

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant [REDACTED]

**in re Account of *Frau Emil Weil***

Claim Number: 210912/SJ<sup>1</sup>

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the published account of *Frau Emil Weil* (the “Account Owner”) at the Schaffhausen 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 the Account Owner as her paternal grandmother, Emilie Weil, née Augsburg, who was born on 12 December 1873 in Rottweil, Germany, and was married to Emil Weil on 9 August 1897 in Reutlingen, Germany. The Claimant stated that her paternal grandparents, who were Jewish, lived at Hofapotheke in Hechingen, Germany from 1897 until 1925 and on Furstenstrasse in Hechingen from 1925 until 1939. The Claimant added that her grandparents had three children: [REDACTED], née [REDACTED], who died of a brain tumor at the age of 27; [REDACTED], née [REDACTED], who fled from Germany to Palestine (now Israel) and is deceased; and the Claimant’s father, Dr. [REDACTED], who fled to New York, New York, the United States in 1938. The Claimant further stated that her grandparents fled from Germany to Montreux, Switzerland in 1939, where they resided until the end of 1941. The Claimant indicated that her grandparents had made many attempts to obtain permission to enter the United States to join their son, Dr. [REDACTED], in New York, and that they were finally able to do so in 1942. Finally, the Claimant indicated that her grandfather died in New York on 4 February 1949, her grandmother died in New York on 3 February 1957, and her father, [REDACTED], died in New York on 22 January 1996.

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<sup>1</sup> The Claimant submitted additional claims to the accounts of [REDACTED], Emil Weil and [REDACTED], which are registered under the Claim Numbers 210933, 210939 and 214867, respectively. The CRT will treat the claims to these accounts in separate decisions.

In support of her claim, the Claimant submitted documents, including copies of her grandmother's marriage certificate, indicating that Emilie Augsburgger was married to Emil Weil; her grandmother's birth certificate, indicating that Emilie Augsburgger was born in Rottweil, Germany; her grandmother's United States immigration declaration of intent, filed on 23 April 1942, indicating that Emilie Weil was formerly Emilie Augsburgger, that her husband was Emil Weil who was born in Hechingen, Germany, and that she had two living children, [REDACTED] and [REDACTED]; her father's birth certificate, indicating that [REDACTED]'s parents were Emil and Emilie Weil who resided in Hechingen; her mother's German passport, indicating that she was the Claimant's mother; a letter, dated 21 February 1941 and signed by [REDACTED] and [REDACTED], indicating their desire for Emil and Emilie Weil to join them in New York; an extract from a book about the history of Hechingen indicating that Emil Weil's family owned a thread factory in Hechingen that was aryanized, and that [REDACTED] immigrated to the United States in 1938 with his wife, [REDACTED], and his daughter, the Claimant; a copy of the Bank's power of attorney form signed by Emil Weil in Montreux on 23 October 1941, granting [REDACTED] power of attorney over an account at the Schaffhausen branch of the Bank; a letter from the Schaffhausen branch of the Bank dated 17 May 1946 addressed to the owner of numbered account 2109 regarding certain securities in a company in Basel, Switzerland; and a picture of her grandparents' gravestones, indicating their names as Emil and Emilie Weil, and their dates of birth and death.

The Claimant indicated that she was born on 17 March 1937 in Stuttgart, Germany.

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

The Bank's record submitted to the CRT by 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") consists of an alphabetical list of customers who had custody accounts closed from 1936 through 1938. According to this record, the Account Owner was *Frau* (Mrs.) Emil Weil, the wife of Emil Weil, who resided in Hechingen/Hohenzollern, Germany. This record indicates that the Account Owner held a custody account that was closed no later than 1938.

Pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), the CRT requested the voluntary assistance of the Bank to obtain additional information about this account ("Voluntary Assistance"). The Bank provided the CRT with additional documents. These documents consist of extracts from the Bank's ledger. These records list the purchase and sale dates, together with the respective values thereof, of approximately 44 securities transactions. The purchase dates were between 1933 and 1934 and most of the sale dates recorded transpired in the last quarter of 1936. The Bank's records show that the last transactions on the account were recorded on 10 December 1936, and thus indicate that the account may have been closed on or around that date.

There is no evidence in the Bank's records that the Account Owner or her heirs closed the account and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The married name by which her grandmother was referred, as well as her grandmother's city of residence, match the published name and city of residence of the Account Owner.

In support of her claim, the Claimant submitted documents, including copies of her grandmother's marriage certificate, indicating that Emilie Augsburgger was married to Emil Weil; her grandmother's birth certificate, indicating that Emilie Augsburgger was born in Rottweil, Germany; her grandmother's United States immigration declaration of intent, filed on 23 April 1942, indicating that Emilie Weil was formerly Emilie Augsburgger, that her husband was Emil Weil who was born in Hechingen, Germany, and that she had two living children, [REDACTED] and [REDACTED]; her father's birth certificate, indicating that [REDACTED]'s parents were Emil and Emilie Weil who resided in Hechingen; an extract from a book about the history of Hechingen indicating that Emil Weil's family owned a thread factory in Hechingen that was aryanized; and a picture of her grandparents' gravestones, indicating their names as Emil and Emilie Weil and their dates of birth and death. These documents provide independent verification that the person who is claimed to be the Account Owner had the same married name and resided in the same town recorded in the Bank's records as the name and town of residence of the Account Owner.

The CRT further notes that the name "*Frau* Emil Weil" appears only once on the February 2001 of the list of accounts determined by ICEP to be probably those of Victims of Nazi Persecution (the "ICEP List"). The CRT notes that there are no other claims to this account.

### 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 the Account Owner was Jewish and that she fled Germany in 1939.

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

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's grandmother. These documents include copies of her grandmother's United States immigration declaration of intent, filed on 23 April 1942, indicating that she had two living children, [REDACTED] and [REDACTED]; and an extract from a book about the history of Hechingen indicating that the Claimant is the daughter of [REDACTED]. There is no information to indicate that the Account Owner has other surviving heirs.

## The Issue of Who Received the Proceeds

The CRT notes that the account may have been closed on or around 10 December 1936, which was shortly after the promulgation of the Seventh Implementation Order to the Law of Foreign Exchange Control of 19 November 1936 (“*Siebente Durchführungsverordnung zum Gesetz über die Devisenbewirtschaftung vom 19. November 1936*”). These foreign currency restriction measures mandated that German owners of foreign securities must deposit their securities at a German bank or, if in a bank outside Germany, into the account of one of a designated set of German banks there. According to the records from the Bank pertaining to other customers, the original deadline for such transfers was 4 December 1936. According to bank correspondence contained in files relating to other customers, and dated 16 February 1937, in the period from the effective date of the Foreign Exchange Control Law until 31 January 1937, the Bank transferred securities from 291 customer custody accounts in the amount of 6,266,760.00 Swiss Francs (“SF”) to various banks in Germany.<sup>2</sup>

Given these facts, and given that in 1933 the Nazis embarked on a campaign to seize the domestic and foreign assets of Jewish nationals in Germany through the enforcement of discriminatory taxes and other confiscatory measures, including confiscation of assets held in Swiss banks; that the Account Owner remained in Germany until 1939 and would not have been able to repatriate her account to Germany without ultimately losing control over its proceeds; that there is no record of the payment of the Account Owner’s account to her; that the Account Owner and her heirs would not have been able to obtain information about her 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 (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or her 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.

The CRT notes that the Claimant submitted a copy of a power of attorney form for an account at the bank that the Account Owner’s husband signed in 1941 and that the Account Owner’s family received a letter from the Schaffhausen branch of the Bank in 1946 regarding a numbered account. The CRT concludes that these accounts were opened after the arrival of the Account Owner and her family in Switzerland in 1939, and were controlled and accessed by the owners of the account. The CRT therefore concludes that the proceeds of these later accounts were received by their account owners.

## 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. Second, the Claimant has plausibly demonstrated that the Account Owner was her grandmother, and that

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<sup>2</sup> See *In re Account of Erma Solmsen*, approved by the Court on 29 March 2002.

relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner nor her heirs received the proceeds of the claimed account.

#### Amount of the Award

In this case, the Account Owner held one custody account of unknown value. Pursuant to Article 29 of the Rules, when the value of an account is unknown, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was SF 13,000.00. 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 162,500.00.

#### **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 her claim to determine whether there are additional Swiss bank accounts to which she 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  
21 September 2005