 17 June 1999 letter, the Bank wrote that it determined during an internal review that the owner and power of attorney holder for safe deposit box 5875/1216 had died, and that therefore, on 19 February 1957, the Bank forcibly opened safe 5875/1216 in the presence of bank employees and a notary. The Bank wrote that the safe held three packages containing personal effects, primarily jewelry.

In its 17 June 1999 letter, the Bank explained that on 10 January 1964, it reported the three packages from safe deposit box 5875/1216 to the Swiss authorities, in accordance with the Swiss Federal Decree of 20 December 1962 (the Federal Decree”), under which the Swiss Federal Council obliged all individuals, legal entities, and associations to report any Swiss based assets whose last-known owners were foreign nationals or stateless persons of whom nothing had been heard since 9 May 1945, and who were known or presumed to have been victims of racial, religious, or political persecution (“the 1962 Survey”). The Bank reported to the Swiss authorities that the assets belonged to Arthur Katscher, who was born on 8 April 1890. The Bank wrote that Arthur Katscher, his wife Helene Katscher, née Beranova (born on 7 June 1892), and their daughters, [REDACTED] (born on 4 November 1916) and [REDACTED] (born on 9 January 1920), were deported to the concentration camp at Ostrow on 18 April 1942, and that they were never heard from again.

In its 17 June 1999 letter, the Bank wrote that after the registration of Arthur Katscher’s assets in the 1962 Survey, the following individuals filed claims to the assets: [REDACTED], [REDACTED], [REDACTED], [REDACTED]-[REDACTED], and [REDACTED]. In this letter, the Bank did not state the precise relationship between these individuals and the Account Owners. According to the 17 June 1999 letter, on 19 January 1966, the office of the justice of the peace (*Friedensrichteramt*) in Lausanne appointed an employee of the Bank as guardian for the assets that had been registered in the 1962 Survey. The Bank wrote that on 27 December 1967, a new safe deposit box was opened under the customer relationship number 5875 in the name of Account Owner Arthur Katscher. The Bank wrote that it was likely that the new safe deposit box, numbered 5875/6291, was opened for the temporary storage (*Zwischenlagerung*) of the former contents of box 5875/1216 in conjunction with the distribution of these assets to Account Owner Arthur Katscher’s heirs. However, the Bank indicated that its records regarding box 5875/6291 do not contain any further details.

According to the 17 June 1999 letter, the court-appointed guardian of the assets that had been registered in the 1962 Survey prepared a plan of distribution, which was approved by the Lausanne justice of the peace’s office on 18 April 1968. The total value of the assets as of 18 April 1968 was 56,280.00 Swiss Francs (“SF”). The Bank stated that the distribution took place between 5 June 1968 and 5 November 1969, as follows:

[REDACTED]	1/4
[REDACTED]	1/8
[REDACTED]	1/12
[REDACTED]	1/12
[REDACTED]	1/12

According to the Bank's 17 June 1999 letter, safe deposit box 5875/6291 was closed on 4 February 1969, and on 1 September 1970, the Bank formally closed the customer relationship numbered 5875. The Bank wrote that on 17 December 1970, the Lausanne court formally approved the distribution of the assets as detailed above.

In its 17 June 1999 letter, the Bank wrote that on 27 June 1972, attorneys representing Arthur Katscher's relative, [REDACTED], inquired with the Swiss Federal Department of Justice, Registration Office for the Assets of Missing Foreigners (*Meldestelle für Vermögen verschwundener Ausländer*) (the "Registration Office"), whether assets or safe deposit boxes had been registered in the names of [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. According to the Bank, no assets were located under the four names above.

In its 17 June 1999 letter, the Bank wrote that, based on the earlier decision of the Lausanne justice of the peace's office, on 16 August 1973 the Registration Office determined that the "Katscher case" did not fall under the terms of the 1962 Survey, since heirs to the registered assets had been located. Accordingly, Account Owner Arthur Katscher's name and the registered value of the assets were stricken from the 1962 Survey.

The Bank also wrote that, following her inquiry with the Registration Office, [REDACTED] was able to prove, by means of court-approved certificates of death and inheritance, that:

- 1) The heir of Arthur Katscher, who was deported and died on 18 April 1942, was his father [REDACTED], who died on 19 October 1942.
- 2) Following the death of [REDACTED], Arthur Katscher's estate passed to Arthur Katscher's sister [REDACTED], who died on 22 October 1944.
- 3) [REDACTED]'s heirs were [REDACTED] of Sao Paulo (2/3 share) and [REDACTED], née [REDACTED] (1/3 share).

According to the 17 June 1999 letter, the Swiss Federal Department of Justice concluded on 8 August 1979 that the Swiss government would pay [REDACTED] one-third of the value of the total amount distributed in 1970, or SF 18,760.00, as well as damages of SF 2,000.00. The Bank indicated that [REDACTED] accepted this payment and signed a declaration on 13 August 1979 indicating that she had received the same share of Arthur Katscher's assets that she would have received had the assets previously been distributed correctly.

In the 17 June 1999 letter, the Bank wrote that on 21 December 1979, the same attorney who had acted for [REDACTED] applied to the Swiss authorities on behalf of [REDACTED], who was entitled to two-thirds of Arthur Katscher's assets. According to the Bank's letter, on 30 January 1980, the Swiss Federal Department of Justice informed the attorney that this amount would not be paid, because his client ([REDACTED]) had not raised an objection within five years of the office of the justice of the peace's formal approval of the distribution on 17 December 1972 [*sic*],¹ and that [REDACTED] only became interested in the matter after civil proceedings had

¹ The CRT notes that earlier in the 17 June 1999 letter the date of the formal approval of the distribution of the assets by the Lausanne office of the justice of the peace was noted as 17 December 1970. Given that the assets were paid out in the period from 5 June 1968 to 5 November 1969, the CRT presumes that the 1970 date is correct, and that the 1972 date is a typographical error.

determined who had the better entitlement to the assets (“*Vielmehr habe er sich erst in dem Moment für diese Angelegenheit interessiert, als die besseren Rechten der Erben auf dem Zivilweg festgestanden seien.*”) For that reason, no payment to [REDACTED] in the amount of SF 37,520.00 was made.

The Claimant also submitted a letter dated 15 June 2000 letter from the Swiss Federal Department of Justice to the Claimant’s representative in this case, indicating that the Claimant had requested that that department revisit the previous dismissal of his claim to Arthur Katscher’s assets, in light of the role of Switzerland during the Second World War and Switzerland’s handling of heirless assets from that period. However, the Swiss Federal Department of Justice indicated that it was not competent to examine procedures or to adjust previous payments.²

Claimed Account Owner *Malzfabrik Milchspeiser & Katscher*

With regard to the Claimed Account Owner, the company *Malzfabrik Milchspeiser & Katscher* located in Eiwanowitz, Czechoslovakia, the Claimant submitted a letter from the Bank dated 5 July 2000, and a number of historical records evidencing lines of credit held by the Claimed Account Owner.

In its letter of 5 July 2000, the Bank indicated that it had conducted research at the Claimant’s request regarding the Claimed Account Owner. The Bank indicated that its records showed that between the years 1924 and 1937, the Claimed Account Owner conducted various credit transactions (*verschiedene Kreditgeschäfte*) with the Bank, however there were no records regarding the details of these transactions in the Bank’s archives. The Bank indicated further that it did not have any current banking relationship with the Claimed Account Owner. The Bank provided the Claimant with various historical records indicating that the Claimed Account Owner held lines of credit with the Bank between the years 1924 and 1937.

The documents pertaining to the Claimed Account Owner include:

- (1) Extracts of the minutes of meetings of the Bank’s board of directors dated in 1924, 1925, 1931, and 1937, indicating that the Claimed Account Owner was on the agenda at those meetings, but not indicating the specific matters discussed.
- (2) A document indicating that the Claimed Account Owner held a line of credit with the Bank for SF 500,000.00, valid until 31 August 1932, and a delivery guarantee (*Lieferungsgarantie*) with the Bank for SF 100,000.00, valid until 31 March 1932.
- (3) A document indicating that as of 2 September 1937, the Claimed Account Owner had a line of credit with the Bank for SF 300,000.00 and a change limit (*Wechsel limite*) of SF 100,000.00, and that the credit limit was raised to SF 500,000.00.

These records do not indicate that the Claimed Account Owner held any assets, as opposed to lines of credit, at the Bank.

² The German original reads: “*Diese Aufarbeitung hat indessen zu keiner Zuständigkeit des Bundesamts für Justiz zur Überprüfung dieser Vorgänge bzw. zur Ausrichtung von Zahlungen geführt. Wir bedauern, Ihnen keinen anderen Bescheid geben zu können.*”

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of 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.

Claimed Account Owner *Malzfabrik Milchspeiser & Katscher*

Basis for the Denial

The CRT notes that the Claimant provided documentation purporting to show the existence of an account owned by the Claimed Account Owner at the Bank. However, the CRT has determined that the documents submitted by the Claimant pertaining to the Claimed Account Owner are insufficient to justify an award.

While the CRT has previously awarded accounts to claimants when the ICEP Investigation failed to locate an account belonging to their relative (an account not included in the Account History Database, the Account Dossiers, and the Total Accounts Database), the evidence submitted by these claimants falls into very limited categories. Article 17 of the Rules lists certain categories of evidence that the CRT has used to justify an award when an account is not identified in the ICEP Investigation. These categories include Austrian State Archives Records and other government records, records of the New York State Holocaust Claims Processing Office, and any other historical and factual material available to the CRT. Examples of facially reliable evidence submitted by claimants include actual bank documents evidencing the existence of an account, documents submitted to an official governmental agency, and official letterhead indicating a connection to a Swiss bank.

While the CRT bears in mind the difficulties of proving a claim after the destructive events of the Second World War, it has determined in this case that the evidence submitted by the Claimant with respect to the Claimed Account Owner is insufficient to justify an award. In this case, the Claimant submitted a letter from the Bank dated 5 July 2000 and historical Bank documents. Although this letter and these documents indicate that the Claimed Account Owner had a relationship with the Bank, the documents show that this relationship consisted merely in the extension of lines of credit by the Bank to the Claimed Account Owner during the 1920s and 1930s. Thus, rather than having assets deposited with the Bank, the Claimed Account Owner *owed money to the Bank*.

The CRT also notes that the Bank's records indicate that the lines of credit were held during the years 1924 through 1937, which predates the Nazi annexation of Bohemia and Moravia, where the Claimed Account Owner was located. Accordingly, even if the records showed that the Claimed Account Owner had assets deposited with the Bank at this time (which they do not), the Claimant has provided no evidence showing that these assets remained with the Bank until after the date of the Nazi annexation of Bohemia and Moravia, or that the assets were not disposed of properly by the Claimed Account Owner or its owners.

For these reasons, the CRT is unable to recommend an award with respect to the Claimed Account Owner.

Account Owners Arthur and Helene Katscher

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The CRT notes that the Claimant submitted the documents, including documents from the Bank, that show the existence of accounts held by the Account Owners.

In support of his claim, the Claimant submitted documents, including a letter to Mrs. [REDACTED] from the Jewish Community of Czechoslovakia, deportation cards, an extract from the memorial book of Theresienstadt, the last will of [REDACTED], an inheritance certificate issued by the local court in Hannover, and a letter to the Claimant from the restitution department of the city of Bremen, providing independent verification that the persons who are claimed to be the Account Owners had the same names and city and country of residence recorded in the Bank's records as the names and city and country of residence of the Account Owners.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes entries for Arthur Katscher, who was born on 8 April 1890, and his wife, Helene Katscher, resided in Ivanovice na Hané (Eiwanowitz), which matches the information about the Account Owners provided by the Claimant. 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 Account Owners, who were Jewish, were deported with their children first to Theresienstadt and then to Ostrow, where they perished.

As noted above, the Claimant submitted a letter to Mrs. [REDACTED] from the Jewish Community of Czechoslovakia, deportation cards, and an extract from the memorial book of Theresienstadt indicating that the Account Owners and their children were deported from Theresienstadt to Ostrow on 18 April 1942, that they were never heard from again, and that they were later declared dead as of the date of deportation. Furthermore, as also noted above, persons named Arthur Katscher and Helene Katscher were included in the CRT's database of victims.

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 Account Owner Arthur Katscher was the Claimant's father's aunt's brother, and that the Claimant is the heir of two-thirds of Account

Owner Arthur Katscher's estate. These documents include the last will of [REDACTED], an inheritance certificate issued by the local court in Hannover, a letter to the Claimant from the restitution department of the city of Bremen, the death certificate of [REDACTED], and letters from the Bank. There is no information to indicate that Account Owner Arthur Katscher has other surviving heirs.

The Issue of Who Received the Proceeds of the Account Owners' Accounts

As detailed above, according to the Bank's letter of 17 June 1999, Account Owner Arthur Katscher held two safe deposit boxes, numbered 5875/1216 and 5880/1093, and Account Owner Arthur Katscher and Account Owner Helene Katscher jointly held one demand deposit account numbered 1890.

With regard to safe deposit box numbered 5875/1216 that was held by Account Owner Arthur Katscher, according to the Bank's letter of 17 June 1999, an additional safe deposit box, numbered 5875/6291, was opened in Account Owner Arthur Katscher's name in 1967, possibly in conjunction with the distribution of the former contents of safe deposit box 5875/1216, which had been registered in the 1962 Survey. The CRT notes that the period of existence of safe deposit box 5875/6291, which was opened in December 1967 and closed on 4 February 1969, falls within the period that the Lausanne office of the justice of the peace considered the claims of heirs of Account Owner Arthur Katscher and distributed to them the former contents of safe deposit box 5875/1216. Accordingly, the CRT concludes that that safe deposit box 5875/6291 was created on a temporary basis to hold the former contents of safe deposit box 5875/1216. Thus, the contents of safe deposit box 5875/1216 were transferred to safe deposit box 5875/6291 for the purposes of distributing them to Account Owner Arthur Katscher's heirs. In turn, according to the Bank's letter of 17 June 1999, these assets were distributed to heirs of Arthur Katscher in 1968 and 1969 pursuant to a distribution plan that was approved by the office of the justice of the peace in Lausanne on 18 April 1968. The Bank's letter also states that the office of the justice of the peace formally approved the distribution of the assets on 17 December 1970. The Bank's letter states that, after [REDACTED] came forward on 27 June 1972, the Swiss federal government determined that she was a rightful heir of one-third of Arthur Katscher's estate, and therefore made a payment to her in August 1979 representing one-third of the value of the assets held in the account. Thus, the heirs of Arthur Katscher received assets totaling 133% of the total value of the assets originally held in the safe deposit box.

The CRT notes that the Claimant was not among those heirs that were paid by either the Bank or the Swiss federal government, and that he filed a claim with the Swiss federal government on 21 December 1979, more than nine years after the formal approval of the distribution on 17 December 1970. His claim was dismissed, apparently because he did not file within five years of the final approval of the distribution of the assets, and thus was time-barred. The Swiss government noted that the Claimant only became interested in the matter after civil proceedings had determined who had better entitlement to the assets. In any case, the Bank correctly reported these assets pursuant to the 1962 Survey, and paid out the full value of this account to heirs who came forward as a result of the assets' inclusion in the 1962 Survey. The Swiss government recognized the claim of another heir who came forward within five years of the approved plan of distribution, and paid out an additional one-third value of the account. Even though the Claimant

was later able to show that he was more entitled to two-thirds of the assets than the persons to whom they were originally distributed, the CRT concludes that he is not entitled to an award for this amount. The assets were paid out to heirs based upon the information available to the Bank and the government at the time pursuant to a plan of distribution approved by the Lausanne office of the justice of the peace. The Settlement Fund is not designed to compensate heirs whose shares of an asset were distributed to other family members based upon information known at the time. The Claimant's recourse is not with the Settlement Fund, but rather with the family members who received his share. Given that all of the assets in the safe deposit box were distributed in 1968 and 1969 to persons who were determined by the office of the justice of the peace at the time to be heirs of Account Owner Arthur Katscher, that another heir, who filed within the five year time limit, received an additional one-third of the total value of the assets, resulting in the fact that a value in the amount of 133% of the original assets were paid out to heirs of Account Owner Arthur Katscher, and given the above considerations, the CRT determines that no award is appropriate for these assets.

With regard to safe deposit box 5880/1093 that was held by Account Owner Arthur Katscher, the CRT notes that Power of Attorney Holder [REDACTED] contacted the Bank after the end of the Second World War to inquire whether a diamond ring, which had been placed in the safe deposit box in February 1939, was still there. However, the Bank was not able to determine whether this ring was given to Power of Attorney Holder [REDACTED], or whether there was any other assets contained in the safe deposit box. Given that safe deposit box 5880/1093 was not closed until 29 December 1950, which is more than four years after Power of Attorney Holder [REDACTED] made the inquiry; that Account Owner Arthur Katscher and his wife and children all perished in the Holocaust; that the Account Owners owned another account which was suspended after the Second World War; and given the application of Presumptions (f), (h) and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the proceeds of safe deposit box 5880/1093 were not paid to Account Owner Arthur Katscher, Power of Attorney Holder [REDACTED], or Account Owner Arthur Katscher's heirs.

With respect to demand deposit account 1890, the Bank indicated that the account was suspended as of either 15 July 1945 or in November 1949, and that the account number was reassigned to a new Bank customer after the required waiting period of at least five years. Given that the Account Owners and their children perished in the Holocaust; that there is no record of the payment of this account to the Account Owners, or date of closure of the account; 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 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 for safe deposit box 5880/1093 and demand deposit account 1890. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly

demonstrated that he is an heir of Account Owner Arthur Katscher, and a relation by marriage of Account Owner Helene Katscher, 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 safe deposit box 5880/1093 and demand deposit account 1890.

Amount of the Award

In this case, the Award is for one safe deposit box numbered 5880/1093 held by Account Owner Arthur Katscher and one demand deposit account numbered 1890 jointly held by Account Owner Arthur Katscher and Account Owner Helene Katscher. The CRT notes that the Bank's records do not indicate the value of either of these accounts.

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 demand deposit account was SF 2,140.00, and the average value of a safe deposit box was SF 1,240.00.³ Thus, the combined 1945 average value for the two accounts at issue is SF 3,380.00. 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 42,250.00.

Certification of the Award upon Request for Reconsideration

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

Claims Resolution Tribunal
17 December 2010

³ The CRT notes that, in an Order dated 16 June 2010, the Court amended Article 29 of 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 those described herein, will be addressed to the Claimant separately.