

CLAIMS RESOLUTION TRIBUNAL

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

Certified Award

to the Estate of Claimant [REDACTED]¹

in re Account of Sigmund May, Adolf May, and Nany May

Claim Number: 211276/MC; 211277/MC; 211278/MC

Award Amount: 193,862.50 Swiss Francs

This Certified Award is based upon the claim of [REDACTED] (the “Claimant”) to the accounts of Adolf, Sigmund, and Nanni (Nany) May (the “Account Owners”) at 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.

Procedural History

On 28 August 2002, the Court approved an Award to the Claimant for an account belonging to Adolf and Sigmund May (the “August 2002 Award”). In the August 2002 Award, the CRT determined that the Account Owners were Adolf and Sigmund May, and that they jointly held one safe deposit box, numbered 932. The CRT further determined that the Claimant plausibly identified Adolf and Sigmund May as her uncles, and that they were Victims of Nazi persecution. Additionally, the CRT determined that it was plausible that the Account Owners did not receive the proceeds of the safe deposit box. The CRT noted that the Bank’s record did not indicate the value of the account. In accordance with Article 29, the value of the safe deposit box was determined to be 1,240.00 Swiss Francs. The current value of this amount was determined by multiplying it by the factor of 12 in use at the time, in accordance with Article 31(1) of the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Consequently, the August 2002 Award amount was SF 14,880.00.

Pursuant to Article 6 of the Rules, the Bank in this case provided the CRT with additional account information in the form of voluntary assistance (“Voluntary Assistance”) subsequent to the approval of the August 2002 Award. This additional information shows the existence of

¹ The CRT was informed that [REDACTED] (the “Claimant”) passed away on 23 March 2003 by her daughter, [REDACTED].

additional accounts held by Adolf and Sigmund May and their sister, Nany May. This decision addresses these additional accounts.

Information Provided by the Claimant

The Claimant submitted two Claim Forms identifying the Account Owners as her mother's siblings, Adolf, Siegmund (Sigmund), and Nanni May, who were born in 1880, 1886, and approximately 1877, respectively, in Gerolshofen, Germany, and who never married. The Claimant stated that her maternal grandparents, [REDACTED] and [REDACTED], née [REDACTED], had nine children: Nanni, [REDACTED], Adolf, [REDACTED], [REDACTED], [REDACTED], Siegmund, [REDACTED], and [REDACTED] (Claimant [REDACTED]'s mother). The Claimant stated that her mother's siblings were retired business owners who owned a wholesale merchandise business and resided in Frankfurt am Main, Germany. According to the Claimant, Adolf, Siegmund, and Nanni May, who were Jewish, left Frankfurt am Main in 1933 for Amsterdam, where they resided at 63 Michel Angelo Straat, until they were deported to concentration camps, where they perished. The Claimant stated that the siblings might have also spent time in Luxemburg before moving to Amsterdam. The Claimant further stated that her mother told her that Adolf, Siegmund, and Nanni May had accounts and bars of gold in a Swiss bank. In support of her claims, the Claimant submitted her birth certificate, which indicates that her parents were [REDACTED] and [REDACTED], née May, her mother's death announcement, which indicates that her mother, [REDACTED], née [REDACTED], died at age 49, and a family tree. The Claimant indicated that she was born on 10 December 1914 in Griesheim, Germany. The Claimant's daughter informed the CRT that the Claimant passed away on 23 March 2003.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Adolf and Siegmund May.

Information Available in the Bank's Records

The Bank's records consist of account statements and various correspondence. According to these records, the Accounts Owners were the siblings Adolf, Sigmund, and Nany [*sic*] May, who resided at Michelangelo-Straat 63/1 in Amsterdam. According to these records, the Account Owners jointly held one custody and one demand deposit account.

The Bank's records include a letter dated 7 July 1941 from the Bank to the Account Owners regarding their request of 20 June 1941 to transfer 7,400.00 Swiss Francs ("SF") to the American Joint Distribution Committee at 100 East 42nd Street in New York to cover their transportation costs to New York. The Bank's letter informs the Account Owners that the Swiss Compensation Office (*Schweizerischen Verrechnungsstelle*) had approved the transfer, and that the transfer itself had been effected. This transfer is reflected in account statement for the demand deposit account, dated 31 December 1941, which shows a beginning balance on 23 June 1941 of SF 9,963.00, the deduction of fees for telegrams and other costs, a transfer of SF 7,400.00 on 9 July, and a resulting balance of SF 2,479.00 as of 31 December 1941.

The Bank's records also include a letter dated 10 September 1942 from the Transmigration Bureau of the American Jewish Joint Distribution Committee (the "JDC") to the Bank regarding the Account Owners and the payment of 1,708.10 US dollars ("US \$") to be used for their transportation expenses. The letter states that there is no indication that the May family was able to emigrate, and that the JDC had not received any request from its committee abroad to effect payment in their behalf. The letter further states:

Since the emigration from Greater Germany has stopped completely, the Transmigration Bureau is in the process of liquidation, and we are prepared to effect refund in this case. We should appreciate it very much if you would kindly contact the depositor in order that he may furnish us with some proof that the above named have not emigrated. For this purpose we would suggest that he send us some documentary evidence such as the last letters or cables he may have received from the above named, or photostatic copies thereof, as well as the original envelopes. In addition, please have him complete and return to us the affidavit and reimbursement agreement form which all depositors requesting refund have executed. In order to comply with Executive Order #8389, also have him complete and return the enclosed questionnaire. Upon receipt of these documents, we shall proceed to effect refund to you under the same license your remittance was made to us, since the money was not used for the purpose intended for.

The Bank's records also contain the Bank's subsequent letter to the Account Owners, dated 21 October 1942, informing them that it had been notified that the payment of SF 7,400.00 had not been accepted (*abgehoben*), and inquiring whether the Bank should call it back, to the extent possible. The Bank noted that, pursuant to Swiss federal regulations, the funds would have to be placed in a blocked dollar account.

The next document contained in the Bank's records is a letter from the notary office of Mr. A.G. Lubbers and C.G. Pouw in Amsterdam, signed by W. Koch, dated 1 June 1948, to the Bank. The letter states that the siblings Adolf, Sigmund, and Nany May, who previously resided at Michel Angelostraat 63 in Amsterdam, held a custody and demand deposit account at the Bank. The letter states that, according to the notaries' archives, in June 1941 the Bank sold 25 shares of *Motor-Columbus* and 4 shares of *Elektrobank* belonging to the Account Owners, resulting in proceeds of SF 8,653.30. The letter cites the Bank's statement numbered "D 47683" dated 11 June 1941, though this document is not included in the bank records made available to the CRT. The letter from the notaries further states that the Bank debited the accounts by an amount of SF 7,400.00, which was transferred to New York to cover transportation costs for the siblings. The letters states that the siblings were not able to leave the Netherlands, and that at the end of 1942 they were deported to the East, and never returned. The letter states that the notaries have been name by Dutch officials as the administrator (*Treuhand*) of the missing May siblings. The notaries therefore inquired whether there are assets remaining at the Bank in the siblings' names. The notaries asked for a list of any such assets, and to be informed which documents the Bank would need in order to pay out the accounts ("*so bitten wir Sie uns mitteilen zu wollen, welche Dokumente Sie benötigen um s.Zt. zur Zahlbarstellung zu gelangen*").

The Bank's records contain a statement addressed to the Account Owners (by name only, with no address) from the Bank, showing a balance of SF 2,449.00 in the demand deposit account as of 14 June 1948.

The Bank's records contain a decision (in German and Dutch) of a Dutch court ("Arrondissements-Gericht") in Amsterdam dated 23 September 1950. The decision notes that the notary Willem Koch had been appointed as the administrator for Sigmund, Nany, and Adolf May, and that these persons perished in Auschwitz on or about 1 February, 5 February, and 5 February 1943, respectively, at the respective ages of 56, 65, and 62. The decision notes that none of the siblings was married, and that none had descendants. According to the decision, none of the siblings left a will other than the three written down (*aufgenommen*) on 23 October 1942 in the offices of the notary E. Bennink Bolt in Amsterdam. According to the decision, in each of these wills, the respective sibling revoked previous any wills, and, after the agglomeration ("*Legierung*") of certain assets (unspecified in the decision) located in America, named his/her other two siblings as exclusive heirs, in equal shares, with the explicit condition that all other relatives be excluded as heirs.² The decision continues to note that these wills were approved by a decision of a commission of delegates, dated 15 April 1950, pursuant to Dutch regulations regarding legal disputes in wartime. The decision notes that Sigmund died before his siblings and left his estate to Nanni and Adolf, but it had not been shown that Nanni and Adolf left their estates to each other (given that they both were presumed to have died on the same day). The decision notes that the siblings were previously German nationals, and that, as Jews, their citizenship was stripped from them in 1941, rendering them stateless. The decision notes that the siblings last resided in the Netherlands, and that therefore Dutch law applied for purposes of their estates. The court therefore found that the Dutch state was the proper recipient of the assets, rights, and claims of the three siblings, insofar that the assets, rights and claims did not already belong to the estates of Nanni and Adolf May.

The Bank's records also include the death certificates of Sigmund, Nanni, and Adolf May, issued by the city of Amsterdam on 5 September 1951.

The next document in the Bank's records is a letter dated 28 August 1951 from the notary J. Schaap of Amsterdam to the Legal Department of the Bank. According to this letter, on 7 November 1950, a court in Amsterdam determined that the sole heir of Adolf, Sigmund, and Nany May was the Dutch state. The letter also states that Mr. Koch had been dismissed as administrator, and that the estate was now being administered by an official of the city of Amsterdam, who had instructed Mr. Schaap to prepare the estate's liquidation. Mr. Schaap requested that the Bank inform him which documents it needed in order to have the assets paid to the Dutch treasury. He wrote that the Bank's letter of 14 June 1948 (which is not included in the records made available to the CRT) referred only to an official certificate of inheritance, but that

² The German original reads: "...dass infolge der anbei unterbreiteten Abschriften dieser Testament, aufgenommen von einem Stellvertreter des Notars E. Bennink Bolt ..., die Erblasser über ihr respektives Vermögen in der Weise verfügt haben, dass jeder von Ihnen, mit Widerrufung früher vorgenommenen letztwilligen Verfügungen und nach Legierung bestimmter in Amerika befindlicher Vermögensbestandteile, die beiden anderen, und zwar jede für die Hälfte der Hinterlassenschaft, zum Erben einsetzte, und zwar mit ausdrücklicher Bestimmunt, dass jeder andere Verwandte als Erbe ausgeschlossen sein sollte."

he presumed the Bank would also need official death certificates, a copy of the Dutch court's decision, and a certificate of inheritance notarized by a Dutch notary.

The next document in the Bank's records is a letter dated 10 October 1951 from the Swiss Compensation Office to the Bank regarding the blocking of the assets belonging to the estates of Adolf, Sigmund, and Nany May. The letter confirmed receipt of the Bank's letter of 27 September (which is not included in the records made available to the CRT), in which the Bank informed the Compensation Office that the three siblings, who were previously domiciled in the Netherlands and who perished in Auschwitz, had an account at the Bank with a value of SF 2,434.00, and that the Dutch state was their heir. The letter states that, after a review of the case and based upon the Sequestration Agreement ("*Sequester-Abkommen*") between Switzerland and the Netherlands, assets in Switzerland that belong to an estate in the Netherlands are to be delivered to the Netherlands. Therefore, the letter continues, the Compensation Office had no objections to the lifting of the block on the assets.

The next document in the Bank's records is a letter dated 15 October 1951 from the Bank to Mr. Schaap, the Dutch notary who had been named to liquidate the siblings' estates. This letter refers to the Bank's earlier letter of 27 September 1951 (which is not included in the records made available to the CRT) and confirms that the Dutch state is to be considered entitled to the estates at issue. The letter requests that the responsible Dutch authority inform the Bank as to the disposition of the assets.

The last document in the Bank's records is a letter from the Dutch authorities ("*holländische Staat Inspektor des Domänenamtes in Amsterdam*") instructing the Bank to transfer the assets at issue in the amount of SF 2,434.00 to the Netherlands Bank ("*Nederlandse Bank*") in Amsterdam.

Additional Information Obtained by the CRT

American Jewish Joint Distribution Committee

According to information provided by the American Jewish Joint Distribution Committee, the Transmigration Bureau was a non-profit service agency established in New York City on 21 June 1940 by the JDC in order to deal with emigration of Jews from Germany, Austria, former Czechoslovakia, Holland, Belgium and Luxembourg. In 1940, the JDC was assisting refugees in transit in more than forty countries in eastern and Western Europe, Asia and Latin America. The Transmigration Bureau's primary purpose was to accept monetary deposits made by American friends and family to pay the full or partial travel costs of the Jews emigrating from the European countries. In the same month that the Transmigration Bureau was established, the JDC's European headquarters transferred from Nazi-occupied Paris to neutral Lisbon. The JDC leased every available ship to enable the thousands of refugees arriving in Lisbon to proceed to safe havens in North and South America, and many of the émigrés found on the Transmigration Bureau Deposit Cards left from that port.

Because an emigrant could not purchase steamship tickets in local currency, it was necessary in practically all cases that the ticket must be purchased either by an American friend or relative, or with JDC funds placed at the disposal of the local Jewish emigration committee located nearest the place of residence of the prospective emigrant.

While the exact amount of money needed to cover transportation costs varied with each individual case and country of origin, the average cost as of June 1941, at the height of the Transmigration Bureau's activities, was approximately US \$450.00 per person, itemized as follows:

Steamship Passage (approximate)	\$350.00
Embarkation Fee	19.50
U.S. Head Tax	8.00
Maintenance at Lisbon (10 days average)	10.00
Board money on ship	10.00
Rail fare Spanish Border to Lisbon	42.00
Cable Charge	2.50
Balance to apply to possible additional cables.....	8.00

The funds, received from an American depositor, were held in escrow by the Transmigration Bureau until such time as the European emigrant was able to secure a steamship reservation and acquire all necessary travel documentation, including transit visas and entry permits. In some cases, local Jewish emigration committees provided technical assistance and consultation to prospective emigrants.

The JDC provided the CRT with a copy of an entry for case 14369, with the named beneficiaries of Adolf, Sigmund, and Nany May of Michel-Angelstraat, 63/I, in Amsterdam-Z, Holland, which shows that the depositor was the New York branch of the Bank.

The JDC also provided the CRT with a statement of accounts from the Transmigration Bureau dated 31 December 1942. According to this statement, the balance of US \$1,705.60 for case 14369, with the named beneficiaries of Adolf, Sigmund, and Nany May, was "in the process of refunding" to the named depositor, the New York City branch of the Bank.

Dutch Jews in the Netherlands

According to the chapter on "The Netherlands" written by Debórah Dwork and Robert-Jan van Pelt in the book The World Reacts to the Holocaust, on the eve of World War Two, there were approximately 140,000 Jews in the Netherlands, including 118,000 people who had been born in the Netherlands or who had acquired Dutch nationality through naturalization, approximately 14,500 German Jews, and approximately 7,500 Jews of other nationality.³ In October 1940, the Nazi occupiers required the registration of all Jewish enterprises. In November 1940, Jewish public servants, including teachers and professors, were dismissed from their jobs. Registration

³ Debórah Dwork and Robert-Jan van Pelt, "The Netherlands," in The World Reacts to the Holocaust, David S. Wyman, Ed. (hereinafter "Dwork and van Pelt"), pp. 45-77. Baltimore and London: The Johns Hopkins University Press, 1996.

of Jews followed in January 1941. In July 1941, special identity cards for Jews were issued, and in September the *Zentralstelle für Jüdische Auswanderung* (Central Office for Jewish Emigration), headed by Ferdinand aus der Fuenten, began operation. In May 1942, the Germans introduced the yellow Jewish star marking.⁴

Dwork and van Pelt explain that the first deportations to Poland began in July 1942, beginning with German Jewish refugees. Aus der Fuenten had been notified by Eichmann that the shuttle between Westerbork (an internment camp for German Jewish refugees built by the Dutch government) and Auschwitz was to begin on 15 July, beginning with six trains that were to carry 4,200 Jews. Four thousand Jews were called up to register for these transports, but most did not respond. Dwork and van Pelt explain that a massive dragnet on 14 July 1942 caught 500 Jews, who were held as hostages, and the Jewish community was informed that if those who had not responded to the summons for deportation did not report, the 500 would be executed. This blackmail convinced a number of people, and the first two trains that left carried 962 Jews. Dwork and van Pelt note that, in the end, 75 percent of the Jews who were in the Netherlands on the eve of the War were killed. Between 20,000 and 25,000 Jews hid during the War; of these, fewer than half were caught. Approximately 2,100 Jews managed to escape the Netherlands to Switzerland, and another 10,000 Jews, married to gentiles, survived in Holland. Only 5,450 Jews returned from the camps in 1945, and an estimated 2,000 who had survived the War outside the Netherlands were repatriated.⁵

The CRT's Analysis

Identification of the Account Owner

The Claimant has plausibly identified the Account Owners. Their names match the published names of the Account Owners. The CRT notes that the Claimant identified the relationship between the Account Owners, which matches unpublished information. The Claimant also identified the exact street address and city of residence of her aunt and uncles, which matches unpublished information about the Account Owners contained in the bank records. In support of her claim, the Claimant submitted documents, including a family tree and her mother's death announcement.

Moreover, the CRT notes that a database containing the names of victims of Nazi persecution includes persons named Sigmund, Nanni, and Adolf May, and indicates that they were born in Gerolzhofen, Germany in 1886, 1877, and 1880, respectively, and that they perished in Auschwitz in 1943, which matches the information about the Account Owners provided by the Claimant and contained in the Bank's records. The database also contains the name of [REDACTED], and indicates that he was born on 19 October 1889 in Gerolzhofen, and that he perished in Auschwitz in July 1942. This information matches the information about another sibling of the Account Owners provided by the Claimant. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

⁴ *Id.*, pp. 53, 54.

⁵ *Id.*, pp. 52, 53, 54.

Status of the Account Owner as a Victim 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 perished in concentration camps.

As noted above, persons named Sigmund, Nanni, Adolf, and [REDACTED] were included in the CRT's database of victims.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owners by submitting documents demonstrating that they were her mother's siblings. There is no information to indicate that the Account Owner has other surviving heirs.

The Issue of Who Received the Proceeds

According to the letter from the Dutch notary W. Koch to the Bank, dated 1 June 1948, the siblings Adolf, Sigmund, and Nany May, who previously resided at Michel Angelostraat 63 in Amsterdam, held a custody and demand deposit account at the Bank. The letter states that, according to the notaries' archives, in June 1941 the Bank sold 25 shares of *Motor-Columbus* and 4 shares of *Elektrobank*, resulting in proceeds of SF 8,653.30. This letter further states that the Bank debited the siblings' account by an amount of SF 7,400.00, which was transferred to New York to cover transportation costs for the siblings. As detailed above, the records show that the siblings were not able to travel to New York, and that they remained in Europe, and that they ultimately perished in Auschwitz. According to a letter dated 10 September 1942, the Transmigration Bureau of the American Jewish Joint Distribution Committee to the Bank contacted the Bank about the return of these funds. As noted above, the JDC provided the CRT with a statement of accounts from the Transmigration Bureau dated 31 December 1942. According to this statement, the balance of US \$1,705.60 for case 14369, with the named beneficiaries of Adolf, Sigmund, and Nany May, was "in the process of refunding" to the named depositor, the New York City branch of the Bank. No further information about the return of these funds is contained in the Bank's records, and subsequent account statements do not reflect that this amount was ever credited to the Account Owners' accounts.

The Bank's records refer to the fact that the three Account Owners perished in Auschwitz in February 1943. The Bank's records also show that, after the War, a Dutch court determined that the Dutch state was the sole heir to their assets, and initiated proceedings to have the assets transferred from the Bank to the Netherlands. According to these records, this determination was based upon the fact that, on 23 October 1942, the siblings met in the office of E. Bennink Bolt, a notary in Amsterdam, to compose new wills, in which they each named the other two as their exclusive heirs, to the exclusion of all other family members. According to publicly available information, it appears that Mr. Bolt's full name was Engelbart Bennink Bolt, and that his son, Erik Bart Bennink Bolt, married a Jewish woman named Janna Elisabeth Spier, who was a

descendant of Moses Jacob Spier.⁶ It is possible that Mr. Bolt offered his services to the May siblings in an effort to help them secure their assets.⁷ Nevertheless, the post-War Dutch authorities used these wills to claim the siblings' assets.

The CRT also notes that the siblings met to redraft their wills on 23 October 1942, which is approximately six weeks after 10 September 1942, the date of the letter from the JDC to the Bank informing the Bank that its offices were closing because emigration from Greater Germany had stopped completely. The CRT also notes that their meeting occurred after the first round of deportations of German Jews in the Netherlands had begun in July 1942, which led to dragnets and open threats against Jewish persons in the Netherlands,⁸ and after the issuance on 21 May 1942 of the Second Liro Decree, VO 58/1942, concerning the treatment of Jewish assets, which required the registration of claims on third parties of every kind with Lippmann, Rosenthal & Co. ("Liro"), the infamous robber bank in Sarphatistraat, Amsterdam.⁹ The CRT notes that, as described in decision to a claim for restitution of art work, the Dutch government adopted a recommendation by the Ekkart Committee (which supervises research into the provenance of the objects in the Netherlands Art property collection and makes recommendations to the Dutch government), dated 26 April 2001, which stipulates that sales executed by Jewish private persons in the Netherlands after 10 May 1940 should be regarded as involuntary, unless explicitly proven otherwise.¹⁰ Although the present case involves not the sale of assets but their testamentary treatment, it is reasonable to conclude that the same circumstances – namely, those directly associated with the Nazi regime – similarly limited the freedom of Jewish private persons in the Netherlands to choose their heirs and the disposition of their assets in their wills.

Given this context, the CRT finds it implausible that Adolf, Sigmund, and Nany May were freely able to express their testamentary intent, especially given their certain knowledge that they would not be able to emigrate and that the Jewish population of the Netherlands were being deported, and given the existence of at least one other relative, their niece (the Claimant), who was 28 years of age at the time the wills were re-written. Rather, their decision to bequeath their

⁶ See <http://home.hccnet.nl/j.nienhuis/joodse%20spier%20families.htm#mon> (last viewed on 9 December 2010).

⁷ According to publicly available information, E. Bennink Bolt also appears to have aided Dutch heirs of Victims of Nazi persecution after the War. For example, he drew up the certificate of inheritance dated 24 April 1952 for the heirs of Hugo Felix Kaufmann, a Dutch Jew of German origin who perished, together with his wife, children, and other close relatives, in Auschwitz in September 1942 after being deported from the Netherlands. See Advisory Committee on the Assessment of Restitution Applications for Items of Cultural Value and the Second World War, Recommendation RC 1.46, Recommendation concerning the application for the restitution of: three paintings from the estate of Hugo F. Kaufmann, 18 December 2006 (hereinafter "Recommendation RC 1.46"), available at http://www.restitutiecommissie.nl/en/rc_1.46/advies_rc_1.46.html (last viewed on 9 December 2010).

⁸ Dwork and van Pelt, at 54. See *also* discussion *supra*.

⁹ See, generally, Gerard Aalders, Nazi Looting. The Plunder of Dutch Jewry during the Second World War. Trans. by Arnold Pomerans with Erica Pomerans. Berg: Oxford and New York, 2004 (hereinafter "Aalders"). Aalders explains that, in addition to claims, rights constituting part of the assets of all persons 'subject to registration' and not normally treated as claims had to be registered, including rights to assets in other countries; rights to rented safe deposits; life insurance policies and outstanding annuities; fire and theft insurance policies; jewelry insurance policies; usufructuary rights; patent rights, authors' rights, trademarks; concessionary rights; share entitlements; and hereditary rights. Aalders, p. 175. Aalders also notes that Dutch notaries were informed by Liro in writing that all cash, credits and securities bequeathed under Jewish wills proved after 8 August 1941 had to be surrendered. Aalders, p. 148.

¹⁰ Recommendation RC 1.46, para. 7.

assets to each other, to the exclusion of all other relatives, was made involuntarily as a consequence of circumstances directly associated with the Nazi regime. This factual context was or should have been known by the post-War Dutch authorities who claimed the assets shortly after the War on the basis of these wills.¹¹ Nevertheless, there is no evidence that either the Dutch authorities or the Bank made any inquiries whatsoever to determine whether the Account Owners had any surviving heirs, which they clearly had (their niece, the Claimant).

Given the above considerations, and given that the Bank records show that Dutch authorities initiated proceedings to have the Account Owners' assets transferred to the Dutch government after the War, and that there is no evidence that the Account Owners' heirs were able to subsequently retrieve these assets from the Dutch government, 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 neither the Account Owners nor their rightful heirs received the proceeds of these accounts. 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. Second, the Claimant has plausibly demonstrated that the Account Owners were her mother's siblings aunt, 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 the claimed accounts.

Amount of the Award

In this case, the Account Owners held one custody and one demand deposit account.

With regard to the custody account, according to a letter dated 1 June 1948 from a Dutch notary office, in June 1941 the Bank sold 25 shares of *Motor-Columbus* and 4 shares of *Elektrobank*, resulting in proceeds of SF 8,653.30. This amount was apparently deposited in the Account Owners' demand deposit account, from which the later transfer of SF 7,400.00 to cover transportation costs for the siblings was effected. The CRT notes that files made available to the CRT do not contain any records from the Bank itself regarding the contents or value of the custody account. Specifically, it is not clear if the Bank sold all the securities in the custody account in June 1941, or if there were other assets remaining. Therefore, the CRT considers the custody account to be an account of unknown value. 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 custody account was SF 13,000.00.

¹¹ As noted above, the Dutch government has since adopted a recommendation by the Ekkart Committee which stipulates that sales executed by Jewish private persons in the Netherlands after 10 May 1940 should be regarded as involuntary, unless explicitly proven otherwise. *Id.*

With regard to the demand deposit account, according to an account statement dated 14 June 1948, the balance of the account as of that date was SF 2,449.00. In accordance with Article 31(1) of the Rules, this amount is increased by an adjustment of SF 60.00, which reflects standardized bank fees charged to the demand deposit account between 1945 and 1948. Consequently, the adjusted balance of the demand deposit account is SF 2,509.00.

Thus, the combined 1945 value of the custody and demand deposit account is SF 15,509.00.¹² The current value of this amount is determined 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 193,862.50.

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

¹² 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 Claimant separately.