

CLAIMS RESOLUTION TRIBUNAL

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

Certified Denial

to Claimant [REDACTED 1]
represented by [REDACTED]

and to Claimant [REDACTED 2]
also acting on behalf of [REDACTED 3], [REDACTED 4], [REDACTED 5],
[REDACTED 6], [REDACTED 7],
[REDACTED 8] and the Estate of [REDACTED 9]
represented by Michael Shuster

in re Accounts of *Bankhaus M. Thorsch & Söhne*, Alfons and Marie Thorsch, and Alfons Thorsch

Claim Numbers: 218259; 222480; 222744; 222749

This Certified Denial is based upon the claims of [REDACTED 1], née [REDACTED], (“Claimant [REDACTED 1]”) and [REDACTED 2], née [REDACTED], (“Claimant [REDACTED 2]”) (together the “Claimants”) to the accounts of Alfons Thorsch, Marie Thorsch, *Bankhaus M. Thorsch & Söhne, N.V. Hollandsche Petroleum-en Industrie Maatschappij* and *N.V. Intercontinentale Petroleum Land en Handel-Maatschappij*. This Denial is to the published and unpublished accounts of *Bankhaus M. Thorsch & Söhne* (“Account Owner *Thorsch & Söhne*” or “TS”), Alfons and Marie Thorsch (“Account Owners Alfons and Marie Thorsch” or “A&M”), and Alfons Thorsch (“Account Owner Alfons Thorsch” or “A”) (together the “Account Owners”) at the Zurich, Basel, Bern, and Geneva branches of the [REDACTED] (“[REDACTED]” or “Bank I”); the London agency of the [REDACTED] or [REDACTED] (“[REDACTED]” or “Bank II”); the Zurich and Geneva branches of the [REDACTED] (“[REDACTED]” or “Bank III”); the [REDACTED] (“[REDACTED]” or “Bank IV”); the [REDACTED] (“[REDACTED]” or “Bank V”); the Zurich branch of the [REDACTED] (“[REDACTED]” or “Bank VI”); the Zurich branch of the [REDACTED] (“[REDACTED]” or “Bank VII”); the [REDACTED] (“[REDACTED]” or “Bank VIII”); and the Zurich branch of [REDACTED], (“Bank IX”) (together the “Banks”).

All denials 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 Regarding the Thorsch Family and Businesses

Information Submitted by the Claimants

The Claimants, who are cousins, submitted Claim Forms identifying Account Owners Alfons

and Marie Thorsch as their maternal grandparents, Dr. Alfons (Alphonse) Thorsch, who was born on 21 May 1872 in Vienna, Austria, and Marie Thorsch, née Spitzer, who was born on 3 November 1882 in Vienna. The Claimants stated that their grandparents, who were Jewish, were married on 2 February 1902 in Vienna and resided at Metternichgasse 4 in Vienna 3. According to the Claimants, their grandparents had five children, all of whom were born in Vienna: [REDACTED], née [REDACTED], who was born on 9 December 1902; [REDACTED], née [REDACTED] (Claimant [REDACTED 1]’s mother), who was born on 29 October 1904; [REDACTED], née [REDACTED], who was born on 27 May 1906; [REDACTED],¹ née [REDACTED], who was born on 18 November 1908; and [REDACTED], née [REDACTED] (Claimant [REDACTED 2]’s mother), who was born on 11 May 1912.

The Claimants stated that their grandfather was a banker and identified Account Owner *Thorsch & Söhne* as the bank *Bankhaus M. Thorsch & Söhne*, which was owned by their grandfather, and which was located at Hohenstaufengasse 17 in Vienna 1. The Claimants explained that Alfons Thorsch, his wife, and his daughter [REDACTED] left Vienna for Meran, Italy on 20 February 1938. After the incorporation of Austria into the German Reich in March 1938 (the “*Anschluss*”), the Thorsch family traveled from Meran to Zurich on 13 March 1938 to take up residence in Switzerland, where they temporarily resided in Zurich at the *Hotel Baur Au Lac* and later in Bern. According to the Claimants, the family moved to England sometime during the summer of 1939, where they resided at Brown’s Hotel in London. The Claimants explained that their grandparents later emigrated to Canada, where in 1941 they lived in Montreal, Quebec, and in 1942 in Victoria, British Columbia. The Claimants further stated that Marie Thorsch died in Montreal on 1 September 1944 and that Alfons Thorsch died in Victoria on 30 November 1945.

Claimant [REDACTED 2] indicated that she was born on 17 March 1947, in New York, New York, and Claimant [REDACTED 1] indicated that she was born on 4 November 1931 in Vienna. Claimant [REDACTED 2] is representing her brother, [REDACTED 3], who was born on 11 March 1948 in New York; her sister, [REDACTED 4], née [REDACTED], who was born on 8 October 1952 in Hamburg, Germany; and her cousins: [REDACTED 5], née [REDACTED], and [REDACTED 6], née [REDACTED] (the daughters of [REDACTED], née [REDACTED]), who were born on 24 April 1929 and 28 May 1927, respectively, in Vienna; [REDACTED 7] (the son of [REDACTED], née [REDACTED]), who was born 7 February 1938 in Vienna; [REDACTED 8], née [REDACTED] (the daughter of [REDACTED], née [REDACTED]), who was born on 17 March 1935 in Vienna; and [REDACTED 9] (the son of [REDACTED], née [REDACTED]), who was born on 12 November 1928 in Vienna.² The CRT notes that represented party [REDACTED 7] filed an ATAG Ernst & Young claim form in 1998, asserting his entitlement to Swiss bank accounts owned by Alfons Thorsch and *Bankhaus M. Thorsch & Söhne*.

From the date of the filing of their claim through 27 August 2007, the Claimants submitted numerous documents in support of their claims. The documents submitted prior to 15 January

¹ The CRT notes that in a number of official documents and in family correspondence, [REDACTED]’s name is spelled [REDACTED]. In the affidavit of [REDACTED] (see V (1) *infra*), and in Dr. Pestalozzi’s letter to [REDACTED] (see p. 49 *infra*) this last name is spelled [REDACTED], which appear to be errors.

² On 23 March 2006, [REDACTED] informed the CRT that his father, [REDACTED 9], had passed away.

2007 by Claimant [REDACTED 2] include the following:

- I (1) [REDACTED 5]'s and [REDACTED 6]'s birth certificates (the latter later changed her name to [REDACTED 6] and then to [REDACTED 6]), identifying their mother as [REDACTED], née [REDACTED], and their mother's parents as Dr. Alfons Thorsch and Marie Thorsch, née Spitzer;
- I (2) [REDACTED 9]'s birth certificate, identifying his mother as [REDACTED], née [REDACTED];
- I (3) [REDACTED 8]'s birth certificate, identifying her mother as [REDACTED], née [REDACTED], and her mother's parents as Dr. Alfons Thorsch and Marie Thorsch, née Spitzer;
- I (4) [REDACTED 7]'s birth certificate, identifying his mother as [REDACTED], née [REDACTED], and his mother's parents as Dr. Alfons Thorsch and Marie Thorsch, née Spitzer;
- I (5) [REDACTED 4]'s birth certificate, identifying her mother as [REDACTED], née [REDACTED];
- I (6) [REDACTED]'s birth certificate;
- I (7) [REDACTED 3]'s birth certificate, identifying his mother as [REDACTED], née [REDACTED];
- I (8) Marie Thorsch' will, naming her husband Alfons Thorsch as her sole beneficiary;
- I (9) Alfons Thorsch' will, establishing a trust with Barclays Trust Company of Canada and naming his daughters as beneficiaries of the residue of his estate;
- I (10) the will of [REDACTED], née [REDACTED], naming her daughters [REDACTED 6] and [REDACTED 5] as her beneficiaries with respect to the trust established by her father Alfons Thorsch;
- I (11) a letter written by [REDACTED], née [REDACTED], expressing her wish that her children should receive her estate;
- I (12) the will of [REDACTED], née [REDACTED], identifying her daughter [REDACTED 8] as one of her two beneficiaries;
- I (13) the will of [REDACTED], née [REDACTED], naming her son [REDACTED 7] as her sole beneficiary;
- I (14) the handwritten will of [REDACTED], née [REDACTED], identifying [REDACTED 2] as her daughter;
- I (15) [REDACTED]'s birth certificate, identifying her parents as Dr. Alfons Thorsch and Marie Thorsch, née Spitzer; and
- I (16) [REDACTED 1]'s certificate of marriage to [REDACTED], identifying her mother as [REDACTED], née [REDACTED].

The documents submitted prior to 15 January 2007 by Claimant [REDACTED 1] include the following:

- II (1) the birth certificate of her mother, [REDACTED], which indicates that she was born in Vienna on 29 October 1904 and identifies her parents as Dr. Alfons Thorsch and Marie Thorsch, née Spitzer; and
- II (2) her own marriage certificate, identifying her mother as [REDACTED], née [REDACTED].

Both Claimants also submitted prior to 15 January 2007:

- III (1) excerpts from a monograph entitled “*Die Auslöschung: Der Fall Thorsch*” (“The Obliteration: The Thorsch Case”), by Hubertus Czernin (“Czernin”),³ describing, on the basis of the documents in the family’s private archives, the confiscation of the family’s assets by the Nazi regime and the subsequent efforts of the Thorsch heirs to obtain restitution;
- III (2) excerpts from bank ledgers of *Thorsch & Söhne* later augmented by copies of ledger pages concerning foreign bank accounts of *Thorsch & Söhne*, as well as a copy of the main ledger (*Hauptbuch*) (the “TS bank ledger”) documenting, *inter alia*, the existence of accounts held at several Swiss banks by *Thorsch & Söhne* and by Alfons and Marie Thorsch;
- III (3) documents obtained from the Austrian State Archive (“ASA”) and the Archive of the City of Vienna (“ASW”) regarding the assets of Alfons and Marie Thorsch and a typed transcript of the full 1938 Census declarations of Alfons and Marie Thorsch with handwritten annotations, provenance unknown, but later referred to by the Claimant as the “assessment file”;⁴ and
- III (4) documents pertaining to litigation in Switzerland involving Swiss bank accounts owned by *Thorsch & Söhne*.

On 16 January 2007 Claimant [REDACTED 2] advised by fax, apparently in response to the CRT’s Finding of Fact Memorandum transmitted to her and to Claimant [REDACTED 1] on 15 January 2007 and further discussed below, that she would submit a set of additional documents consisting of 18 Exhibits as follows:⁵

- IV (1) Fifteen of the 18 exhibits concern the Dutch holding company owned by Alfons and Marie Thorsch;
- IV (2) One of the 18 exhibits contains a circular from the Reich Finance Ministry advising that official depositories of confiscated securities should deliver these to the *Reichsbank* (the Reich’s Central Bank);
- IV (3) One of the 18 exhibits contains documents regarding the assets of Alfons and Marie Thorsch obtained from the ASA [see III (3)]; and
- IV (4) One of the 18 exhibits concerns a post-War letter from the Swiss lawyer who represented Alfons Thorsch in the litigation referred to above [see III (4)].

Following a meeting at the CRT in Zurich on 20 February 2007, discussed more fully below, Claimant [REDACTED 2] submitted a “Supplemental Statement for Claim of [REDACTED 2], *et al.*,” dated 14 May 2007, (hereinafter the “Supplemental Statement”) together with 24 Exhibits as follows:

- V (1) Affidavit of [REDACTED] regarding the handing over of jewelry to Gestapo, dated 20 March 1959;

³ Czernin, Hubertus, *Die Auslöschung: Der Fall Thorsch*, Molden Verlag, Vienna, 1998 (hereinafter “Czernin”).

⁴ With regard to the archival documents, the Claimants did not provide the usual file citations. Accordingly, citations that appear hereinafter simply sourced to a particular archive, but without proper further citation, were provided by the Claimants.

⁵ These documents were received on 17 January 2007.

- V (2) Declaration of Carl and Marie Jeschek regarding the confiscation of assets at *Thorsch & Söhne*, dated 22 March 1959;
- V (3) twelve previously submitted exhibits regarding assets of Alfons and Marie Thorsch, including two flight tax assessment demand forms, official correspondence regarding Alfons and Marie Thorsch' assets and the flight tax obtained from the ASA; and the "assessment file" (described above) containing a typed transcript of the attachments to the 1938 Census declarations of Alfons and Marie Thorsch with handwritten annotations and a partial transcript of the 15 December 1939 flight tax assessment demand [see III (3) and IV (3)];
- V (4) two previously submitted exhibits regarding assets in Switzerland [see III (4) and IV (4)];
- V (5) five exhibits concerning the restitution settlement agreed by the Executor and Trustee of Alfons Thorsch' will with the Berlin Restitution Office (*Wiedergutmachungsamt Berlin*) in 1959;
- V (6) one exhibit containing an affidavit by the Executor and Trustee of Alfons Thorsch' will regarding assets in Austria, dated 29 July 1946 [year, not legible, added by Claimant [REDACTED 2]]⁶ and what appears to be a later, undated, listing of the assets in the trust account;
- V (7) one exhibit containing the Executor and Trustee's Interim Accounts for the estate of Alfons Thorsch as of 30 November 1950; and
- V (8) one exhibit containing the CRT's Finding of Fact Memorandum regarding the Claims of [REDACTED 1] and [REDACTED 2] to the accounts of *Bankhaus M. Thorsch & Söhne*, Alfons and Marie Thorsch, and Alfons Thorsch.

On 27 August 2007 [REDACTED 1]'s representative submitted several documents in support of Claimant [REDACTED 1]'s argument that flight tax payments were made from Alfons Thorsch' Swiss accounts as follows:

- VI (1) Correspondence regarding the CRT's Finding of Fact Memorandum;
- VI (2) Declaration in a letter, dated 14 May 2007, to Claimant [REDACTED 1] from the son of Dr. Adolf Weiss-Tessbach, a partner in the law firm that represented the interests of members of Alfons Thorsch' family in the period relevant to this case;
- VI (3) Previously submitted documents, including an excerpt from Alfons Thorsch' 1938 Census declaration; a document, the provenance of which is unknown, from the "assessment file" (described above), containing a typed transcript of the attachments to the 1938 Census declarations of Alfons and Marie Thorsch with handwritten annotations and a partial transcript of the 15 December 1939 flight tax assessment demand [see III (3) and IV (3)]; [see V (3)]; and a flight tax assessment demand dated 15 December 1939.

The CRT notes that the Finding of Fact Memorandum referred to under V (8) and VI (1) and discussed more fully below, summarized the facts and conclusions drawn as of 15 January 2007. The 14 May 2007 reaction to the Finding of Fact Memorandum and submission of additional supporting material by Claimant [REDACTED 2] included, where relevant, translations of the

⁶ On the same document, previously obtained by the CRT from the NAC, the year is shown clearly as 1946.

original German documents by Claimant [REDACTED 1]. The CRT, in its assessment of the information furnished, relied on the original texts.

A number of these documents duplicated earlier submissions and/or documentation already obtained by the CRT from archival and other sources. Their content is discussed in the section on “Finding of Fact Memorandum and additional Supplemental Submission by Claimant [REDACTED 2], *et al.* and Claimant [REDACTED 1]” starting on p. 43 and incidentally on other pages.

Information Obtained by the CRT

Many of the numerous documents submitted by the Claimants, including those submitted on 15 January 2007, 14 May 2007 and 27 August 2007, overlap in part or in whole or amplify documentation available to the CRT from its own research and from the Banks. The latter documentation includes documents from the auditors who carried out the investigation of Swiss banks to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons (“ICEP” or the “ICEP Investigation”) as well as additional information about certain of these accounts obtained from Bank I, Bank III, Bank IV, and Bank V pursuant to Article 6 of the Rules Governing the Claims Resolution Process, as amended (the “Rules”), which provides for voluntary assistance from the banks (“Voluntary Assistance”).⁷ Through its own research the CRT obtained further documentation, including the 1938 Census declarations of Alfons and Marie Thorsch; documents relating to the litigation pursued in the Zurich Courts by Alfons Thorsch and the *Wiener Giro-& Cassen-Verein* (“*Cassen-Verein*”), which was appointed administrator (*kommissarischer Verwalter*) of *Thorsch & Söhne* by the Nazi regime; the full Czernin monograph; documents relating to the *N.V. Hollandsche Petroleum-en Industrie Maatschappij* (“*H.P.I. Mij.*”) and *N.V. Intercontinentale Petroleum Land en Handel-Maatschappij* (“*Intercontinentale*”); and other archival and published material relevant to the claims.

Information Regarding Swiss Bank Accounts

Summary of Accounts

The combined records indicate the existence of 29 accounts, of which 21 were held by *Thorsch & Söhne*, five by Alfons and Marie Thorsch jointly, and three by Alfons Thorsch. Of the 21 accounts held by TS, 12 were demand deposit accounts, seven were custody accounts, and two were of unknown type. Of the five accounts held by Alfons and Marie Thorsch, three were custody accounts and two were demand deposit accounts. Alfons Thorsch held one custody account, one demand account, and one safe deposit box. A description of all 29 accounts is detailed in Appendix A and in tabular form in Appendix C. A listing of abbreviations and acronyms is attached as Appendix D.

⁷ Article 6 of the Rules Governing the Claims Resolution Process (the “Rules”) provides that, “[w]hen necessary to obtain information to resolve claims to accounts that is unavailable to the CRT under Articles 1 – 5, the CRT may seek the voluntary assistance of banks that may have information in their files on such an account.” This process is known as “Voluntary Assistance.”

Of the 21 accounts held by *Thorsch & Söhne*, 15 were closed prior to the *Anschluss*. One of these 15 accounts was closed prior to 1933, and therefore was not open in the period from 1933 to 1945 during which the Nazis were in power (the “Relevant Period”). The assets in ten of the 15 accounts were transferred to other accounts belonging to the Account Owners, and the accounts were subsequently closed prior to the *Anschluss*. The records indicate that six accounts remained open after the *Anschluss*:

- TS (1) A demand deposit account held at Bank IV, which was closed on 28 June 1938. The contents, which consisted of 2,354.50 Swiss Francs (“SF”), were transferred to an existing TS account at the Zurich branch of Bank III Zurich (*see* item (3)).
- TS (2) A demand deposit account held at Bank V, which was closed on 30 June 1938. The contents, which consisted of SF 1,993.80, were transferred to an existing TS account at the Zurich branch of Bank III (*see* item (3)).
- TS (3) A demand deposit account held at the Zurich branch of Bank III, the contents of which (SF 20,000.00) included the funds transferred from Bank IV and Bank V at the end of June 1938. These assets were the subject of litigation in Switzerland between the *Cassen-Verein*, as *kommissarischer Verwalter* of TS, together with TS, and Alfons Thorsch in 1938 and 1939. The litigation started on 27 July 1938 when Alfons Thorsch’ petitioned the Zurich District Court (*Bezirksgericht Zürich*, the “District Court”) for protection of these funds, upon which they were frozen temporarily by the District Court after which, the Court having found for the petitioner in August 1938, they were transferred to the custody of the District Court at the *Bezirksgerichtskasse* (“District Court Cashier”) in Zurich, where they were held under deposit number 03.785. The litigation concluded in 1939 with the Superior Court finding against the *Cassen-Verein* and TS, as had the District Court in 1938. The *Cassen-Verein* wrote the funds off in the books of TS at the end of that book year, on 31 December 1939.
- TS (4) A demand deposit, numbered 112, held at the Zurich branch of Bank I, the contents of which (SF 7,502.00) were the subject of litigation in Switzerland between the *Cassen-Verein*, as *kommissarischer Verwalter* of TS, together with TS, and Alfons Thorsch in 1938 and 1939, as described at TS (3) above. The *Cassen-Verein* wrote the funds off in the books of TS at the end of that book year, on 31 December 1939.
- TS (5) A demand deposit account held at Bank II in London, which was written off by the *Cassen-Verein* in the books of TS at the end of the book year, on 31 December 1939, at which time it contained 212.12.10 Pound sterling (“£”).
- TS (6) A demand deposit account held at the Basel branch of Bank I, which was written off by the *Cassen-Verein* in the books of TS at the end of the book year, on 31 December 1939.

The five accounts jointly held by Alfons and Marie Thorsch were as follows:

- A&M (1) A custody account, numbered 59479, held at the Zurich branch of Bank III, which contained the following securities, transferred on 2 December 1937 from a custody account, numbered 30162, held by TS at Bank III:

- £ 70 nominal 5% *Amort. Rumänische Rente 1926, Tranche A*; and
 - SF 121,000 nominal of 3% *Schweizerische Eisenbahnrente 1890, Serie I*.
- The contents of the account were transferred to an account held in Amsterdam at the bank *Lippmann, Rosenthal & Co.* by Alfons Thorsch and/or the *H.P.I. Mij.* on 23 June 1938 and the account was closed on 28 June 1938.⁸
- A&M (2) A demand deposit account held at the Zurich branch of Bank III in conjunction with custody account 59479. The contents of this account were transferred to an account held in Amsterdam at *Lippmann, Rosenthal & Co.* by Alfons Thorsch and/or *H.P.I. Mij.* in June 1938, and the account was closed on 30 June 1938.
- A&M (3) A demand deposit account held at the Zurich branch of Bank III, which was closed on 20 September 1939.
- A&M (4) A custody account, numbered 22738, held at Bank IV, which contained the following securities, transferred on 10 December 1937 from a custody account held by TS at Bank IV:
- £ 47,280 nominal 5% 25 yr. *Abrechnungs Obl. E*;
 - 90,000 Italian lire (“ITL”) nominal 5% 25 yr. *Abrechnungs Obl. G*; and
 - 300,000 French francs (“FF”) nominal 5% 25 yr. *Abrechnungs Obl. H*.
- A&M (5) A custody account, numbered 44865, held at [REDACTED], which contained the following securities, transferred on 6 December 1937 from a custody account held at [REDACTED] by TS:
- £ 46,970 nominal 5% 25 yr. *Abrechnungs Obl. E*;
 - ITL 50,000 nominal 5% 25 yr. *Abrechnungs Obl. G*; and
 - FF 300,000 nominal 5% 25 yr. *Abrechnungs Obl. H*.

The three accounts held by Alfons Thorsch were as follows:

- A (1) One custody account, numbered 41392, held at the Zurich branch of Bank III and opened on 10 November 1930. This account was opened with shares of *H.I.P. Mij.* with a face value of 1,100,000.00 Dutch guilders (“fl”) and shares of the *Intercontinentale* with a face value of fl 200,000.00. On 8 December 1932, shares of the *H.I.P. Mij.* with a face value of fl 365,000.00 were transferred to an account at *Lippmann, Rosenthal & Co.* in Amsterdam. The remaining *H.I.P. Mij.* shares and all the *Intercontinentale* shares were transferred to an account at *Lippmann, Rosenthal & Co.* on 23 June 1938 and account 41392 was closed on 28 June 1938.
- A (2) One safe deposit account, numbered S 814, held at the Zurich branch of Bank III. The account was closed on 19 December 1938.
- A (3) One demand deposit account held at the Zurich branch of Bank III.

⁸ The CRT notes that *Lippmann, Rosenthal & Co.*, which was a long-established and well-respected Jewish-owned bank in Amsterdam should not be confused with *Lippmann, Rosenthal & Co.*, Sarphatistraat, which was the notorious robber bank organized by the Nazi occupiers to concentrate and eventually confiscate the assets of the Jewish residents of the Netherlands. The name *Lippmann, Rosenthal & Co.* was expressly chosen to cloak the new bank’s real purpose.

Information Available from the 1938 Census Declarations

By decree on 26 April 1938, the Nazi Regime required all Jews who resided within the Reich, or who were nationals of the Reich, including Austria, and who held assets above a specified level to register all their assets as of 27 April 1938 (the “1938 Census”). In the records of the Austrian State Archive (Archive of the Republic, Finance), there are documents concerning the assets of Alfons and Marie Thorsch, numbered 33345 and 33346, respectively. These documents include the asset declarations of Alfons and Marie Thorsch and official correspondence, mainly between the Office in the Ministry for Economics and Labor charged with registering and administering Jewish-owned property (*Vermögensverkehrsstelle* or “VVSt”), the Gestapo and the fiscal authorities.

Alfons Thorsch

According to his asset declaration, Alfons Thorsch was born on 21 May 1872, was married to Marie Thorsch, née Spitzer, and was the sole owner of *M. Thorsch & Söhne*, a bank located at Hohenstaufengasse 17 in Vienna I. In addition, the records indicate that Alfons Thorsch formerly resided at Metternichgasse 4 in Vienna III, and that he was living in Zurich by 23 July 1938, the date he signed his asset declaration. He declared owning real property located at Bräunerstrasse 2 and Hohenstaufengasse 17 in Vienna I, and at Brühlerstrasse 59, in Mödling, Austria, valued at a total of 767,334.00 Reichsmark (“RM”) as well as farm property valued at RM 13,100.00. Alfons Thorsch noted in his asset declaration that all three properties were in process of confiscation by the Nazi authorities. Later correspondence, dated 8 November 1940, contains a note from the Gestapo to the VVSt advising that the liquid assets of Alfons and Marie Thorsch had already been confiscated and transferred to the Reich’s fiscal authorities at an unnamed earlier date.

Thorsch & Söhne

Alfons Thorsch’ asset declaration also contains a listing of the assets and liabilities of TS. He noted that in past years the bank functioned solely for the safekeeping of his own assets (*Verwahrung des eigenen Vermögens*). He reported TS’ assets amounting to RM 608,875.12 as of 27 April 1938. According to his declaration, the bulk of this amount, RM 364,682.74 was held in deposits abroad; RM 28,105.21 was in cash holdings; and RM 1,446.03 was in foreign exchange and silver coins. Additionally, he reported securities with a book value of RM 78,363.00. According to notations on the declaration, the silver coins, the foreign exchange, and all but a fraction of the securities had already been confiscated by the Gestapo by the time it was signed. The bank’s liabilities amounted to RM 513,243.43 with RM 252,075.89 and RM 261,167.54 belonging to Alfons and Marie Thorsch, respectively. These latter amounts, augmented by accrued interest, were also reported by Alfons and Marie Thorsch as bank deposits in their declarations of their own assets.

Marie Thorsch

According to her asset declaration, Marie Thorsch, née Spitzer, who was born on 3 November 1882 and married to Alfons Thorsch, formerly resided at Metternichgasse 4 in Vienna III and

was residing in Zurich by 23 July 1938, the date she signed the form. Marie Thorsch reported that she was the sole owner of three properties located at Metternichgasse 4, Salesianergasse 27, and Lustig Priangasse 5, all in Vienna III, and valued at a total of RM 280,001.00, and that she owned jewelry and artworks worth approximately RM 50,000.00. In addition to the bank deposits at TS referenced above, she reported a demand deposit at *Lippmann, Rosenthal & Co.* in Amsterdam worth RM 2,727.60. The records also indicate that on 15 December 1939 Marie and Alfons Thorsch were assessed flight tax (*Reichsfluchtsteuer*) of RM 1,820,578.00 on total assets of RM 7,282,315.00, and that this tax had become due on 25 June 1938, the date on which Police Headquarters Vienna officially recorded that Alfred and Marie Thorsch had departed Vienna.

Neither of the 1938 Census declarations and related correspondence makes mention of assets held in a Swiss bank account. However, the records do contain detailed listings of financial assets, including securities, which are discussed below in conjunction with related information from other sources that reference accounts held in Swiss banks. (See discussion *infra*, p 16 ff.)

History and Fate of the Thorsch Companies⁹

Thorsch & Söhne before the Anschluss

TS was founded by [REDACTED] around 1800 as a wholesale house dealing primarily in raw wool, but under his sons it soon branched into other areas, including, beginning around 1850, banking. In 1870 the firm, by then run by [REDACTED]'s grandsons, [REDACTED] and [REDACTED], opened a branch in Vienna, which before long became its headquarters.

[REDACTED] died in 1883, and his brother [REDACTED] continued to run the business alone until the 1890s, when his nephew [REDACTED] ([REDACTED]'s son) entered the business. When [REDACTED] died in 1905, Alfons Thorsch, then 33 years old, was left to run the business alone. By then the firm had already for several years been counted among the leading banks of Vienna, engaging mainly in foreign currency and precious metal transactions. Nevertheless, the purpose of the firm still was recorded as wholesale business in the Company Register of Vienna as late as 3 May 1899. It took almost three decades, until 9 April 1926, for banking to be added to the Vienna Company Register's listing of the firm's purpose, at the same time as it identified the firm as a one-person proprietorship with Alfons Thorsch being the sole owner.¹⁰

⁹ See Czernin. See also Peter Melichar, *Neuordnung im Bankwesen. Die NS-Massnahmen und die Problematik der Restitution*. (New Order in the Banking Industry. National Socialist Measures and the Problem of Restitution (hereinafter "Melichar"). Vienna: Historikerkommission, 2002, pp. 399 – 404; and ASA documents, especially official correspondence of the *Giro & Cassen-Verein* reporting on its administration of TS and documents, partly provided by the Claimants and partly from the National Archives of Canada (hereinafter "NAC"), relating to the *N.V. Hollandsche Petroleum-en Industrie Maatschappij* ("H.P.I. Mij.") and *N.V. Intercontinentale Petroleum Land en Handel-Maatschappij* ("Intercontinentale").

¹⁰ ASA, letter from "Kompass" Treuhand-u. Revisionsgesellschaft (Kompass Trust and Audit Company) to the *Abt. Wirtschaftsprüfung* (Auditing Department), *Abwicklungsstelle der Vermögensverkehrsstelle* [Section in charge of winding up the work of the VVSt in the Office of the *Reichsstathalter* (Plenipotentiary of the Reich) in Vienna (hereinafter *Abwicklungsstelle*)], not dated, but dating from some time after 31 December 1939, likely around mid-1941 following the internal reminder, dated 15 March 1941, that an audit should have been ordered.

Under Alfons Thorsch' leadership, the bank shifted its focus progressively toward the management of the family's assets. In the 1930s, the bank no longer had any clients and its business was exclusively concerned with managing the wealth of its sole owner, Alfons Thorsch, and his family. Consequently, as detailed below, bank activity of TS was intermingled with that of Alfons and Marie Thorsch, with funds and also bank accounts frequently transferred from one entity to the other.

History of N.V. Hollandsche Petroleum-en Industrie Maatschappij and N.V. Intercontinentale Petroleum Land en Handel-Maatschappij

According to Czernin, Alfons Thorsch distinguished himself from other Austrian bankers of his generation by an outward-looking business strategy. Nevertheless, he was unable to fully protect the family's wealth from the adverse effects of World War I. This experience prompted him to establish in 1921 the *H.P.I. Mij.*, a holding company in the Netherlands,¹¹ into which he transferred the total capital of the *Oderfurter Mineraloelwerke GmbH* (later *Privozer Mineralölwerke A.G.*, (the Privoz Mineral Oil Works, "*Privozer*"), to protect it against the possibility of a future war. The *Privozer*, a mineral oil refinery, was founded in 1889 in Maehrisch-Ostrau, then Austria (after 1918 Privoz, Czechoslovakia). It was wholly owned by Alfons and Marie Thorsch and, according to Czernin, was the jewel in the crown of their assets. In 1929 Alfons Thorsch transformed the *Privozer* into a joint-stock company with a capital of 10 million Czechoslovakian crowns ("Kcs"), but no shares were ever issued. Instead, *H.P.I. Mij.*'s ownership of the capital of the *Privozer* was lodged in an "Interim Certificate" that was deposited with their bankers, *Lippmann, Rosenthal & Co.*, in Amsterdam, two senior partners of which were Alfons Thorsch' cousins.¹²

After the occupation of the Netherlands, in an effort to safeguard the Thorsch assets, the directors of the *Privozer*, [REDACTED] (who was Alfons Thorsch' son-in-law), who had fled to London, and Dr. Alois Prazak cancelled the Interim Certificate on 23 August 1940. A new certificate was issued to *H.P.I. Mij.*, the headquarters of which Alfons Thorsch, with the concurrence of the Dutch Government in exile, had moved to Curaçao in yet another move to protect his assets generally and their accessibility in particular.¹³ The Reich issued a confiscation order for the physical assets of the *Privozer* and the share capital of *H.P.I. Mij.*, including the capital of the *Privozer*, on 17 September 1940. It eventually, on 25 February 1941, obtained the

¹¹ See attachment to the *Nederlandsche Staatscourant*, 30 June 1921, no. 125, noting that on 25 April 1921, pending Royal assent, Robert May and Edgar Fuld, bankers in Amsterdam, through *Lippmann, Rosenthal and Co.*, and Dr. Alphons Thorsch of Vienna established a company named *Hollandsche Petroleum-en Industrie Maatschappij* and that Royal assent No. 59 had been given on 1 June 1921; on 21 March 1929, the designation *NV* (Ltd.) was added to the name of the company.

¹² NAC, RG 117, A-3, vol. 2002, (1940-48) Part 1, file 4528, Memorandum, dated 31 March 1941 from G. G. Beckett, Office of the Custodian, Dept. of the Secretary of State, to McPherson. The two partners of *Lippmann, Rosenthal* referred to in the Memorandum presumably were Robert May and Edgar Fuld. See *supra*, note 11.

¹³ A number of Dutch companies moved their headquarters to the Netherlands Antilles at the time in order to prevent their assets being frozen by the British and the Americans under their respective Trading with the Enemy legislation. What physically remained of these establishments, and their domestic operations generally, continued under Nazi-appointed administrators, as did *Lippmann, Rosenthal & Co.*, with what assets had remained in Amsterdam.

original, but no longer valid, Interim Certificate in Amsterdam from *Lippmann, Rosenthal & Co.*, which as a Jewish-owned bank by then was under Nazi administration.¹⁴ This final step was in line with the Reich's strategy of attempting to give acquisitions of mining interests in Bohemia-Moravia, such as the *Privozer*, a quasi-legal front.

The bulk of the financial assets held by the *H.P.I. Mij.* had been moved before the Nazi occupation to London and New York, where they were held in the name of *Lippmann, Rosenthal & Co.* to the account of the *H.P.I. Mij.* until after the War, when they passed into the estate of Alfons Thorsch.¹⁵

According to the documents, the initial assets of the *Intercontinentale* originated from land acquisitions by TS in Prince Rupert, British Columbia, Canada, in 1914. These were purchased by the *H.P.I. Mij.*, but, at the behest of Alfons Thorsch, they were transferred to the *Intercontinentale*, which had been set up for this purpose on 19 November 1923. The company suffered significant losses, and in 1935 Alfons Thorsch acquired the real estate from the company. However, mounting tax liabilities caused the properties to be abandoned to the communal authorities of Prince Rupert. The *Intercontinentale* then sold its gold and securities holdings to Alfons Thorsch in January 1939 for shares in *H.P.I. Mij.* with a nominal value of fl 200,000.00 at a price of 72½ percent. Accordingly, after January 1939 the assets of *Intercontinentale* consisted of 200 shares of the *H.P.I. Mij.* with a nominal value of fl 200,000.00.¹⁶

The Liquidation of Thorsch & Söhne and the Fate of the Thorsch Family's Assets, including the *H.P.I. Mij.*

The Liquidation of Thorsch & Söhne

Following the *Anschluss*, the Nazi authorities moved quickly to gain control of the Austrian banking sector. The Gestapo closed TS on 31 March 1938 and secured all assets at hand at that time.¹⁷ On 11 May 1938, according to the Chief Cashier of TS, assets, including RM 28,105.21 in cash, RM 2,974.97 from the wage account, foreign currency, silver coins, and individually listed securities belonging to TS, Alfons Thorsch and Marie Thorsch were seized and removed by the Gestapo. In subsequent official correspondence the assets that were seized are described as liquid assets worth RM 32,514.79 plus two bundles of securities and "...one bundle of correspondence, containing letters, account statements, etc. and the following deposit receipts

¹⁴ Compilation by the Claimants from documents pertaining to the Estate of Alfons Thorsch provided by the Royal Trust, Ottawa, which had taken over Barclays Trust Company of Canada, who were the Executor and Trustee of Alfons and Marie Thorsch' estates.

¹⁵ Barclays Trust Company of Canada, "Estate of Alfons Thorsch Interim Executorship Accounts as at 30th November, 1950," hereinafter "the Executor's Interim Account."

¹⁶ This transfer explains references after January 1939 to Alfons and Marie Thorsch owning 900 shares of *H.P.I. Mij.* rather than the 1,100 shares they originally owned. As they also owned the *Intercontinentale*, this shift of 200 shares of the ownership of *H.P.I. Mij.* to the *Intercontinentale* was a paper transaction allowing Alfons Thorsch to shift assets out of the *Intercontinentale* without making cash payments.

¹⁷ ASA, provided by the Claimants as Exhibit 2 on 24 September 2006, letter from Dr. Bruno Erhardt, a lawyer acting on behalf of the employees of TS, to the Office of the *Reichsstatthalter* in Vienna, dated 24 April 1940.

[*Depotscheine*]...”¹⁸ listing deposits made to three Swiss banks, the account numbers, the dates of deposit and the respective values. The CRT notes here that a deposit receipt merely records the deposit of an asset into an account and thus can only document the existence of the account, the nature of the asset deposited and generally also its value on the date of deposit. It cannot by itself document the subsequent fate of either the asset or the account in question. A deposit slip thus is basically a bookkeeping document and of no intrinsic value. (For further discussion *see infra* pp. 21-22, 27 and p. 41.)

Alfons Thorsch appeared to have been well aware of the danger to his bank in the event of a Nazi regime taking over in Austria. Thus, by the end of 1937, it is evident that Alfons Thorsch, as he had in the 1920s, again sought to protect his and his wife’s assets in the face of an ever more threatening environment. As detailed below, he made a considered decision regarding the safety of his bank accounts. Thus, he transferred a number of accounts that had been held in the name of TS (*Conto nostro*) into accounts held in his and/or his wife’s name personally and consolidated and/or transferred a number of his holdings to different locations, including to his and his Dutch companies’ bankers, *Lippmann, Rosenthal & Co.* in the Netherlands. He himself, together with his wife and daughter [REDACTED], left Vienna for Meran, Italy on 20 February 1938, from where he traveled to Zurich the day after the *Anschluss*, on 13 March 1938, to take up residence in Switzerland.¹⁹ According to the Claimants, approximately in the summer of 1939, the family moved to England, from where they emigrated to Canada, arriving in Quebec on 31 July 1940.²⁰

TS was not the only bank targeted by the Nazi authorities. Alfons Thorsch, as owner of *Thorsch & Söhne*, was included in a wholesale operation in which the banking licenses of over 100 Jewish bankers included on a list dated 5 May 1938 were to be withdrawn because they “...lacked the confidence of the State Commissioner for the Private Economy (*Staatskommissar für die Privatwirtschaft*).”²¹ The bank then was slated for liquidation, and, on 11 June 1938, the VVSt named the *Cassen-Verein* administrator (*kommisarischer Verwalter*). The *Cassen-Verein* valued TS’ assets on that date at RM 561,000.00, against which stood the capital account of Alfons Thorsch, sole owner of the firm, of RM 300,834.56 and a book loan from his wife, Marie Thorsch, of RM 260,166.37. The bulk of the assets, RM 348,809.00, consisted of bank deposits held abroad at American, British, Dutch, French, Swiss, Italian, Czech, Hungarian and Spanish banks. The administrator noted that its

...efforts to withdraw these deposits were only partly successful because in the case of the Swiss and the British deposits, Dr. Alfons Thorsch had either prevailed upon the Courts to block the deposits or

¹⁸ ASA, provided by the Claimants 24 April 2006.

¹⁹ ASA, provided by the Claimants 24 April 2006, Official correspondence entitled “Notation” (*Vermerk*) and dated 17 May 1940.

²⁰ NAC, RG 117, A-3, vol. 2002, (1940-48) Part 1, file 4528, Letter, dated 15 September 1941, from Asst. Under Secretary of State to Asst. Deputy Custodian of Enemy Property. Note that the document on the *Privozer* provided by the Claimants erroneously puts the date of arrival in Canada as 1939 and that Claimant [REDACTED 2] stated that they resided in Montreal, Quebec in 1941.

²¹ ASA, Ministry of Finance, subject “Official Reminder, to take cognizance of before approval,” dated 6 May 1938.

had withdrawn them himself.²² In the case of the U.S. and the Dutch deposits, the banks in these countries did not recognize our appointment and disposition rights as administrators.... ...In the case of the deposits in England and in Switzerland, at the order of the *Staatskommissar in der Privatwirtschaft*, [we] engaged in litigation. The litigation in Switzerland was decided against us at two judicial levels. [We] refrained from further litigation at the specific order of the Economics Ministry (*Reichswirtschaftsministerium*) in Berlin. The litigation in England also was discontinued at the order of the Economics Ministry....

Because of the inability to collect the largest external deposits and the payment of legally set and additional charges, as well as the cost of litigation ...a loss of RM 328,388.- -.was incurred over the liquidation period from 11 June 1938 to 31 December 1940....

We abrogated the banking license and had the firm expunged from the Register of the Local Court of Vienna (*Register des Amtsgerichtes Wien*)...²³

The *Cassen-Verein*, in a subsequent more detailed statement, listed the loss incurred because of its inability to access the bulk of TS' foreign-held deposits at a total of RM 293,326.19. This consisted of deposits in Pound sterling, US Dollars and Swiss Francs held on account of Alfons Thorsch, amounting to RM 164,564.93, and deposits in Pound sterling held on account of Marie Thorsch, amounting to RM 128,761.26, all of which had been written off.²⁴

TS ceased to exist to all intents and purposes on 7 September 1939, when the firm was expunged from the official Register,²⁵ even though the liquidation process stretched to 13 August 1941, when the *Cassen-Verein* was relieved of its function as *kommissarischer Verwalter*.²⁶ Throughout this process, as documented in official correspondence, various levels of the Nazi regime vied for the assets of TS. The struggle for these assets involved the Gestapo, on the part of the Reich; the Party (*Nationalsozialistische Deutsche Arbeiterpartei* or NSDAP), for the benefit of which real estate holdings of the Thorsch family had been confiscated; the local fiscal authority, *Finanzamt Wien Innere Stadt – Ost*, which sought to collect flight tax assessed at RM 1,820,578.00; and finally the non-Jewish employees of TS, who were trying to secure their pension benefits. According to this correspondence, the assets seized by the Gestapo at TS – RM 32,514.79 and two bundles of securities (*Wertpapiere*) - were released to the *Finanzamt Wien*

²² “Unsere Bemühungen diese Guthaben abzurufen waren nur teilweise erfolgreich, da Dr. Alfons Thorsch die Guthaben in der Schweiz und in England, durch die zuständigen ausländischen Gerichte sperren liess, bezw. heben hatte.”

²³ ASA, *Cassen-Verein*, Final Report dated 5 March 1941 attached to *Cassen-Verein* letter to the *Abwicklungsstelle*, dated 5 March 1941, requesting release from their appointment as administrator of TS.

²⁴ ASA, *Cassen-Verein*, letter to *Abwicklungsstelle*, dated 6 August 1941.

²⁵ Melichar, p. 418.

²⁶ ASA, *Abwicklungsstelle*, internal note dated 13 August 1941.

Innere Stadt-Ost and the *Cassen-Verein*.²⁷ However, on 17 May 1940, the *Finanzamt* wrote regarding the securities that:

...because the Gestapo believed that a realization possibility (*Verwertungsmöglichkeit*) in Prague appeared to be promising, they were returned to the Gestapo for this purpose on 20 November 1939. These securities could yield according to Dr. Siegel (Gestapo Vienna) more than RM 2,000,000.--.²⁸

At the same time, the bundle of correspondence that had been seized together with the securities was delivered to Dr. Siegel as well.²⁹ On 13 June 1940, the State Administration received a letter from Dr. Siegel,³⁰ who wrote in answer to their letter of 31 May 1940:

Thorsch' securities (*Wertpapiere*) were delivered to me in November 1939 by the *Finanzamt Innere Stadt-Ost* at my request. I needed these papers [*Papiere*] in the course of the determination of the ownership status of a plant situated in the Protectorate of Bohemia-Moravia.

I have added these papers temporarily to my case [*vorläufig zu meinem Vorgang genommen*], but am prepared to return them to the *Finanzamt* at any time. The *Finanzamt* advised me at the time that no real possibility of selling (*Verwertung*) these securities existed.

A handwritten annotation, dated 22 June 1940, reads:

The securities are worthless according to communication from Dr. Siegel.³¹

From Dr. Siegel's letter it seems clear that the focus of his interest was the *Privozer Mineralölwerke A.G.*, owned by Alfons and Marie Thorsch. In as much as the securities seized at the TS premises in May 1938 did not include any issues relating to properties in Bohemia-Moravia, it must have been the bundle of papers taken by the Gestapo at the same time that piqued Dr. Siegel's interest: these papers appeared to contain a reference to the ownership and whereabouts in the early 1930s of the shares of *H.P.I. Mij.* (the company that held the capital of the *Privozer*), namely in account no. 41392 at Bank III, according to the deposit receipts included among them. (It should be recalled that a deposit receipt is a statement of deposit only and as such only of bookkeeping value.) As noted above, the Reich, after issuing a confiscation

²⁷ ASA, letter from the Gestapo to the *Reichskommissar* for the Reunification of Austria with the German Reich, State Administration of the *Reichsgau* Vienna, dated 13 March 1940.

²⁸ ASA, letter from *Finanzamt Wien Innere Stadt-Ost* to *Reichskommissar* for the Reunification of Austria with the German Reich, State Administration of the *Reichsgau* Vienna, dated 17 May 1940.

²⁹ ASA, document headed, partly obscured, *Finanzamt Wien Innere Stadt-Ost*, which certifies receipt on 20 November 1939 by Dr. "Siegl" [sic] of a package of papers containing correspondence, account statements (*Kontoauszüge*, erroneously translated by Claimant [REDACTED 2] as "withdrawal slips") and deposit receipts.

³⁰ ASA: letter Dr. Siegel to *Reichsstatthalter* in Vienna, State Administration, received 13 June 1940.

³¹ Listings of the securities seized at the TS premises in May 1938 appear in Alfons and Marie Thorsch' 1938 Census declarations and in a statement by the Chief Cashier, Carl Jeschek (see *infra* pp. 17-19 and *infra* footnote 18, Bruno Erhardt letter, respectively). These listings attest to these securities as being worthless or of little value.

order in September 1940 for the *Privozer* and all its associated assets, completed its “acquisition” in 1941. In the meantime, the *Abwicklungsstelle der Vermögensverkehrsstelle* (Section in charge of winding up the work of the VVSt in the Office of the *Reichsstatthalter* (Plenipotentiary of the Reich), “*Abwicklungsstelle*”) continued to seek access to real estate owned by Alfons Thorsch through January 1943.³²

Assets Included in the 1938 Census Declarations of Alfons and Marie Thorsch

As noted above, none of the 1938 Census records and related correspondence specifies assets held in a Swiss bank account. However, they include listings of the financial assets of TS, Alfons Thorsch, and Marie Thorsch that relate to information on accounts held in Switzerland in the papers seized by the Gestapo, as well as to such information recorded in the TS Ledgers and in the bank documentation referred to above.

Tables 1 through 3 below set forth the security holdings of Alfons Thorsch, TS, and Marie Thorsch, as documented in Alfons and Marie Thorsch’ 1938 Census records and as confirmed in related correspondence.

³² *Id.*, notification received from the Local Court, Mödling, dated 5 January 1943.

Table 1. Securities Owned by Alfons Thorsch as Reported in his 1938 Census Declaration

Security	Nominal Value	Quality	Market Price	Reported Value in RM		Seized by Gestapo
5% 25 yr. Abrechnungs Obl. E	£ 8,627-/-	not sellable	n.a.	nil	--	
<i>Id.</i> H	FF 50,000	<i>Id.</i>	n.a.	nil	--	
<i>Id.</i> H det. Cps. per 1/4/38*	FF 1,250.00				140.00	x
<i>Id.</i> K	BF 1,600	<i>Id.</i>	n.a.	nil	--	x
6% Zwangsanleihe	K 20,000,000**	default	nil	nominal	1,333.33	
Wohn & Siedlungfds. Obl.	K 2,180,000**	default		nominal	145.33	x
36 Hanf & Jute		shares	53.25		1,917.00	
69 ¼ Oest. Nationalbank		shares	116		8,033.00	x
126 Phoenix Insurance		default		nil	--	
10 Wien-Pottersdorf RR		shares	30		300.00	x
42 Arad Brader Ind		default		nil	--	
41 Szeged Csanader R.R.		default		nil	--	
2,000 Brazil Rway		default		nil	--	
1,525 <i>Id.</i> 6 % pref. shares		default		nil	--	
50 6 ½% Brazil bonds		default			600.63	
60 year Brazil bonds	£ 500-/-	default	6%		372.30	
20 Central Uruguay RR		default	2 5/8%		6.52	
2,100 Chicago Rock Island R.R. shares		default	\$ 7/8		4,573.54	
5 ½% Domingo loan II 1940	\$ 8,000	default	43 1/2%		12,048.63	
Guayaquil Quito 5% I Mtg Gold Bd.	\$ 50,000	default	7 ½%		9,307.50	
6 2/3% French Honduras	£ 16,788-/-	default	17%		35,417.62	
<i>Id.</i> .10% 1867/70.	£ 5,000-/-	default	17%		10,548.50	
3,000 Manila Rway 1906 pref. shares		default			3,723.00	
3% Mexican Internal Silver loan	Pes. 20,000	default			418.50	
Mexican Central Securities A	£ 1,000-/-	default	½%		62.00	
<i>Id.</i> B	£ 1,000-/-	default	1/16%		7.76	
6% Nicaragua Loan (4%)	£ 2,700-/-	default	41%		13,737.87	
2 ½% Niederl. State Loan	Fl 75,000	good	86 7/8%		90,234.89	
5% 1926 Romanian Rente	£ 70.-/-	default	20%		173.74	
8% Salvador A	\$ 5,000	default	22 ½%		2,800.13	
Swiss RR bonds 1890	SF 121,000	good	99.75%		69,026.90	

7 Northern Securities shares		default	nil	nil	--	
5 Crows Nest Pass Coal shares		shares			373.35	
4 Chicago Burlington Quincy R.R.		shares			547.58	
4% Union South Africa Reg.	£ 167-8-8	good	50%		1,038.92	
1,100 H.P.I. Mij.	Fl 1,100,000	not on market			1,523,390.00	
50 <i>Intercontinentale</i>	Fl 50,000	not on market	50%		34,622.50	
4 Deutsches VolkstheaterAnl.		default	nil	nil	--	x
2,500 Chicago Rock Island shares		default	nil	nil	--	

Note: For notes see Table 3.

Table 2. Securities Owned by TS as Reported in Alfons Thorsch' 1938 Census Declaration

Security	Nominal Value	Quality	Market Price	Reported Value in RM		Seized by Gestapo
5% 25 yr. Abrechnungs Obl. E	£ 6,041	not sellable	n.a.	nominal	}	
<i>Id. G</i>	It. L 6,000	<i>Id.</i>	n.a.	<i>Id.</i>	}	77,839.00
<i>Id. H</i>	FF 12,200	<i>Id.</i>	n.a.	<i>Id.1</i>	}	x
<i>Id. K</i>	BF 14,850	<i>Id.</i>	n.a.	<i>Id.1</i>	}	x
<i>Id. H det. Cps. per 1/4/38</i> ¹	FF 305		.			34.16
6% callable Austr. Treas. Notes 1/22 ²	K 100,000	default	Nil	nominal		6.67
4 Donau Save		n.a.				140.00
35 Südbahn Crt. Streifen		n.a.				280.00
16 Südbahn Crt. Streifen		n.a.				48.00
44 Südbahn Crt. Cps.		n.a.				16.50

Note: For notes see Table 3.

Table 3. Securities owned by Marie Thorsch as reported in her 1938 Census Declaration

Security	Nominal Value	Quality	Market Price	Reported Value in RM		Seized by Gestapo
5% 25 yr. Abrechnungs Obl. E	£ 86,984-1-	not sellable	n.a.	nominal	<i>1,044,000.00</i>	
<i>Id. G</i>	It. L 140,000	<i>Id.</i>	n.a.	<i>Id.</i>	<i>18,200.00</i>	
<i>Id. H</i>	FF 550,000	<i>Id.</i>	n.a.	<i>Id.</i>	<i>14,350.00</i>	
<i>Id. H</i> det. Cps. per 1/4/38*	FF 13,750.00				1,540.00	x
<i>Id. K</i>	BF 150,000	<i>Id.</i>	n.a.	<i>nominal.</i>	<i>12,600.00</i>	x
6% Zwangsanleihe	K 3,000,000**	default	Nil	<i>Id.</i>	<i>200.00</i>	
925 Donau Save Adria Crt.		n.a.			9,918.89	
Rock Island Railroad, bonds	\$ 20,000	default	7 ¾%	market	3,480.00	
1953 Rock Island		shares			4,253.80	
100 Chicago & Northwestern RR		shares	\$ 1.00	market	248.90	
3% Niederl. State loan	Fl 120,000	good	98%	market	162,864.24	
200 <i>Intercontinentale</i>	Fl 200,000	not on market	50%		138,490.00	

* It is not clear whether these were coupons due or actual amounts collected.

**K = Austrokronen with 10,000 Kronen = 1 Austrian Schilling

Note: Where reported values in RM are “nominal values,” they are shown in *italics*. The “Quality” column is derived partly from the 1938 Census documents and partly from financial statistics of the time obtained by the CRT from published sources.

In addition to the securities detailed here, Alfons Thorsch reported twenty-two securities under the heading “worthless” (*Nonvaleurs*) and marked “seized by the Gestapo.”

As can be seen from these declarations, the bulk of the securities in the reported portfolios were in default and, therefore, worth only a fraction of their nominal value.³³ The security listings also noted which securities were seized by the Gestapo. Although the correspondence between the Gestapo and the fiscal authorities does not specify the securities contained in the two bundles that were seized, Dr. Bruno Erhartt’s letter to the State Administration, cited above, provides a listing. The latter, except that it omits the list of “*Nonvaleurs*”, fully accords with securities so annotated in Alfons and Marie Thorsch’ 1938 Census declarations and, in turn, explains why Dr. Siegel declared them to be essentially worthless. Furthermore, the bundle of correspondence that was seized together with the securities included a number of deposit receipts that can be related directly to securities reported in the 1938 Census declarations. A listing of these receipts included in the documentation, which evidences accounts in three Swiss banks, Bank III, Bank IV, and Bank V, shows the following deposit receipts (*Depotscheine*):³⁴

1. Depotschein 41.392 issued by Bank III holl. Fl. 1,100,000 dated 10 November 1930
2. Ditto in the amount of holl. Fl. 200,000 dated 10 November 1930
3. Ditto Depot nr. 59,479 for £70.0.0 dated 30 November 1937
4. Ditto Nr. 59,479 Kap. Fr. 121,000 dated 30 November 1937
5. [Bank V] Dep- No. 44,865, in the amount of ITL 50,000 dated 6 December 1937
6. Ditto FFrs 84,000 dated 6 December 1937
7. Ditto FFrs 216,000 dated 6 December 1937
8. Ditto £16,760.0.0 dated 6 December 1937
9. Ditto £14,390.0.0 dated 6 December 1937
10. Ditto £13,820.0.0 dated 6 December 1937
11. Ditto £2,000.0.0 dated 6 December 1937
12. [Bank IV] No. 22,738, in the amount of £ 9,920.0.0 dated 10 December 1937
13. Ditto No. 22,738, in the amount of £ 5,820.0.0 dated 10 December 1937
14. [Bank IV] No. 22,738, in the amount of £ 4,025.0.0 dated 10 December 1937
15. Ditto No. 22,738, in the amount of £ 11,505.0.0 dated 10 December 1937
16. Ditto No. 22,738, in the amount of £ 7,920.0.0 dated 10 December 1937
17. Ditto No. 22,738, in the amount of £ 750.0.0 dated 10 December 1937
18. Ditto No. 22,738, in the amount of £ 3,400.0.0 dated 10 December 1937
19. Ditto No. 22,738, in the amount of £ 80.0.0 dated 10 December 1937
20. Ditto No. 22,738, in the amount of £ 2,320.0.0 dated 10 December 1937
21. Ditto No. 22,738, in the amount of £ 820.0.0 dated 10 December 1937
22. Ditto No. 22,738, in the amount of ITL 90,000 dated 10 December 1937
23. Ditto No. 22,738, in the amount of FFrs 214,000 dated 10 December 1937
24. Ditto No. 22,738, in the amount of FFrs 86,000 dated 10 December 1937

³³ The CRT generally obtains market values and quality determinations for reported securities also from published sources of the time, as it did in this case. These market values were identical with, or differed only marginally from, those reported in the 1938 Census declarations of Alfons and Marie Thorsch.

³⁴ The CRT notes, as discussed *supra*, that these deposit slips refer to the deposit of funds in custody account numbered 41392 at the Zurich branch of Bank III held by Alfons Thorsch; in custody account numbered 59479 at the Zurich branch of Bank III held by Alfons and Marie Thorsch; in custody account numbered 44865 at Bank V held by Alfons and Marie Thorsch; and in custody account numbered 22738 at Bank IV held by Alfons and Marie Thorsch.

These items relate to the securities reported in the 1938 Census declarations as follows:

- Item 1 corresponds exactly to the nominal amount shown for the 1,100 *H.P.I. Mij.* shares reported by Alfons Thorsch;
- Item 2 corresponds exactly to the nominal amount shown for the 200 *Intercontinentale* shares reported by Marie Thorsch;
- Item 3 corresponds exactly to the nominal amount shown for the 5% 1926 *Rumän. Rente* bonds reported by Alfons Thorsch;
- Item 4 corresponds exactly to the nominal amount shown for the Swiss RR bonds 1890 reported by Alfons Thorsch;
- Items 5 plus 22 correspond exactly to the nominal amount shown for the 5% 25 yr. *Abrechng. Obl. G* bonds reported by Marie Thorsch;
- Items 6, 7, 23 plus 24 correspond exactly to the nominal amount shown for the 5% 25 yr. *Abrechng. Obl. H* bonds reported by Alfons and Marie Thorsch;
- Items 8 through 21 correspond nearly exactly to the nominal amount shown for the 5% 25 yr. *Abrechng. Obl. E* bonds reported by Alfons and Marie Thorsch.

The CRT noted above that a deposit receipt (*Depotschein*) simply records the date and nature of a particular deposit. Thus, in as much as the receipts show that the deposits were made some time before the Census date of 27 April 1938 (in November 1930 for items 1 and 2 and in December 1937 for the remainder), it should not be expected that the amounts would correspond exactly, as there could have been intervening transactions. The fact that the deposit receipts refer to securities reported in the 1938 Census declarations, namely securities in the 5% 25 yr. *Abrechnungs Obl. Series*, also is evidenced by the information in the TS ledgers and the Bank documentation available to the CRT. As to the value, the CRT notes that the 5% 25 yr. *Abrechnungs Obl. Series E, G, H and K* were in default and, according to the note on valuation in the Census declarations, not sellable at the time.

The CRT notes that on 24 April 2006 Claimant [REDACTED 2] submitted documents relating to the seizure of assets and correspondence at TS, obtained from the “Austrian National Archives” [sic]. At that time she wrote that she believed these documents to:

indicate that the Nazis were in possession of securities owned by my grandparents, Dr. Alfons and Marie Thorsch which were held at the following Swiss Banks: [Bank III], [Bank V] and [Bank IV] – and which are identified by individual specific deposit certificate numbers.

Furthermore, two additional assets at [Bank III] are listed which we thus far did not have documentation for, cf. handnumbered page 40, item #1 (holl.Fl. 1,100,000) and item #2 (holl.Fl. 200,000). These assets likely represent the “Grundkapital” for the Dutch Holding Company (N.V. *Hollandsche Petroleum-en Industrie-Maatschappij*, Amsterdam) owned by our grandparents which in turn wholly owned a large oil refinery in what is now the Czech Republic, and which was confiscated by the Nazis in 1940. All other listed assets are accounted for in our submitted claim.

....These documents are relevant in a number of ways, but also because

of the two additional items [the *H.P.I. Mij.* and the *Intercontinentale* shares], which significantly increase the scope of our claims....³⁵

However, none of the securities underlying the deposit receipts was noted in Alfons and Marie Thorsch' 1938 Census declarations as having been seized. The only securities in the 5% 25 yr. *Abrechnungs Obl.* Series owned by Alfons or Marie Thorsch and denoted as "seized" were series K bonds, which were denominated in Belgian francs, a series and currency not listed on any deposit receipt. (With respect to the entries regarding interest on series H bonds, which had become due on 1 April 1938, and which were denoted "seized," it is not clear whether these related to cash receipts or to the physical coupons.) It may be useful to recall here that as in other such cases, the deposit receipts, all of which in this case pre-date the *Anschluss*, document the existence and content of the cited accounts on their date of issuance, and it remains the task of the CRT in its analysis to determine the subsequent fate of these accounts in relation to their disposition.

Assets of the *H.P.I. Mij.* and the *Intercontinentale*³⁶

With regard to the shares of the *H.P.I. Mij.* and the *Intercontinentale*, reported by Alfons and Marie Thorsch in their respective asset declarations and appearing as item 1 and item 2 in the list of deposit receipts, their fate is documented well into the post-War period. As noted above, the bank records show that the shares of these companies, wholly owned by Alfons and Marie Thorsch, were deposited in a custody account, numbered 41.392, at Bank III on 10 November 1930. On 8 December 1932 part of the *H.P.I. Mij.* shares were transferred to *Lippmann, Rosenthal & Co.*, who were the company's as well as Alfons Thorsch' bankers in Amsterdam. The remainder of the *H.P.I. Mij.* and all the *Intercontinentale* shares were transferred also to *Lippmann, Rosenthal & Co.* on 23 June 1938 and the account was closed on 28 June 1938, showing, *inter alia*, that a deposit receipt does not document the existence of an account or its contents except for the date it is issued.

According to various memoranda by G. G. Beckett, an official in the Office of the Custodian in the Canadian Department of State who dealt with Alfons and Marie Thorsch' application for *H.P.I. Mij.* to be recognized as a non-enemy entity by the Canadian authorities, thereby allowing the company's assets to be released to them, the shares of the *Intercontinentale* and *H.P.I. Mij.* were physically held at Barclays Bank, Montreal.³⁷ Mr. Beckett found, on basis of an affidavit by Alfons Thorsch, dated January 3, 1941, an affidavit by [REDACTED] as director of the company since 1936, and other sources that *Lippmann, Rosenthal & Co.* had acted as depository of all the personal property of *H.P.I. Mij.* Most of this property, consisting of securities, gold and cash, was originally held in Holland. But, on Alfons Thorsch' instructions a number of years before 1941, much or all of this was transferred to various depositories in England and the United States, where it continued to be held in the name of *Lippmann, Rosenthal & Co.* to the

³⁵ Letter from Claimant [REDACTED 2] to the CRT, 20 April 2006.

³⁶ All documents in this section were obtained by the CRT from bank records and from the National Archives of Canada. Though the Claimants submitted some documents also available in the archival files, none of the documents cited here was among them.

³⁷ NAC, RG 117, A-3, vol. 2002, (1940-48) Part 1, file 4528, G. G. Beckett internal memoranda and correspondence with Alfons Thorsch' lawyer, Adrian K. Hugessen, dated between March and September 1941.

account of *H.P.I. Mij.* Furthermore, *Lippmann, Rosenthal & Co.* held the share capital of *H.P.I. Mij.*, consisting of 1,100 bearer shares with a face value of fl 1,000.00 each, in Holland until 1939, when the shares were shipped to Barclays Bank, Montreal, where they continued to be held. According to documents submitted by Alfons Thorsch's lawyers, the Head Office of *H.P.I. Mij.* had been transferred to Curaçao by official action of the Dutch Government in London, and the British Custodian had recognized the company as having no enemy ownership and freed it from restrictions under the Trading with the Enemy legislation.³⁸ On basis of this evidence, and in view of the fact that Alfred and Marie Thorsch were permanent residents of Canada, the Canadian Custodian agreed on 13 May 1941 to release the shares of the two companies, provided that two percent commission was paid for the investigation and pending comments from the Dutch Minister in Canada.³⁹

In connection with the two percent fee due the Custodian [REDACTED] submitted through Alfons Thorsch's lawyers a listing of the content, the location and the valuation of *H.P.I. Mij.*'s portfolio. He reported the value of the portfolio, consisting of gold bars, gold coins and securities as £ 102,801.05.09 as of 27 May 1941. The gold bars and coins, valued at £ 22,075, a large number of Mexican securities, all of which were in default and which [REDACTED] therefore valued at £ 5,000 all together and eleven other securities, which he considered worthless, were held at Westminster Bank, London. The remainder of the portfolio, consisting of shares in three South African companies in good standing, a number of bonds in default and shares of companies in trouble, *i.e.*, Chicago–Northwestern Railroad, Manila Railway Co., and Honduras Govt. Railway loans, was held at Chase National Bank, New York, Lazard Brothers, London and Midland Bank Ltd., London.

With respect to the release of the shares of the *Intercontinentale* and the *H.P.I. Mij.* to Alfons and Marie Thorsch, their transfer foundered on the refusal of the New York managers of *Lippmann, Rosenthal and Co.* to give their consent. The Dutch Government in London had appointed two managers in London and two in New York, who operated with full authority. The New York managers, under whose authority Canadian activities came, made their consent contingent upon the Canadian Custodian acting positively on their claims and demands relating to other assets of *Lippmann, Rosenthal and Co.* Even though the Custodian issued a Certificate of non-interest in the *H.P.I. Mij.*'s shares, Barclays Bank did not feel entitled to release them to the Thorschs without the concurrence of *Lippmann, Rosenthal and Co.*, in whose name they were held.⁴⁰ In July 1943, the British authorities took an interest in the matter in as much as Alfons and Marie Thorsch had instituted legal proceedings against banks in London who held securities for the account of *Lippmann, Rosenthal and Co.*, ownership of which they were

³⁸ NAC, RG 117, A-3, vol. 2002, (1940-48) Part 1, file 4528, copy of letter from Trading with the Enemy Branch, London, dated 6 August 1940, submitted by Arthur Goldschmidt with his affidavit.

³⁹ NAC, RG 117, A-3, vol. 2002, (1940-48) Part 1, file 4528, Release application form, dated 13 May 1941 recommending release of 250 shares *Intercontinentale* with a face value of fl 1,000.00 each and bearer securities to the face value of fl 1,100,000.00, being the outstanding share capital of the *H.P.I. Mij.*; correspondence between Hugessen and G. W. McPherson, Counsel to the Custodian between 22 May and 20 June 1941.

⁴⁰ NAC, RG 117, A-3, vol. 2002, (1940-48) Part 1, file 4528, Memorandum G. G. Beckett to A. H. Mathieu, Assistant Deputy Custodian, dated 17 August 1942; correspondence between the Custodian's Office and Hugessen, between March 1942 and February 1943 and letter Barclays Bank, Montreal, to the Custodian, dated 27 August 1943.

claiming for themselves and/or for the *H.P.I. Mij*.⁴¹ On 2 September 1943, the Canadian Assistant Custodian noted that no action had been taken by Alfons Thorsch's representatives on the certificate issued by the Custodian and that the shares in question still remained with Barclays for the account of *Lippmann, Rosenthal and Co.* That is where they continued to remain until after the end of the War, when on 29 March 1946 Barclays informed the Custodian that they had transferred the shares from his account to the free account of *Lippmann, Rosenthal and Co.*⁴²

Marie Thorsch died on 1 September 1944, and Alfons Thorsch died on 30 November 1945. Accordingly, on 26 August 1946, Barclays Bank transferred the shares to their estates, which were being administered by Barclays Trust Company of Canada as Executor and Trustee under their wills. The residuary legatees were the daughters of Alfons and Marie Thorsch.⁴³ The Trustee acknowledged that the estates had a debt to the Custodian in respect of the two percent fee relating to the investigation of the ownership of the *H.P.I. Mij*. However, they noted the difficulty in valuing the assets held by the company on the relevant date, 6 February 1943, in particular the fact that the most important asset, the *Privozer*, was in German hands at that point, that it later had passed to the Russians and then to the Czechs and that at the time of writing it had been nationalized.⁴⁴ Though compensation had been claimed, the Trustee considered that any payment would fall short of the true value, so it proposed that the Custodian settle for 1,000.00 Canadian Dollars ("Can. \$") in payment of his fee. This proposal was accepted, the claim against the estates was duly noted by the Trustee and payment was made on 8 January 1948. On 9 January 1948, the Assistant Deputy Custodian confirmed the final release of the assets held in Canada by Alfons and Marie Thorsch, deceased.⁴⁵

As noted above, the Claimants wrote that they believed the shares of the two Dutch companies owned by Alfons and Marie Thorsch had been confiscated by the Gestapo in May 1938. However, the Bank records and the documents obtained by the CRT from the State Archives of Canada show very clearly that the shares in question had never been within the reach of the Reich, that they were physically in Canada since 1939 and, in fact, were part of the estates of the Alfons and Marie Thorsch and, as such, in the hands of the Canadian Trustee by 1946. The CRT further notes that the documentation available to it shows that the Trustee made stringent efforts, together with the legatees, to recover property that had been confiscated.

On 17 January 2007 the CRT received a set of additional documents from Claimant [REDACTED 2]. These concerned mainly the *H.P.I. Mij* and, especially, the *Privozer*, as the

⁴¹ NAC, RG 117, A-3, vol. 2002, (1940-48) Part 1, file 4528, letter F. W. McCombe, British Embassy, Washington, D.C. to A. H. Mathieu, Assistant Deputy Custodian, Ottawa, dated 20 July 1943 and subsequent correspondence.

⁴² NAC, RG 117, A-3, vol. 2002, (1940-48) Part 1, file 4528, letter from Barclays Bank, Montreal, to the Custodian, Ottawa, dated 29 March 1946.

⁴³ NAC, RG 117, A-3, vol. 2002, (1940-48) Part 1, file 4528, letter Hugessen to Beckett, dated 25 September 1946.

⁴⁴ Memorandum, dated Prague, 15 August 1947, submitted by the Claimants, states that post-War, the company was nationalized, its assets and liabilities transferred to the "Mineral Oil Refineries," National Enterprise, with the original company remaining only as a shell under the name "Ostrahaft" Mineral Oil Refinery, Ltd.

⁴⁵ NAC, RG 117, A-3, vol. 2002, (1940-48) Part 1, file 4528, letter from Barclays Trust to the Deputy Custodian, dated 1 November 1946; memorandum G. G. Beckett to Mathieu, dated 21 November 1946; letter G.G. Beckett to Barclays Trust, dated 25 November 1946; letters Barclays Trust to Assistant Deputy Custodian, dated 27 November 1946 and 8 January 1948; and letter Assistant Deputy Custodian, dated 9 January 1948.

capital of the latter had been lodged with the *H.P.I. Mij.* The bulk of the new material in this submission had already been obtained by the CRT from the National Archives of Canada (“NAC”) and other public sources and is discussed above. Some documents, as noted by Claimant [REDACTED 2], had previously been submitted by the Claimants. The newly submitted material confirmed, *inter alia*, that of the total of fl 1,100,000 worth of shares issued by the *H.P.I. Mij.*, fl 900,000 were owned by Dr. Alfons Thorsch and fl 200,000 by the *Intercontinentale* and that all these shares were on deposit in Montreal in the name of *Lippmann, Rosenthal & Co.*⁴⁶

The main purpose of this submission was to strengthen the Claimants’ assertion that the shares of the *H.P.I. Mij.* had been confiscated by the Nazi authorities in May 1938 and that, therefore, their claim not only included these shares, but also the capital and worth of the Privozer. Thus Claimant [REDACTED 2] wrote in her letter, dated 15 January 2007, which accompanied and explained her late submission, *inter alia*:

We feel that in order to remove any concerns that Dr. Alfons and Marie Thorsch accessed the assets listed in Dr. Siegel’s list, we are submitting documents that demonstrate that the 900,000 shares [sic] of the N.V. Hollandsche, which are referred to in the letter of May 4, 1943 from the *Reichskommissar für die besetzten Gebiete der Niederlande* to the *Generalkommissar für Finanz und Planung* as being in the hands of Dr. Alfons Thorsch (cf. Exhibit 4 in our original CRT submission) were actually shares that he held in Holland at Lippmann, Rosenthal & Co. As indicated in the Canadian Dept. of the Secretary of State correspondence, which we are enclosing (Memorandum for Dr. E.H. Coleman April 29, 1941, page 2) these shares were transferred to Barclays bank in Montreal from Holland, *not* from Switzerland.

It appears very likely that the share capital of the N.V. Hollandsche Petroleum en Industrie Maatschappij and the N.V. Intercontinentale Land en Handelmaatschappij held in Amsterdam, Holland with Lippmann, Rosenthal & Co. and denoted with a 1.3 million fl value represented, in fact, a *second* set of shares, the first being held in Switzerland, as specified by items #1 and #2 of Dr. Siegel’s list...The shares held in Holland were, in contrast to items #1 and #2 in Dr. Siegel’s list, not dated. In addition, they were bearer securities, unusual for a privately held company. However, given the political upheaval and uncertainty of those years it may have been a prudent measure to have issued a second set of shares. It would also have been prudent in light of the Canadian enemy property custodian [sic] considerations mentioned in the enclosed correspondence, in order to gain access to other securities of the Hollandsche, which had been transferred to England....”

⁴⁶ Claimant [REDACTED 2]’s submission, dated 15 January 2007, item 1) “Lippmann, Rosenthal & Co., undated and unsigned, likely compiled for the Nazi occupation”; this document, written in German, is headed “*Copy. NV. Hollandsche Petroleum-en Industrie-Maatschappij,*” and relates the financial history of the company through 1943, especially its connection with Lippmann, Rosenthal & Co.

Contrary to the assertion of Claimant [REDACTED 2] that the material added belatedly would support the Claimants' view that the shares of the *H.P.I. Mij.* were confiscated by the Gestapo in May 1938, the CRT notes that this material, the bulk of which had already been obtained by the CRT from other sources, confirms and documents the seamless path of these shares, as set out above, from their deposit in a Swiss bank account to the estate of the Account Owners in Canada. The following timeline summarizes the path of the shares:

- (1) on 10 November 1930, the shares were deposited in custody account 41392 held by Alfons Thorsch at the Zurich branch of Bank III;
- (2) on 8 December 1932 they were transferred in part to *Lippmann, Rosenthal & Co.*, Amsterdam;
- (3) on 23 June 1938, the remaining shares were transferred to *Lippmann, Rosenthal & Co.*, Amsterdam, after which the account was closed on 28 June 1938;
- (4) no later than March 1939, these shares were transferred from *Lippmann, Rosenthal & Co.*, Amsterdam to an account at Barclays Bank, Montreal, Quebec in the name of *Lippmann, Rosenthal & Co.* for the *H.P.I. Mij.*;
- (5) on 26 August 1946, all *H.P.I. Mij.* shares were transferred from Barclays Bank to the Executor and Trustee of the estates of Alfons and Marie Thorsch, Barclays Trust Company of Canada; and finally
- (6) on 9 January 1948, the Canadian Assistant Deputy Custodian confirmed that, after the payment of a Can. \$1,000.00 fee, these assets were finally released to the estates of Alfons and Marie Thorsch.

The CRT notes that there can be no doubt that the path shown above concerns the same set of shares that was initially deposited in November 1930 in account numbered 41392 held by Alfons Thorsch at the Zurich branch of Bank III. Claimant [REDACTED 2]'s statements that the shares of the *H.P.I. Mij.* which, according to the letter of 4 May 1943 from the *Reichskommissar für die besetzten Gebiete der Niederlande* to the *Generalkommissar für Finanz und Planung* were at that time in the hands of Dr. Alfons Thorsch “were actually shares that he held in Holland at Lippmann, Rosenthal & Co.” and that “these shares were transferred to Barclays bank in Montreal from Holland, *not* from Switzerland” are correct on the face of it. However, these statements cut into the path of the shares sometime after 1938 and neglect the documented fact that these shares (1,100 *H.P.I. Mij.* shares with a face value of fl 1.1 million as well as 200 *Intercontinentale* shares with a face value of fl 200,000 for a total value of fl 1.3 million) originally came from the account held in Switzerland – with one-third of the *H.P.I. Mij.* shares transferred to the Netherlands in 1932 and the remainder so transferred in June 1938.

In her submission, Claimant [REDACTED 2] contended that

It appears very likely that the share capital of the N.V. Hollandsche Petroleum en Industrie Maatschappij and the N.V. Intercontinentale Land en Handel Maatschappij held in Amsterdam, Holland with Lippmann, Rosenthal & Co. and denoted with a 1.3 million fl value represented, in fact, a *second* set of shares, the first being held in Switzerland.

This contention probably stems from a lack of understanding of the company regulations of the time, though the regulations regarding the issuance of shares have not changed in substance as relevant to the present issue. Duplicate shares, bearer or otherwise, of an N.V. cannot be issued at will: such issuance requires, after the normal procedures, including a vote of shareholders at a properly constituted meeting, cancellation of the original shares, public notice of these actions and the consent of the regulatory authorities, none of which obtained in this case.⁴⁷ Furthermore, it should be noted that the transfer of the shares of both Dutch companies owned by Alfons and Marie Thorsch from Switzerland – first to the Netherlands and then to Canada – was completed in early 1939, that is, before the outbreak of the Second World War. Claimant [REDACTED 2] also stated, believing to support the purported existence of separate sets of shares in the Netherlands and in Switzerland, that “[t]he shares held in Holland were, in contrast to items #1 and #2 in Dr. Siegel’s list, not dated.”

This argument also rests on a misconception. Claimant [REDACTED 2] mistakenly asserts that a deposit receipt (*Depotschein*), which simply certifies receipt into an account of a specified asset on a specified date, as discussed above, actually is the security itself. This is patently erroneous. Thus, the deposit receipts referred to in Dr. Siegel’s list as items #1 and #2 show, in addition to their value, only that the date of deposit was 10 November 1930, but they cannot indicate anything further about the securities themselves, including whether they were dated or not.

Finally, Claimant [REDACTED 2] also stated that

It [the issuance of a second set of shares] would have been prudent in the light of the Canadian enemy property custodian considerations, mentioned in the enclosed correspondence, in order to gain access to other securities of the Hollandsche, which had been transferred to England.

The CRT cannot discern any connection in this case between the issuance of duplicate shares and the considerations of the Canadian Custodian of Enemy Property regarding the release of the assets of the *H.P.I. Mij.* held in Canada and/or the United Kingdom.⁴⁸ The CRT notes further that the non-enemy interest decisions, issued during the War by the British and the Canadian authorities with regard to the *H.P.I. Mij.*, made no mention whatsoever of a second set of shares in the hands of the Nazi authorities.

⁴⁷ In contrast, as noted above, on 23 August 1940 the directors of the *Privozer*, Arthur Goldschmidt and Dr. Alois Prazak, indeed issued a new Interim Certificate for the capital of the *Privozer* to the *H.P.I. Mij.*, which by then was resident in Curacao. This was done after having duly cancelled the existing Interim Certificate and after the *Privozer* had been put under forced administration (*Zwangsverwaltung*) by the Nazi administration of Bohemia-Moravia and shortly before a full confiscation order was issued on 17 September 1940.

⁴⁸ The CRT notes that, under the Allies’ so-called “Safehaven” program, there were indeed instances of companies being directed to cancel certain securities and issuing replacements. Accordingly, there never were duplicate sets that existed legally side by side. Furthermore, such instances only concerned widely-traded securities, as they served Safehaven’s aim to prevent their being laundered for the benefit of Nazi interests.

Litigation in Swiss Courts regarding *Thorsch & Söhne* Assets

As noted above, TS had been closed and slated for liquidation by the Nazi regime shortly after the *Anschluss*. On 11 June 1938, the *Cassen-Verein* was appointed administrator of *Thorsch & Söhne*, pursuant to a law introduced in Austria on 13 April 1938, which permitted the appointment of administrators for entities located in Austria when such an appointment was necessary to protect an “important public interest.” This law provided administrators with authority to perform “all legal acts” on behalf of the entity and rendered the owner’s capacity to act on behalf of the entity dormant during the appointment period.⁴⁹

According to the records pertaining to the demand deposit account numbered 112 held by TS at the Zurich branch of Bank I, which was reported by the ICEP auditors, the *Cassen-Verein*, which administered several Jewish-owned banks, sent soon after its appointment a form letter, dated 22 June 1938, to the Zurich branch of Bank I, advising that it had been appointed administrator (*kommissarischer Verwalter*) of *Thorsch & Söhne* pursuant to a decree of 11 June 1938.⁵⁰ This was quickly followed by a second, handwritten letter, dated 1 July 1938, instructing the Zurich branch of Bank I to close the account and to transfer its proceeds to an account held by the *Cassen-Verein* at the Zurich branch of Bank III. A handwritten notation on that letter, apparently by an employee of the Zurich branch of Bank I, indicates that the balance of the account on that date was SF 7,504.00.

Alfons Thorsch, who at the time resided in Switzerland, moved quickly to protect his assets. He transferred securities held in his and his wife’s name at the Zurich branch of Bank III to Amsterdam and initiated legal action both in Britain and Zurich to ensure that funds held in TS accounts could not be paid out to anyone but himself. Thus, the records from the Zurich branch of Bank I further contain an internal letter, dated 20 July 1938, from Bank II in London to the General Managers in Basel, in answer to an enquiry from the latter office, that, according to *The Times*, Alfons Thorsch was the plaintiff in a case against both the Royal Bank of Scotland and Messrs. Lazard Bros. & Co., Ltd., in London, and that he had joined the *Cassen-Verein* as defendant.⁵¹ Bank II in London noted that TS also held a small account with them and that they

⁴⁹ The German text of the law reads, in relevant part, “Der Reichsstatthalter kann in Wahrung wichtiger öffentlicher Interessen für Unternehmungen, die ihren Sitz im Lande Oesterreich haben, kommissarische Aufsichtspersonen bestellen . . . [d]er kommissarische Verwalter ist zu allen Rechtshandlungen für die Unternehmung befugt. Während der Dauer der Verwaltung ruht die Befugnis des Inhabers der Unternehmung und, wenn dieser eine juristische Person ist, ihrer Organe, für die Unternehmung zu handeln.”

⁵⁰ The form letter is on letterhead of the *Wiener Giro – und Cassen-Verein* and provides blanks to fill in the addressee, date, and name of the firm being taken over by the administrator. The letter reads: “Wir beehren uns Sie in Kenntnis zu setzen, dass wir auf Grund des Dekretes vom 11. Juni 1938 des Staatskommissars in der Privatwirtschaft zum kommissarischen Verwalter der Fa. M. Thorsch Söhne bestellt wurden. Mit unserer Bestellung erlischt gemäss § 2, Abs. 1 des Gesetzes über die Bestellung von kommissarischen Verwaltern und kommissarischen Ueberwachungspersonen G. Bl. Nr. 80/1938 jede Vollmacht dritter Personen zur Verfügung über die bei Ihnen bestehenden Konten und geht das Recht der Verfügung auf uns über. Unsere Zeichnung wird in der Weise erfolgen, dass wir nach dem Firmenwortlaut “M. Thorsch Söhne” die Stampiglie “WIENER GIRO – UND CASSEN-VEREIN”, Verwalter auf Grund des Gesetzes über die Bestellung von kommissarischen Verwaltern und kommissarischen Ueberwachungspersonen, G. Bl. Nr. 80/1938 setzen und die auf dem Beiblatt ersichtlichen Unterschriften beifügen.”

⁵¹ See also *The Times*, London, 13 July 1938: Chancery Division, An Austrian Decree: Claim to money involved Thorsch v. Royal Bank of Scotland, Thorsch v. Lazard Brothers and Co., Limited, before Mr. Justice Crossman.

had been advised by the *Cassen-Verein* of their appointment as “*kommissarisch* [sic] *Verwalter*.” The letter goes on to say that Alfons Thorsch’s London attorneys believed it unlikely that the *Cassen-Verein* would defend the case, in which case the Court would likely issue an order directing the two defendant banks to pay funds in TS’ accounts to Alfons Thorsch. In that same letter Bank II in London continued,

A settlement on the lines indicated would not constitute a precedent, as no decision will have been given on the legal points involved and the whole question of the validity of the appointment of “*kommissarische Verwalter*” in English Law will consequently remain undecided. In the meantime the legal position can, however, be considered to be “sub judice” and this will furnish us with valid grounds for delaying tactics in any particular case where such a course may appear indicated.

Alfons Thorsch initiated a similar action in the Zurich District Court less than two weeks later, on 27 July 1938. The records of the Zurich branch of Bank I include a notification at the order of the Magistrate from the District Court, dated 27 July 1938, to the Zurich branch of Bank I stating that Alfons Thorsch, represented by Dr. Hans Pestalozzi, had requested that the District Court, as a precautionary measure, order the Zurich branch of Bank I to refrain from taking any action regarding the deposits of *Thorsch & Söhne* pending a final legal decision as to whether the petitioner possessed the sole right of disposition over the account. The District Court had accepted the petition and for the time being prohibited the Zurich branch of Bank I from disposing over the deposits of TS in any way.

According to the District Court’s excerpt of the Magistrate’s transcript of the summary proceedings of 4 August 1938, the Magistrate found for the petitioner, Alfons Thorsch, and prohibited the Zurich branch of Bank I from accessing the account. The Magistrate reasoned that, pending the case in the District Court regarding who had the legal rights to the account of TS, there was a need to guard against any changes in that account as the plaintiff was the documented sole owner of TS, and therefore could sue legitimately. He gave the plaintiff ten days to bring the case to the Justice of the Peace (*Friedensrichter*) and twenty days to file the case with the appropriate judge in case the conciliation proceeding failed. The District Court’s decision was sent to the parties on 16 August 1938. Dr. Max Hürlimann, the second attorney representing Alfons Thorsch, accordingly wrote to the Zurich branch of Bank I on 23 August 1938, urging it to realize its earlier intention to transfer the disputed amount to the custody of the District Court, as failure to do so meant that he would have to move against them by 27 August 1938, the end of the grace period stipulated by the Magistrate. According to an account statement contained in the records of the Zurich branch of Bank I and dated 23 August 1938, the balance of the account as of 30 June 1938 was SF 7,504.00. Subsequent charges for postage and fees reduced the balance to SF 7,502.00 as of 23 August 1938, which is the balance reported by the ICEP auditors.

The amounts involved were £ 16,000 and £ 8,000, respectively. The lawyer for the Royal Bank of Scotland made a statement that obviated the plaintiff’s demand for an injunction restraining the banks from any action involving the account owner’s funds and noted that “the matter would probably [constitute a] precedent for a large number of cases where the same facts existed.”

The conciliation proceedings failed,⁵² and the case came before the District Court in October 1938 with *Thorsch & Söhne* and the *Cassen-Verein* as plaintiffs (Plaintiff 1 and Plaintiff 2 respectively) against Dr. Alfons Thorsch as the defendant. In the proceedings, a separate suit for the release of a TS deposit of SF 20,000.00 at the Zurich branch of Bank III to Plaintiff 2 was joined in the case.⁵³ Previously both the Zurich branch of Bank I and the Zurich branch of Bank III had deposited the disputed funds held by TS, that is, SF 7,502.00 held in a demand deposit account numbered 112 at the Zurich branch of Bank I and SF 20,000.00 held in a demand deposit account at the Zurich branch of Bank III, to the custody of the District Court at the *Bezirksgerichtskasse* Zurich, where they were held under deposit numbers 03.765 and 03.785, respectively.

In their defense statement, Alfons Thorsch' lawyers argued that the suit by *Thorsch & Söhne* should be dismissed out of hand as a firm with a sole owner, bearing the name of that owner, was identical to its owner and could not sue itself. With regard to Plaintiff 2, they argued that Alfons Thorsch was domiciled in Switzerland; that even if he had not been so domiciled, the rights of a foreigner to assets he held in Switzerland came under Swiss law; that neither expropriation nor "*kommissarische Verwaltung*" under the laws of a foreign country were recognized under Swiss law and that any release of the funds held by TS to the *Cassen-Verein* would contravene the Swiss "*ordre public*." The attorneys also noted that even the *kommissarische Verwaltung* had recognized that they had no legal standing in Switzerland, as they sent Alfons Thorsch, via his attorney in Vienna, 12 letters on the firm's letterhead and addressed to all banks at which TS held accounts, telling him to sign the letters "*M. Thorsch & Söhne, Alfons Thorsch als Alleininhaber* [as sole owner]." The attorneys went on to say: "Obviously the Defendant did not comply with this "request"...."⁵⁴

In its decision of 7 December 1938, the District Court dismissed the suit of Plaintiff 1 out of hand and found against Plaintiff 2. The Plaintiffs then filed an appeal with the Superior Court of the Canton Zurich (the "Superior Court"), which in its decision of 1 March 1939 upheld the findings of the District Court. The Superior Court, though finding against both Plaintiffs, reached its conclusion on the basis of a broader argumentation, possibly with an eye to further appeals by the Plaintiffs, than did the District Court. Thus, the decision, *inter alia*, included a more detailed discussion of the applicability of the "*ordre public*" argument, and found that the case was a matter of private, rather than public law (thereby ruling out rejection on basis of the simple argument that applicability of public law stops at the border). The decision noted prominently that limitations on the right of disposition imposed under foreign law, including by the appointment of a "*kommissarischer Verwalter*," were applicable to assets located in Switzerland only if Swiss law explicitly recognized such limitations. By contrast, the fact that this appointment, while not conferring any ownership rights on the "*Verwalter*," had deprived the owner of his right to use his property without any compensation, contravened the basic tenets of Swiss property law.⁵⁵ Furthermore, any legal question regarding which jurisdiction applied to

⁵² *Staatsarchiv des Kantons Zürich, Archive of the Bezirksgericht Zürich*, 2138/38, Finding of the Justice of the Peace, 26 September 1938.

⁵³ *Id.*, Decision to join case 1903/38 to case 1793/38, 26 October 1938.

⁵⁴ *Id.*, submission to the Court by Dr. Pestalozzi and Dr. Hürlimann.

⁵⁵ *Staatsarchiv Zürich*, YY 7a.51, p. 241 - 313. More specifically, the Swiss Court held: "Die Einrichtung der kommissarischen Verwaltung verstösst nämlich insofern gegen den Grundsatz der Unverletzlichkeit des Eigentums,

a foreign owner of an asset located in Switzerland was rendered moot, as the Superior Court rejected the Plaintiffs' claim that the Defendant was a national of the Reich. On the contrary, the Court found that the Defendant, Alfons Thorsch, had amply demonstrated that he had given up his domicile in the Reich by fleeing to Switzerland after the *Anschluss* and by having applied for and obtained Swiss residence permission. Thus, the Superior Court found that

...the Defendant can dispose **exclusively and freely** [emphasis added] over his local assets, that is over the cash balances which had replaced his claims [on the banks] by virtue of the custodial deposits [with the District Court]". Consequently, the imposed administrator (*kommisсарischer Zwangsverwalter*) is not entitled to lay claim to the Swiss assets of the Defendant.⁵⁶

The suits of both Plaintiffs therefore were dismissed and costs awarded against the Plaintiffs, including SF 500.00 in compensation to the Defendant.

The records of the Zurich branch of Bank I include a copy of an article, published in the Zurich newspaper *Tagesanzeiger* on 4 March 1939, that summarizes the decision of the Superior Court and indicates that the Court concluded that the institution of "*kommisсарische Verwaltung*" was not compatible with the Swiss "*ordre public*" as it violated the constitutionally guaranteed principle of the sanctity of private property, given that the forced administration (*Zwangsverwaltung*) deprived owners of the beneficial use and the right of disposition over their property, which amounted to all intents and purposes to an expropriation. Furthermore, "the defendant Viennese banker, as a non-Aryan, of course had left Austria permanently and had moved his residence to Switzerland; consequently his claims – his, even though the German imposed administrator was claiming them [the funds] pro forma in the name of his bank – came under Swiss jurisdiction."

The records further include a communication from the Zurich branch of Bank I to its Basel headquarters, dated 31 August 1939, forwarding a copy of the Superior Court's decision of 1 March 1939, which had been published the previous day [30 August 1939], the original of which

als sie, wenn sie auch das Eigentumsrecht selbst nicht unmittelbar berührt, dessen Ausübung und Nutzung im Widerspruch zu der herrschenden Rechtsauffassung dem Vermögensinhaber vollständig entzieht, um dem Staat oder der Allgemeinheit Vorteile daraus zu erwenden. Ein solcher Eingriff in die private Rechtssphäre kommt aber im Ergebnis einer entschädigungslosen Enteignung gleich und verletzt damit einen Grundsatz, der zu den Grundpfeilern der schweizerischen Staats- und Rechtsordnung gehört und überdies auch der deutschen Reichsverfassung, die in Art. 153 die Enteignung nur gegen Entschädigung zulässt, nicht fremd ist. Wenn auch die Massnahme der kommissарischen Verwaltung an sich nur vorübergehender Natur ist, so wiederstreitet sie gleich wohl der Eigentumsgarantie, da selbst vorübergehende Beschränkungen des Eigentums nicht ohne Entschädigung erfolgen dürfen. Von diesem Gesichtspunkt aus lässt sich gewiss sagen, der Unterschied zwischen den staats- und rechtspolitischen Anschauungen, auf denen das österreichische Gesetz in seinen hier in Betracht kommenden Bestimmungen beruht, und den allgemeinen Grundsätzen des konkurrierenden schweizerischen Rechts sei so erheblich, dass durch die Anwendung des ausländischen Rechts das schweizerische Rechtsgefühl in unerträglicher Weise verletzt wäre."

⁵⁶ Id. "...und der Beklagte über seine hiesigen Forderungen bzw. über die infolge der Hinterlegung an deren Stelle getretenen Barbeiträge ausschliesslich und frei verfügen [emphasis added] kann. Demgemäss ist der kommissарische Zwangsverwalter zur Erhebung von Ansprüchen, die sich auf das schweizerische Vermögen des Beklagten beziehen, nicht befugt."

Alfons Thorsch' attorney had handed them for their information. The letter noted that the Superior Court had upheld the District Court in "an exemplary and highly objective decision"⁵⁷ and that only the future would tell whether the attorney of the "*Kommissar*" would continue the litigation and lodge an appeal with the Federal Court. The letter went on to say that the decision of the District Court regarding the legal authority on Swiss territory of a "*Kommissar*" appointed to administer a foreign juridical person, which had been expected since spring, still had not been issued. Therefore it still was an open issue whether the local Courts in that instance, in contrast with the current case of a **single-owner business** [emphasis added], would take the same view.⁵⁸

Within the Reich, the implications of this case clearly were being considered at high levels. Eventually the *Cassen-Verein* was ordered by the Economics Ministry in Berlin not to pursue the litigation in either Switzerland or Britain any further. Thus, the period within which an appeal could be lodged expired without further action and the Superior Court's decision became final (*rechtskräftig*) on 19 September 1939. As noted above and as shown in the TS bank ledgers, the deposits TS previously held at the Zurich branch of Bank I and at the Zurich branch of Bank III were written off in TS' books by the *Cassen-Verein* at the close of the business year, on 31 December 1939.

In support of the Claimants' claims, Claimant [REDACTED 1]'s representative, [REDACTED], stated that when Alfons and Marie Thorsch

... initiated lawsuits against Swiss banks in order to prevent Nazi authorities from accessing their [presumably TS'] accounts, Swiss courts ...put under escrow all assets of Alfons and Marie Thorsch [presumably TS] located in Switzerland. When the heirs attempted to access these assets after the war, they were told that this could not be done because the property was not considered the property of Alfons and Marie Thorsch, or their heirs, but instead as property of the Bankhaus Thorsch & Söhne.

Mr. [REDACTED] went on to say that the heirs had not been able to access the assets even though they had pointed out that the *Thorsch & Söhne* was maintained only to manage family assets, and not to manage assets of other individuals. He further stated that no documentation was available showing either that the heirs had attempted to access the assets and/or that the Swiss banks or the Swiss court had refused to release them. All Claimants submitted excerpts from Czernin's monograph, which, *inter alia*, made this point, however without any indication of the source of this information.

Claimant [REDACTED 1]'s representative's statement obviously is at odds with the Superior Court's decision, which recognized Alfons Thorsch as the owner of the TS accounts in

⁵⁷ Letter from the Zurich branch of Bank I to the Generaldirektion of Bank I, Basel dated 31 August 1939: "...in einem vorbildlichen und sich durch die denkbar grösste Sachlichkeit auszeichnenden Urteil bestätigt..."

⁵⁸ Id., "...bemerken wir, dass das seit Frühjahr erwartete Urteil des Bezirksgerichtes über die Befugniss des über eine ausländische juristische Person eingesetzten Kommissars auf Schweizerterritorium immer noch nicht erschienen ist, dass nach wie vor abzuwarten bleibt, ob die Gerichte hier im Gegensatz zum Fall eines sog. Einzelkaufmanns [emphasis added] die gleiche Stellung nehmen werden, was nicht sicher ist."

Switzerland and gave him personally the exclusive right to freely dispose over them. This was also the point emphasized in the letter of the Zurich branch of Bank I to its headquarters cited above. Furthermore, the head of the *Bezirksgerichtskasse* Zurich advised the CRT that, after a thorough search of its books and internal archive, nothing could be found to indicate that, against all usual practice, the deposits had been retained at the *Bezirksgerichtskasse* after the Superior Court's decision became final. According to the Deputy General Secretary of the Superior Court, the procedure then, as it is now, was that when funds are deposited with the *Bezirksgerichtskasse* pending a court decision, as in the present case, after a decision is rendered and has become legally binding (*rechtskräftig*), the funds are handed to, *i.e.*, put at the disposition of, the rightful owner, who then disposes of them as he/she wishes. This means that the funds are not automatically returned to the bank that forwarded them to the District Court nor do they stay with the District Court.

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 four claims of the Claimants in one proceeding.

Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. The Claimants' maternal grandparents' names, city and country of residence match the published names, city and country of residence of Alfons Thorsch, who was the sole owner of *Thorsch & Söhne*, and his wife, Marie Thorsch. The CRT notes that the Claimants submitted the TS bank ledgers, which document the existence of accounts belonging to *Thorsch & Söhne* and provide evidence of transfers to accounts belonging to Alfons and Marie Thorsch.

Claimant [REDACTED 2] identified Alfons Thorsch' place of residence as *Hotel Baur au Lac* in Zurich in 1938, which matches unpublished information about his place of residence contained in the records of Bank I. Claimant [REDACTED 1] identified Zurich as one of Alfons Thorsch cities of residence following his emigration from Austria.

In support of her claim, Claimant [REDACTED 2] submitted a copy of Alfons Thorsch' will, providing independent verification that the person who is claimed to be the owner of the Account Owner had the same name as that recorded in Bank I's records.

Additionally, the CRT notes that a database containing the names of victims of Nazi persecution includes a person named Alfons Thorsch, who was a banker, which matches the information about Alfons Thorsch provided by the Claimants. This database also includes a person named Marie Thorsch, which matches the information about Marie Thorsch provided by the Claimants. The database is a compilation of names from various sources, including the Yad Vashem Memorial of Israel.

Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that the Account Owners were Victims of Nazi Persecution. The Claimants stated that Alfons and Marie Thorsch were Jewish, and did not return to Austria from Italy, but fled to Switzerland one day after the *Anschluss*.

The CRT notes that Alfons Thorsch and Marie Thorsch were required to register their assets pursuant to the 1938 Census decree. The records pertaining to their 1938 asset declarations indicate that Alfons and Marie Thorsch were assessed flight tax (*Reichsfluchtsteuer*) of RM 1,820,578.00. The records in the file of Marie Thorsch also include a letter, dated 21 November 1940, stating that the assets of Marie and Alfons Thorsch had been confiscated to the benefit of the Reich.

As noted above, persons named Alfons Thorsch and Marie Thorsch were included in the CRT's database of victims.

The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting specific information and documents, demonstrating that Account Owners Alfons and Marie Thorsch were their grandparents and that the owner of Account Owner *Thorsch & Söhne* was the Claimants' maternal grandfather. These documents include copies of: (1) [REDACTED 5]'s and [REDACTED 6]'s birth certificates, identifying their mother as [REDACTED], née [REDACTED], and their mother's parents as Dr. Alfons Thorsch and Marie Thorsch, née Spitzer; (2) [REDACTED 9]'s birth certificate, identifying his mother as [REDACTED], née [REDACTED]; (3) [REDACTED 8]'s birth certificate, identifying her mother as [REDACTED], née [REDACTED], and her mother's parents as Dr. Alfons Thorsch and Marie Thorsch, née Spitzer; (4) [REDACTED 7]'s birth certificate, identifying his mother as [REDACTED], née [REDACTED], and his mother's parents as Dr. Alfons Thorsch and Marie Thorsch, née Spitzer; (5) [REDACTED 4]'s birth certificate, identifying her mother as [REDACTED], née [REDACTED]; (6) [REDACTED]'s birth certificate; (7) [REDACTED 3]'s birth certificate, identifying his mother as [REDACTED], née [REDACTED]; (8) Marie Thorsch' will, naming her husband Alfons Thorsch as her sole beneficiary; (9) Alfons Thorsch' will, establishing a trust at Barclays Trust Company of Canada and naming his daughters as beneficiaries of the residue of his estate; (10) the will of [REDACTED], née [REDACTED], naming her daughters [REDACTED 6] and [REDACTED 5] as her beneficiaries with respect to the trust established by her father Alfons Thorsch; (11) a letter by [REDACTED], née [REDACTED], expressing that her children should receive her estate; (12) the will of [REDACTED], née [REDACTED], identifying her daughter [REDACTED 8] as one of her two beneficiaries; (13) the will of [REDACTED], née [REDACTED], naming her son [REDACTED 7] as her sole beneficiary; (14) the handwritten will of [REDACTED], née [REDACTED], identifying [REDACTED 2] as her daughter; (15) [REDACTED]'s birth certificate, identifying her parents as Dr. Alfons Thorsch and Marie Thorsch, née Spitzer; and (16) [REDACTED 1]'s certificate of marriage to [REDACTED], identifying the mother of [REDACTED 1] as [REDACTED], née [REDACTED].

The Issue of Who Received the Proceeds

As noted above, Alfons Thorsch, in managing his family's assets, repeatedly and consistently moved to protect them from either war damages or the reach of the Nazi regime and also fought to retain their accessibility. Thus, he consolidated a number of accounts at the end of 1937, moved assets to destinations he considered safe, and initiated court actions in Britain and Switzerland to safeguard funds against the demands for their release by the Nazi authorities. Furthermore, he moved the headquarters of his Dutch holding company to Curaçao after the occupation of the Netherlands by the Reich both to safeguard his assets and to keep them accessible. This latter move was to provide non-enemy status for the *H.P.I. Mij.*'s assets and prevent them from being frozen in Canada, the United States and the United Kingdom under the respective Trading with the Enemy legislation of these countries. When access still was denied because the bank, *Lippmann, Rosenthal & Co.*, which was the depository for *H.P.I. Mij.*'s property in Canada and the United Kingdom, had its headquarters in occupied territory, he engaged in drawn-out negotiations with the relevant Canadian authorities and initiated legal actions in Britain. After his death, the Executor and Trustee of his and his wife's estates, Barclays Trust Company of Canada, together with the legatees engaged in equally tenacious endeavors to regain the Thorsch assets that had been left in Europe.

H.P.I. Mij. and the *Privozer*

The CRT notes that the Claimants assert repeatedly that their claim importantly includes the base capital of the *H.P.I. Mij.*, consisting of 1,100 shares with a face value of fl 1,000 each and owned in equal parts by Alfons and Marie Thorsch.⁵⁹ They note in this connection that the Interim Certificate to the shares of the *Privozer* was lodged in the *H.P.I. Mij.*, and advised that their claim therefore extended to the *Privozer* as well. As detailed above, the only connection between a Swiss bank account and the *H.P.I. Mij.* is that in 1930 all *H.P.I. Mij.* shares, with a face value of fl 1,100,000.00, had been deposited in an account held by Alfons Thorsch at the Zurich branch of Bank III, that 365 shares were transferred to *Lippmann, Rosenthal & Co.*, Amsterdam in 1932, that the remainder, 735 shares, was transferred to *Lippmann, Rosenthal & Co.* in June 1938, that the account was closed on 28 June 1938, that all *H.P.I. Mij.* shares were transferred from *Lippmann, Rosenthal & Co.* to Barclays Bank, Montreal, Canada in 1939 and that they were in the hands of Alfons and Marie Thorsch' Executor and Trustee as part of their estates in 1946. No assets of the *H.P.I. Mij.* other than its own shares were ever deposited in Switzerland. Specifically, as noted above, the Interim Certificate representing the share capital of the *Privozer* was held at *Lippmann, Rosenthal & Co* in Amsterdam. After the occupation of the Netherlands, the Interim Certificate was cancelled by [REDACTED] and Dr. Alois Prazak, both directors of the company, on 23 August 1940 and so notarized in London. A new certificate was issued to *H.P.I. Mij.*, which by then was headquartered in Curaçao. The Reich issued a confiscation order for the physical assets of the *Privozer* and the share capital of *H.P.I. Mij.*, including the capital of the *Privozer*, on 17 September 1940, but recorded that the shares of the *H.P.I. Mij.* were in the hands of Dr. Alfons Thorsch in 1943. The official acknowledgement by the Nazi authorities in 1943 that the *H.P.I. Mij.* shares were beyond their reach and the seamless track of the whereabouts of these shares – from their deposit in account 41392 at the Zurich

⁵⁹ As noted above, 200 shares were later transferred to the *Intercontinentale*, which explains references to 900 shares of *H.P.I. Mij.*, being owned by Alfons and Marie Thorsch.

branch of Bank III in 1930, their partial transfer to *Lippmann, Rosenthal & Co.*, Amsterdam in 1932, the transfer of the remaining shares to *Lippmann, Rosenthal & Co* in June 1938, their transfer to Barclays Bank, Montreal, Quebec in early 1939 and their passing into the hands of the Executor and Trustee of the estates of Alfons and Marie Thorsch, Barclays Trust Company of Canada in 1946 – provide incontrovertible evidence that the *H.P.I. Mij.* shares were neither confiscated by the Nazi authorities nor, indeed, ever within their reach.

Claimant [REDACTED 2]'s contention that a second set of bearer shares was issued for the capital of the *H.P.I. Mij.*, with one set deposited in Amsterdam and the second set in Switzerland simply is not sustainable in the face of the evidence of the transfer of all the *H.P.I. Mij.* and *Intercontinentale* shares from Switzerland to Amsterdam by June 1938 and the fact that, under regulatory provisions, two sets of shares, each with the full face value of a company's capital, cannot exist side by side. Nor is there any evidence of cancellation of the outstanding shares and their replacement (see the discussion *supra* pp. 26-27). Finally, Claimant [REDACTED 2]'s repeated assertion that the confiscation of deposit receipts is evidence of the confiscation of the securities themselves is patently in error, as detailed throughout this decision. This conclusion is quite clear from the documents submitted by the Claimants through 2006 and those obtained by the CRT from other sources, and further confirmed by the late submission of additional documents by Claimant [REDACTED 2], dated 15 January 2007, especially the documents substantiating that the shares of the *H.P.I. Mij.* and the *Intercontinentale* indeed were physically in Canada from 1939 and in the hands of the Executor and Trustee of the estates of Alfons and Marie Thorsch by 1946.

Bank Accounts

The records in this case indicate the existence of 29 accounts, of which 21 were held by *Thorsch & Söhne*, five by Alfons and Marie Thorsch, and three by Alfons Thorsch. Of the 21 accounts held by *Thorsch & Söhne*, 12 were demand deposit accounts, seven were custody accounts, and two were of unknown type. Of the five accounts held by Alfons and Marie Thorsch, three were custody accounts and two were demand deposit accounts. Alfons Thorsch held one custody account, one demand account, and one safe deposit box.

Accounts of Thorsch & Söhne

Of the 21 accounts held by *Thorsch & Söhne*, 15 were closed prior to the *Anschluss*. One of these accounts was closed prior to 1933 and, therefore, falls outside the jurisdiction of the CRT.⁶⁰ The assets in ten of the remaining 14 closed accounts were transferred to other accounts belonging to the Account Owners, and the accounts were subsequently closed prior to the *Anschluss*. The records regarding the two accounts of unknown type at the Zurich branch of Bank I indicate that these accounts were closed by 31 December 1937, at the latest. With regard to the remaining two custody accounts, one at Bank II in London and the other at the Bern

⁶⁰ The entire contents of the demand deposit account at Bank IX were transferred to another Thorsch account in 1931. According to Article 14 of the Rules, the CRT has jurisdiction to resolve claims to accounts of Victims open or opened in Swiss banks during the period from 1933 to 1945 (the "Relevant Period"). Consequently, the CRT has no jurisdiction to resolve the claim to this account and makes no determination regarding this account's ultimate disposition.

branch of Bank I, the CRT notes that the TS bank ledger entries referring to the accounts are dated January 1936 and January 1937, respectively, and do not indicate that the accounts were closed at that time. However, none of the other documents available to the CRT indicate that the accounts existed beyond these dates, and the TS bank ledgers normally would have carried further entries for an existing account. The CRT therefore concludes that the accounts were closed on or around those dates. Accordingly, the CRT concludes that these 14 accounts were closed properly.

With respect to the remaining six TS accounts, detailed above at page 7:

TS (1) and TS (2): The contents of these two accounts were transferred after the *Anschluss* to other Swiss bank accounts belonging to the Account Owners. The CRT therefore concludes that the accounts were closed pursuant to the instructions of the Account Owners and that the Account Owners received the proceeds of the accounts.

TS (3) and TS (4): These two accounts were the subject of the Court case described in detail above. With regard to these accounts, the CRT notes that according to the archival documents of the Swiss courts, the contents of these two accounts were placed in the custody of the District Court, and the claims of the *kommissarische Verwaltung* and of TS to the accounts were rejected. The Superior Court's decision accordingly stipulated that Alfons Thorsch could "exclusively and freely" (emphasis added) dispose over the disputed funds. According to information provided to the CRT by the Zurich Superior Court's Deputy Secretary, as a routine practice, then as now, disputed accounts placed in the custody of the Court are turned over exclusively to the party prevailing in the dispute. There is no indication that the funds in this case were treated any differently. Indeed, a thorough search in their books and their archive by the head of the *Bezirksgerichtskasse* could not locate any indication that these funds had remained with the Court.

The CRT also notes that Dr. Hans Pestalozzi, one of Alfons Thorsch's lawyers in this case, was alive until 1968.⁶¹ The late submission of documents by Claimant [REDACTED 2] contains a letter from Dr. Hans Pestalozzi to Alfons Thorsch's son-in-law, Baron [REDACTED], dated 18 June 1959 regarding his enquiry about transfers to official entities in Vienna made by Alfons Thorsch in the years 1938-1940. Though this letter addresses a different issue, it documents that Alfons Thorsch's heirs were in touch with Dr. Pestalozzi at least through 1959 and that this contact appears to have been continuous. Furthermore, a document submitted by Claimant [REDACTED 2] on 14 May 2007, following the CRT's Fact Finding Memorandum and meeting thereon on 20 February 2007, (see *infra* p. 43 ff.) shows that the Executor and Trustee of the estates of Alfons and Marie Thorsch remunerated Dr. Pestalozzi for legal services rendered at least through 30 November 1950.⁶² Obviously, if the assets in the accounts in question had remained with the District Court, the Executor and Trustee would have been remiss in not seeking their return, especially as at the same time as they availed themselves of Dr. Pestalozzi's professional services. The CRT therefore concludes that the assets in these two accounts were

⁶¹ The Zurich Lawyers Association does not have a file reference to Dr. Max Hürlimann, who together with Dr. Hans Pestalozzi acted for Alfons Thorsch in the case.

⁶² Barclays Trust Company of Canada, "Estate Late Alfons Thorsch, Interim Executorship Accounts as at 30th November, 1950."

returned to Alfons Thorsch following the Superior Court's decision becoming final. This conclusion is further supported both by the fact that an account held by Alfons and Marie Thorsch at Bank III was closed on 20 September 1939, one day after the Superior Court's decision became final, as well as by the evidence that the *Cassen-Verein* and TS eschewed further pursuit of their claims through the Federal Court as shown, *inter alia*, in the 5 March 1941 Final Report of the *Cassen-Verein*, addressed to the *Abwicklungsstelle*. The *Cassen-Verein* wrote in that report that it had been able to access only a minor part of the large holdings TS had abroad, because the deposits in Britain and Switzerland had either been withdrawn by Alfons Thorsch or been frozen at his behest by local courts (see also discussion, *supra* pp. 28-32) and that holdings in the Netherlands and the United States had remained out of reach because the banks in these countries did not recognize its authority as administrator. Also in that report, the *Cassen-Verein* explained that the Economics Ministry in Berlin had ordered it explicitly to discontinue legal proceedings regarding these accounts after the Swiss courts had issued two decisions in Alfons Thorsch' favor. Furthermore, the TS bank ledgers show that the *Cassen-Verein* wrote the disputed funds, as well as other funds held in these four countries, off in the books of TS at the end of the book year, on 31 December 1939.

The CRT notes that Czernin describes in his monograph the unsuccessful attempts of Alfons Thorsch' heirs to get the Austrian restitution authorities to restore the banking license, which had been stripped from Alfons Thorsch by the Nazi regime, to them, and details the Austrian authorities' repeated rejection of the family's claim in that respect. He then links, without prior discussion, the lack of a banking license to purported unsuccessful attempts of the heirs to recover funds that had been deposited in Swiss banks. Thus, he writes: "[t]he funds held by the Thorsch bank in Swiss banks were put in the custody of the courts. These also have until today [1998] remained inaccessible to the heirs for lack of a banking license."⁶³ The CRT further notes that the Czernin monograph was distributed to the Austrian Parliament and that there were two Parliamentary interpellations, one in December 1998 and one in April 1999, regarding the Thorsch restitution case, both of which cited Czernin prominently. The first, by Mag. [REDACTED], *et al.*, did not address the reference to restoration of the banking license in Austria being important for the recovery of bank accounts elsewhere. The second, by Schmidt, Kier, *et al.*, did. They noted that the heirs' efforts for restitution of the banking license had been without success, and that "the license was the prerequisite for the ability to access still existing bank accounts abroad." The Finance Minister, in his written reply, said that he was unable to judge in how far a valid banking license would support the heirs' claims to assets TS had held abroad.⁶⁴ Mr. [REDACTED], as Claimant [REDACTED 1]'s representative, submitted the same argument linking the restoration of the banking license to the ability to access still existing TS accounts in Switzerland, and the Claimants included the Czernin excerpt containing this

⁶³ Czernin, p. 33.

⁶⁴ Anfrage der Bundesräte [REDACTED] und Kollegen an den Bundesminister für Finanzen betreffend Wiedergutmachung am Beispiel "Thorsch," 1567/J BR, 22 December 1998 and Anfrage der Abgeordneten Schmidt, Kier und PartnerInnen an den Bundesminister für Finanzen betreffend des ehemaligen Bankhauses "M. Thorsch & Söhne" 6172/J, 23 April 1999. [REDACTED], who acted as the lead in the 1998 interpellation to the Austrian Parliament on questions raised by this restitution case, was later convicted in the Austrian courts for repeated Holocaust denials. [REDACTED] is a cousin of [REDACTED], who is Claimant [REDACTED 1]'s son-in-law and her legal representative in these proceedings. The CRT notes that Claimant [REDACTED 1]'s additional submission of 27 August 2007 was made on her behalf by Dr. Marc Richter, an attorney, who advised that he had been mandated to represent her.

argument in the materials they submitted in support of their claims. The Claimants did not submit copies of these restitution claims, and Czernin's extensive description of the family's efforts to secure reinstatement of its banking license does not refer to or imply any need of such a license to gain access to funds held in Swiss banks. Thus Czernin's statement, in the last sentence of his monograph, that the Austrian authorities refusal to reinstate the banking license to Alfons Thorsch' heirs also affected the return of assets elsewhere, namely that they "...could have accessed assets in Switzerland only if they had recovered the banking license that had been expunged by the Nazis"⁶⁵ is both *sui generis* and entirely undocumented. The Parliamentary questions also do not refer to any supporting documents or reasoning on this point. The Claimants also did not provide any documents either in support of their assumption that these funds were still in the custody of the Swiss Court or evidencing the Court's refusal to return the funds held in its custody at all, let alone absent a banking license. In fact, the Claimants stated that no documentation of any contact with the relevant Swiss banks or the Swiss Courts relative to their attempts to recover funds held in Switzerland was available. Furthermore, the CRT notes that the Superior Court's decision recognized Alfons Thorsch as the sole owner of TS and gave the exclusive right of disposition over the disputed funds to him personally. Contemporary analysis of the Superior Court's decision also notes that the Superior Court's decision still leaves open the question whether this determination applied also to juridical persons not individually owned. This underlines the fact that the Court recognized the individual ownership and accorded the rights to the accounts and to dispose over them freely to Alfons Thorsch as a person, thereby also including the right of disposition to individual heirs. Thus the question of the right to inheritance of the accounts being dependent upon the possession of a banking license does not come into play.

Finally, according to the District Court's procedure in respect to funds put into its custody, the funds would have been released to Alfons Thorsch personally or to his legal representative immediately upon the Superior Court's decision becoming effective. Thus, the funds would have been in the hands of Alfons Thorsch on 19 September 1939. If they had been received by his lawyers, the CRT notes that Dr. Hans Pestalozzi was alive until 1968, that Alfons Thorsch' heirs, according to correspondence provided by Claimant [REDACTED 2], dated 15 January 2007, were in amicable contact with him at least through 1959 and that, if the funds remained in Switzerland throughout the War, it would have been highly deleterious if the Executor and Trustee, Barclays Trust, had not attempted to recover them from or through him – an implausible course of events given both, the fact that they had retained him and paid his fees at least through November 1950 and the vigor with which the Executor and Trustee and the legatees pursued the return of assets elsewhere. Thus, as noted above, the CRT concludes that the assets in these two accounts were returned to Alfons Thorsch following the Superior Court's decision becoming final.

TS (5): One account held at Bank II in London was written off by the *Cassen-Verein* in the books of TS at the end of the book year, on 31 December 1939. The CRT notes that this account was given up as unrecoverable by the *Cassen-Verein* at the latest while Alfons Thorsch resided in London and possibly while he still was resident in Switzerland. Moreover, according to the letter from the Zurich branch of Bank I to its Basel headquarters, dated 22 June 1938, Alfons

⁶⁵ Czernin, p. 59.

Thorsch had initiated legal proceedings in Britain to protect assets TS held at two other banks against the demand of the *Cassen-Verein* that these be paid to them in their capacity as “*kommissarischer Verwalter*.” According to that letter:

Mr. Thorsch’s solicitors in London, however, consider it unlikely that the *Wiener Giro- & Cassen-Verein* will defend the case and, in that event, the Court will probably make an order for the funds held by the two Defendant banks to be paid out to Mr. Thorsch.

Subsequently, on 13 July 1938, *The Times*, London, reported, that in *Thorsch v. Royal Bank of Scotland and Thorsch v. Lazard Brothers and Co., Limited*, which involved amounts of £ 16,000 and £ 8,000, respectively, “the lawyer for the Royal Bank of Scotland made a statement that obviated the plaintiff’s demand for an injunction restraining the banks from any action involving the account owner’s funds and noted that “the matter would probably [constitute a] precedent for a large number of cases where the same facts existed.” Moreover, as noted above, the 5 March 1941 Final Report of the *Cassen-Verein* to the *Abwicklungsstelle* stated that they had been unable to access assets in British and Swiss banks because Alfons Thorsch had either withdrawn them or had the accounts frozen by local courts. Finally, the CRT considers that Bank II in London would not have turned over this account to the Nazi authorities, or indeed to anyone other than Alfons Thorsch or his legal representative, after the Zurich Superior Court had rendered a decision regarding funds that had been held in an account belonging to TS at its headquarters’ company, Bank I. The CRT accordingly concludes that Alfons Thorsch, who resided in London as of the summer of 1939, was in control of this account and its disposition.

TS (6): One account, a demand deposit account at the Basel branch of Bank I, was written off in the books of TS at the end of the book year on 31 December 1939. The CRT notes that on 31 August 1939, the Zurich bank of Bank I sent its Basel headquarters a copy of the final decision of the Zurich Superior Court regarding the Thorsch litigation, dated 1 March 1939, which had been published the previous day. In the cover memorandum, the Zurich branch of Bank I noted that the Superior Court affirmed the District Court’s ruling that the institution of “*kommissarische Verwaltung*” was in conflict with the “*ordre public*” because it abrogated the property rights of Alfons Thorsch and, therefore, even if Alfons Thorsch had not become a Swiss resident, the *Verwalter* had no rights of disposition on Swiss territory. The CRT considers that the Basel branch of Bank I would not have turned this account over to the *Cassen-Verein* after the rendering of the Swiss courts’ binding decision regarding funds that had been held in another account at Bank I and after receiving official notice of the decision. The CRT therefore concludes that Alfons Thorsch retained control over this account and that he, in conformity with his actions regarding his other assets, closed this account and received the proceeds himself.

Accordingly, no Award is appropriate for any of the accounts held by Account Owner *Thorsch & Söhne*.

Accounts of Alfons and Marie Thorsch

A&M (1) and A&M (2): Of the five accounts jointly held by Alfons and Marie Thorsch, two were transferred to Thorsch accounts at *Lippmann, Rosenthal & Co.* in Amsterdam. The CRT

notes that the transfers were executed at a time when the Account Owners resided in Switzerland and that the assets in these accounts remained under the control of the Account Owners. The CRT therefore concludes that the transfers were made pursuant to the Account Owners instructions, and that they received the proceeds of the accounts. The CRT further notes that the transfer of the assets to Amsterdam took place at the same time that Alfons Thorsch prepared to engage the British and Swiss Courts to prevent release of TS accounts to the *Cassen-Verein* and that, according to the documentation from the NAC, most of the holdings at *Lippmann, Rosenthal & Co.*, including securities transferred from Switzerland, were according to Alfons Thorsch' instructions further transferred to Britain, Canada and the United States in 1939.

A&M (3): A third account belonging to Alfons and Marie Thorsch was closed on 20 September 1939. The CRT notes that this account was closed one day after the Superior Court's decision became final and when the Account Owners resided in Britain. In as much as the decision of the Superior Court involved funds that had been held in an account belonging to TS at the Zurich branch of Bank III, and the Court explicitly gave the right to the TS accounts exclusively and personally to Alfons Thorsch, the CRT considers that the Zurich branch of Bank III would not have turned over this account to the Nazi authorities, or indeed to anyone other than Alfons and/or Marie Thorsch themselves, or to their legal representative, after the rendering of the Superior Court's binding decision regarding the TS account held also at Bank III. The CRT therefore concludes for this reason as well as for reason of the consistent pattern of Alfons Thorsch' vigorous defense of the rights to his and his wife's assets, that the Account Owners closed this account and received the proceeds themselves.

A& M (4) and A&M (5): The remaining two accounts belonging to Alfons and Marie Thorsch were held at Bank IV and Bank V. The CRT notes that there are no closing dates for these two accounts, and that the accounts are referenced in a document listing deposit receipts (*Depotscheine*) seized by the Gestapo at TS' premises in May 1938. Article 28 of the Rules provides that, in such cases, absent evidence to the contrary, the CRT shall presume that neither the Account Owners nor their heirs received the proceeds of the claimed accounts.

In this case, the CRT finds ample and sufficient evidence to the contrary to rebut the presumption that the Account Owners did not receive the proceeds of these two accounts. First, the references to these accounts in the document regarding the Gestapo's seizure of the deposit receipts in no way indicate that the accounts themselves were confiscated. Indeed, items # 1 and # 2 in the list of deposit receipts included in that document refer to a custody account, numbered 41.392, at Bank III with deposits totaling fl. 1,300,000.00 made on 10 November 1930. According to the documents obtained from Bank III during Voluntary Assistance, this account number 41.392 was indeed opened on 10 November 1930 with shares of *H.P.I. Mij.* with a face value of fl. 1,100,000.00 and *Intercontinentale* shares with a face value of fl. 200,000.00 for a total face value of fl. 1,300,000.00. The Bank's records further indicate that on 8 December 1932, shares of *H.P.I. Mij.* with a face value of fl. 365,000.00 were transferred to *Lippmann, Rosenthal & Co* in Amsterdam. The remaining *H.P.I. Mij.* shares with a face value of fl. 735,000.00, together with all fl. 200,000.00 face value worth of *Intercontinentale* shares were transferred to *Lippmann, Rosenthal & Co.* on 23 June 1938, and the custody account was closed on 28 June 1938. In short, about a month after the Gestapo seized the deposit slips, the shares were transferred to another Thorsch account in Amsterdam and the Swiss account was closed.

This demonstrates that inclusion on the list of deposit slips that had been seized provides no indication of the fate of the account in question, but only of the fact that a deposit was made to the account on a specific date.

Second, according to the Bank's records, Alfons Thorsch wrote to Bank IV on 12 June 1938 from the *Hotel Baur au Lac* in Zurich advising them that he had given limited power of attorney to a lawyer in Austria, that this power of attorney did not extend to his account at Bank IV and that he wished to re-emphasize that the right of disposition over the account at Bank IV held in his and his wife's name was theirs alone and that the account could be accessed exclusively through his or his wife's personal signatures. The account, therefore, clearly existed as of that date. Shortly after that, litigation began in the Swiss courts regarding accounts held by TS at the Zurich branches of Bank III and Bank I. While the litigation involved accounts held at different banks, it is certain that the Swiss banking community in general was well aware of this suit, which also drew media attention, because it addressed the question of the right of administrators imposed by foreign authorities to access Swiss accounts of third parties, a question that had become of general interest following the acceleration from end 1937 of the Reich's efforts to arrogate all the wealth of its Jewish population to itself. It is implausible that either Bank IV or Bank V would have turned over the accounts to the Nazi regime or its appointees in the knowledge that the Account Owner would vigorously defend his right of disposition over his assets, including moving to litigation to defend this right. This would have been even more so in the case of Bank IV, for which there is documentary evidence that it received explicit instructions from the Account Owner not to grant access to anyone other than himself and/or his wife through their personal signatures. The CRT considers that neither Bank IV nor Bank V would under these circumstances turn Alfons and Marie Thorsch' personal accounts over to anyone but themselves or their legal representative. The CRT therefore concludes that Alfons Thorsch and/or Marie Thorsch remained in full control of these accounts and, consistent with their disposition of other assets they owned, transferred them elsewhere or sold them and thus closed the accounts and received the proceeds themselves.

This conclusion is further considered below, taking into account the Supplemental Statements and documentation provided by Claimant [REDACTED 2] on 14 May 2007 and Claimant [REDACTED 1] on 27 August 2007, following the CRT's Finding of Fact Memorandum (see *infra* p. 43 ff).

Accounts of Alfons Thorsch

As noted above, Alfons Thorsch held three accounts at the Zurich branch of Bank III.

A (1): With regard to the custody account numbered 41392, the securities in that account were transferred to Thorsch accounts at *Lippmann, Rosenthal & Co.* in Amsterdam in 1932 and 1938. Therefore, these assets remained under the control of Alfons Thorsch. The CRT accordingly concludes that the transfers were made pursuant to Account Owner Alfons Thorsch' instructions, and that he received the proceeds of the account. In fact, later documentation shows that from 1939 these securities were physically in Canada at Barclays Bank, Montreal.

A (2): With regard to the safe deposit box, the CRT notes that the box was closed on 19

December 1938, when Alfons Thorsch resided in Switzerland and less than two weeks after the District Court had found in his favor in the case involving assets held by TS at the Zurich branch of Bank III. The CRT considers that the Zurich branch of Bank III would not have turned over an account held by Alfons Thorsch personally to Nazi authorities, or indeed to anyone other than the Account Owner himself or his legal representative, given the District Court's finding in favor of Alfons Thorsch against the Nazi-appointed administrator's claim to the right of disposition over a TS account at the Zurich branch of Bank III. The CRT therefore concludes that Alfons Thorsch accessed the safe deposit box, closed it, and received the proceeds himself.

A (3): With regard to the demand deposit account at the Zurich branch of Bank III, the records do not indicate when the account was closed. Again, Article 28 of the Rules provides that, in such cases, absent evidence to the contrary, the CRT shall presume that neither the Account Owners nor their heirs received the proceeds of the claimed accounts. In this case, the CRT finds sufficient evidence to the contrary to rebut the presumption that the Account Owner did not receive the proceeds of this account. First, one of the two accounts belonging to TS that were the subject of litigation in Swiss courts was held at the Zurich branch of Bank III. Bank III was well aware that Alfons Thorsch had initiated legal action to protect his assets close on the heels of the Nazi authorities' appointment of the *Cassen-Verein* as *kommisarischer Verwalter* for TS. The CRT considers that the Zurich branch of Bank III would not have turned over Alfons Thorsch's personal account to the Nazi authorities, or indeed to anyone other than to the Account Owner himself or to his legal representative, while the Swiss Courts were deciding about who had the right to access the TS account at the bank or after the Superior Court found in favor of Alfons Thorsch. The CRT therefore concludes for this reason as well as for reason of the consistent pattern of his vigorous defense of the rights to his assets that Alfons Thorsch retained control over this account and that he, in conformity with his actions regarding his other assets, closed this account and received the proceeds himself.

Accordingly, the CRT concludes that all 28 accounts that were open during the Relevant Period were closed properly, and no award is appropriate in this case. A detailed description of these accounts is provided in Appendix A and in tabular form in Appendix B attached.

Finding of Fact Memorandum and additional Supplemental Submission by Claimant [REDACTED 2], et al., and Claimant [REDACTED 1]

As noted above because of the volume and complexity of the documentation in this case and the breadth of the associated claims, the CRT provided the Claimants exceptionally with an informal Finding of Fact Memorandum on 15 January 2007 and an opportunity to meet on these facts on 20 February 2007. This meeting was attended by Claimant [REDACTED 2] and one of her representatives at the CRT in Zurich and further, by telephone link, by two of her legal advisers and by [REDACTED], the son of represented party [REDACTED 7].

Following explanatory consideration of some of the facts, the discussion at the meeting focused on the disposition of the two custody accounts, held at Bank IV and Bank V respectively, for

which no closure dates were available.⁶⁶ Claimant [REDACTED 2] and her representatives asserted that Alfons Thorsch could have transferred the contents of these accounts to the Nazi authorities in Vienna in order to cover the flight tax that had been assessed on Alfons and Marie Thorsch' assets, and requested the opportunity to submit additional documentation and explanatory material in support of this assertion.

On 14 May 2007, Claimant [REDACTED 2] provided this supplementary material, which comprises a "Supplemental Statement for Claim of [REDACTED 2], *et al.*" and 24 Exhibits (see *supra* p. 4). The exhibits provided in support of the Supplemental Statement consist in large measure of previously submitted items. Additional material dates from the post-War period and includes two items relating to the value of the estate of Alfons Thorsch (one of which was already included in the CRT's Canadian archival material), dated 1946 and 1950 respectively, and five items relating to the family's restitution proceedings in Berlin, all dated 1959.

The Supplemental Statement in substance concerns only the contents and fate of the two custody accounts at Bank IV and Bank V respectively, for neither of which a closure date is available. According to the deposit slips seized by the Gestapo at TS and the TS ledgers these accounts held, as of December 1937, Austrian foreign currency-denominated government bonds, *Abrechng. Obl.*, in the series E, G and H. No further information regarding the contents of these accounts, *e.g.*, whether the accounts held additional assets and/or whether there were subsequent additions or removals from these accounts, is available. In their Supplemental Statement the Claimants assert, on basis of the previously submitted documentation, that the bonds represented the entire contents of these accounts and that their fate allowed of only two plausible possibilities:

- a) Alfons Thorsch transferred these bonds to the Nazi authorities to satisfy the flight tax demand of RM 1,820,578.00 that had been assessed on his and his wife's assets;⁶⁷ or failing that, that
- b) the securities remained dormant in the accounts.

The third possibility – that these securities were sold and their proceeds received by Alfons Thorsch – was set aside as not being plausible.

With regard to the first possibility, the Claimants contend that Alfons Thorsch transferred the bonds held as of 13 December 1937 in the two custody accounts at Bank IV and Bank V to Vienna to partially satisfy the flight tax demand. The Claimants argue that even though Alfons Thorsch listed these bonds in his 1938 Census declaration as not sellable, the German authorities by contrast considered them sufficiently valuable so that, together with the real estate owned by Alfons and Marie Thorsch, they would cover the flight tax assessment. The Claimants explain

⁶⁶ At the meeting, Claimant [REDACTED 2] noted that documentary evidence such as was obtained by the CRT from the Canadian National Archives, which served to prove the seamless transfer of the Dutch companies' shares from a Swiss bank account via the Netherlands to eventually the estates of the Account Owners in Canada, had been available all along from the family's files relating to the estates. She stated in this respect that, if she had known that these documents could have been helpful to the CRT, she would have provided them earlier on. Indeed, several of these documents were included in the Claimant's post-15 January 2007 submission (*supra* p. 4).

⁶⁷ The flight tax was calculated at 25 percent of total assets as of January 1938 of RM 7,282,315.00.

their contention as follows:

Once the Thorschs learned that the Germans valued the Austrian bonds owned by Marie Thorsch at RM 1,119,150.00, the Austrian Bonds may have been the first (and possibly only) securities the Thorschs transferred to the Germans. According to the Assessment File, Marie Thorsch's Austrian Bonds (RM 1,119,150.00) plus the real estate of Alfons Thorsch (RM 767,334.00) plus the real estate of Marie Thorsch (RM 280,001.00) totaled RM 2,166,485, an amount sufficient to cover the RM 1,820,578.00 escape [sic] tax.⁶⁸ The Thorschs may therefore have attempted to satisfy the escape [sic] tax with Marie Thorsch's Austrian Bonds (which the Thorschs themselves considered "not sellable") and the Thorschs' real estate (which the Germans had already confiscated). This conclusion is supported by the January 8, 1940 letter from the Revenue Office to the Reich Commissioner for the Reunification of Austria with the German Reich in which the Revenue Office requests approval of a petition for compensation (*Entschädigungsantrag*) concerning the Thorschs escape [sic] tax and specifically lists Marie Thorsch's stocks and bonds (RM 1,190,464) and Alfons and Marie Thorsch's real estate (RM 1,063,997).^{69, 70}

The CRT notes that the above cited argumentation, in many ways like the argumentation proffered earlier regarding the fate of the shares of the *H.P.I. Mij.* and the *Intercontinentale*, rests in large measure on misunderstanding or misinterpretation of the documentation, on disregard of the proper time sequence of documented events and/or on the use of partial documentation.

First, the Claimants cite from a document they call the "Assessment File," which purportedly lays the link between the 1938 Census declarations of Alfons and Marie Thorsch and the flight tax assessments. This document, the provenance of which the Claimants did not provide, consists of 15 numbered pages.⁷¹ The first 14 pages consist of a typed transcription of the attachments to the Thorsch' 1938 Census declarations and a summary sheet. While the summary sheet is legibly annotated in handwriting, the handwritten annotations on the rest of the document are largely illegible. The final page (15) is a typed partial transcript of the operative parts of the Flight Tax Assessment Demand form (*Reichfluchtsteuerbescheid*) addressed to Alfons and Marie Thorsch and dated 15 December 1939. The Claimants interpret the handwritten annotations on these typed copies to be the Flight Tax Office's (*Reichfluchtsteuerstelle*) calculations for the flight tax assessment on Alfons and Marie Thorsch' assets.⁷² This interpretation, however, is most questionable for several reasons: the undated

⁶⁸ Here the Supplemental Statement, p. 22 cites, as footnote 57, Escape [sic] tax assessment from the Revenue Office to Alfons and Marie Thorsch dated December 15, 1939 (Exhibit 8).

⁶⁹ Here the Supplemental Statement, p. 22 cites, as footnote 58, See Exhibit 10 [letter dated 3 January 1940].

⁷⁰ Supplemental Statement, p. 20-21.

⁷¹ Supplemental Statement, Exhibit 8, which contains 2 copies of the Flight Tax office's flight tax demand dated 15 December 1939 and the 15 page typescript cited here.

⁷² Supplemental Statement, p. 22 refers to this Office as the "Revenue Office" because it indeed is part of the Revenue Office, Inner City-East (*Finanzamt Innere Stadt-Ost*); the CRT, for consistency reasons, has continued to

typescript in no way resembles any of the official documents contained in the several thousand case files the CRT has analyzed, nor would it seem reasonable that the tax authorities would use a typed transcript of the attachments to Alfons and Marie Thorsch' 1938 Census declaration as working documents, especially when the archival documentation shows that they had the originals at hand. It is yet more implausible that they would produce a partial typescript of their own tax assessment demand form for working purposes, and even more so as on that transcript (p. 15 of the document) the due date of the tax demand is miscopied. Furthermore, the legible handwritten totals on the summary sheet (page 1 of the document) use the Anglo-Saxon notation for numbers, *i.e.*, commas to divide thousands from hundreds, whereas the continental notation uses periods to divide thousands from hundreds. All this indicates that the document most likely did not have the official origin the Claimants ascribe to it. In fact, it would seem more plausible that the document came from a family file and, if it indeed dated from the Relevant Period, that it may have been a copy provided by the Thorsch' Vienna lawyer, who filed the Thorsch' 1938 Census declarations, and was annotated by Alfons Thorsch himself or his Swiss lawyer, with the annotations on the summary sheet added at a later time. This seems the more plausible as Dr. Pestalozzi, Alfons Thorsch' Swiss lawyer, in his letter to Baron [REDACTED], dated 18 June 1959 (referred to on p. 37 *supra*), states that he has a copy the Thorsch' 1938 Census declarations, including annexes and tables (*Beilagen und Aufstellungen*).⁷³

Be that as it may, although there are actually differences between the values cited by the Flight Tax Office for the real estate and securities assets owned by Marie Thorsch and those listed on her 1938 Census declaration, these differences may be explained by the fact that the flight tax assessment was to be based on tax declarations of total asset values (*Gesamtvermögen*) as of 1 January 1938 and that the Census declaration reported values as of 27 April 1938. However, both were based on self declarations, which in this case employed nominal values for the bulk of the reported securities. The Flight Tax Office used tax data they had on file to calculate flight tax assessments and would attempt to ascertain elsewhere, including from the VVSt, what attachable assets there might be to satisfy their demand.⁷⁴ It is evident that there was a real incentive for the tax authorities to put a high value on the base assets on which the tax assessment was calculated, however, there was no incentive whatsoever to overvalue the proceeds that might be derived from the reported assets. Consequently, the Claimants' assertion that the Nazi authorities believed that these nominal values could be realized in the market is highly questionable. Finally, the Claimants argue that

Once the Thorschs learned that the Germans valued the Austrian bonds owned by Marie Thorsch at RM 1,119,150.00 [sic], the Austrian Bonds may have been the first (and possibly only) securities the Thorschs

differentiate between the Flight Tax Office and the Revenue Office, depending on which was the originating entity.

⁷³ Supplemental Statement, Exhibit 23.

⁷⁴ The CRT notes here that the adoption of the flight tax in Austria was a post-*Anschluss* feature of the incorporation of Austria into the Reich. Within the Old Reich taxation of total assets was a well-implemented feature of the tax system, whereas in Austria wealth taxes were only loosely implemented, which explains why there may have been greater cross-checking between tax information and the 1938 Census declarations in Austria than in Germany for purposes of flight tax calculations. Furthermore, for cases relating to Austria, these differences may have been more pronounced than elsewhere in the Reich, because there they stemmed not only from the four months time difference, but also from the fact that the tax declarations gave pre-*Anschluss* values, whereas the 1938 Census declarations contained post-*Anschluss* values.

transferred to the Germans.⁷⁵

This line of argument surely must raise the question of how Alfons and Marie Thorsch would have become privy to, and indeed obtained a copy of, the purported internal figuring of the Nazi authorities.

Second, in this particular case, the sequence of the correspondence makes clear that at least through 10 August 1940 the entire flight tax assessment, amounting to RM 1,820,578.00 was still outstanding.⁷⁶ The 10 August 1940 communication is part of a set of correspondence, documentation for which is on hand starting with the above cited letter of 3 January 1940, which itself refers to a letter dated 22 November 1939. The focus of this correspondence concerns the Flight Tax Office's efforts to collect the assessed flight tax amount from available assets. Administratively it was of importance that the flight tax demand be satisfied from not yet formally confiscated assets (as the latter apparently would be confiscated to the benefit of designated entities, removing them from the reach of the tax authorities), which explains why much of the correspondence concerns the Flight Tax Office's effort to delay or reverse formal confiscation of seized property. Included in this correspondence is the previously cited exchange of letters and notes relating to the possible value of the two bundles of securities and the packet of correspondence seized by the Gestapo at the TS office in May 1938. These, after having been released to the Revenue Office, had been returned to the Gestapo's Dr. Siegel on 20 November 1939 at his request because "realization (*Verwertung*) by the Gestapo in Prague appeared promising"⁷⁷ (see *supra* p. 15). As noted above, this correspondence makes it clear that the references to "securities" and "papers" in these exchanges relate exclusively to the two bundles of securities and the package of correspondence seized at TS. Furthermore, as noted earlier, the listing of the seized securities makes clear why both the Revenue Office in returning them to Dr. Siegel and later Siegel himself termed them "not sellable" and "worthless," respectively. There is no support in this documentation for the Claimant's contention that

The evidentiary record shows that the Gestapo thought that it could obtain and monetize the Austrian Bonds. When the Gestapo stated, with reference to the deposit receipts and the two packets of securities, that "the liquidation of these securities should yield over RM 2,000,000" the Gestapo was clearly including the Austrian bonds.^{78, 79}

First, the CRT notes that there is no evidence whatsoever that the Gestapo in the above quote "...was clearly including the Austrian bonds." All the documentation makes quite clear that the references are solely to the securities and correspondence seized from the TS office in May 1938.

⁷⁵ This number was the value cited by the Flight Tax Office for all the securities Marie Thorsch held as of 1 January 1938 not just the "Austrian bonds," though the latter represented the largest part of the portfolio.

⁷⁶ ASA, letter *Staatliche Verwaltung des Reichsgaues Wien* (State Administration of the Reich region Vienna, hereinafter "State Administration") to Revenue Office Inner City-East, dated 10 August 1940, on which the sender is not legible, but based on the preceding exchange of letters clearly from the State Administration.

⁷⁷ ASA, letter State Administration to Gestapo, dated 31 May 1940.

⁷⁸ Here the Supplemental Statement cites, as footnote 63, "See CRT Letter at 6 (Exhibit 5)". However, this letter, *i.e.*, the CRT's Finding of Fact Memorandum, which constitutes Exhibit 5, includes no such statement(s).

⁷⁹ Supplemental Statement, p. 22.

The reason for the Gestapo for a return of these documents specifically relates to determination of the “ownership of a plant in Bohemia-Moravia,” a plant that certainly would have had a worth of RM 2,000,000 and that the Nazi authorities, according to extensive documentation, were seeking to acquire under a cloak of legality.

But even if one took the Claimants’ assertion that the Gestapo had somehow put its hands on what the Claimants call “the Austrian bonds” – an assertion they made repeatedly believing that the deposit receipts actually represented the securities themselves - at face value, it is erroneous because it rests on a partial quote taken out of context. The CRT, in its normal course of analysis, has reviewed both the full document from which the phrase in quotation marks is taken, as well as the subsequent correspondence, and has come to a different view. The document from which the Claimants quote is the letter from the Flight Tax Office, dated 17 May 1940, in which, as noted above, they explain that the documents had been returned to the Gestapo’s Dr. Siegel at his request because “realization (*Verwertung*) by the Gestapo in Prague appeared promising” after which follows “The realization of these papers should, according to Dr. Siegel (Gestapo Vienna) yield more than RM 2,000,000.00.”⁸⁰ The Claimants, in omitting the reference to “realization by the Gestapo **in Prague** [emphasis added]” are finessing the basic question of how a packet of Austrian Government bonds, that apparently is not marketable at its full or near its nominal value in Vienna or Berlin, could achieve this value in Prague. Furthermore, in a letter, dated 31 May 1940 to the Gestapo, the State Administration (“*Staatliche Verwaltung*”) put all this somewhat more tentatively, saying that the Revenue Office had advised that the securities had been returned to Siegel because “...there might be a realization possibility in Prague from which proceeds of RM 2,000,000.00 might be expected” and goes on to indicate that the full amount of the flight tax remains outstanding. The State Administration then went on to explain that it was seeking the Gestapo’s advice as to whether and to what amount this transaction could satisfy the flight tax demand, not the least because the NSDAP, for whose benefit the real assets had been confiscated, had an interest in knowing that it would not have to reckon with being liable for compensation that might be granted to the fiscal authority in case of failure to collect the flight tax.⁸¹ Dr. Siegel, in answer to this letter, states on 7 June 1940 that his reason for requesting the return of the documents was that:

I needed these papers [*Papiere*] in the course of the determination of the ownership status of a plant situated in the Protectorate of Bohemia-Moravia. (For full text see *supra* p. 15.)

The CRT considers that whatever possibility Siegel saw of realizing a significant amount from these documents clearly related to assets owned by Alfons and Marie Thorsch in Bohemia-Moravia, namely the *Provizer*. Siegel notes explicitly that the securities in the packet were

⁸⁰ ASA, letter Flight Tax Office to *Reichskommissar*, dated 17 May 1940.

⁸¹ ASA, letter State Administration to Gestapo, dated 31 May 1940 in answer to letter of 13 March, 1940. An internal, handwritten note, headed V.v.6Juni 40, meaning Note of 6 June 1940 (V here being the abbreviation for *Vermerk*, erroneously transcribed as *Verfügung* and translated as Order by [REDACTED 2]) and signed and dated 15 July 1940, records the decision to hold off on replying to the query of the Revenue Office regarding its compensation claim until receipt of the Gestapo’s reply to their letter of 31 May 1940 regarding potential coverage of the flight tax from a securities portfolio. The CRT notes that in this communication, the confiscated real estate is valued at RM 1,992,734, as over against the Revenue Office’s 1 January 1938 value of RM 1,063,665 and the combined value from Alfons and Marie Thorsch’ 1938 Census declarations of RM 1,047,335.

worthless.

On 1 August 1940 the Revenue Office wrote to the State Administration to request information regarding the status of its compensation claim and on 10 August 1940, the State Administration rendered its decision. This decision states that the fiscal authorities' claim for compensation for a capital loss of RM 1,825,000.00 [the total amount of the flight tax demand] consequent upon the confiscation of the assets of Dr. Alfons and Marie Thorsch, was filed in a timely fashion on 28 June 1939, and recognizes the validity of the claim. The "*Land Oesterreich*" (State of Austria) and the NSDAP, to whose benefit the assets were confiscated, therefore were ordered to pay a total of RM 498,183.00, this being one quarter of the value of the confiscated assets, commensurate with the 25 percent rate at which flight tax was assessed.⁸² This conclusion clearly shows that the officials decided that the flight tax would not be covered from other sources. On 17 September 1940, the Gestapo Prague issued a confiscation order, to the benefit of the Reich, for all the assets in Bohemia-Moravia of Alfons and Marie Thorsch as well as those of the *H.P.I. Mij.*, "this being a company wholly owned by the couple."⁸³ On 8 November 1940, the Gestapo Vienna advised the VVSt of the formal confiscation of Alfred and Marie Thorsch' assets to the benefit of the Reich.⁸⁴

Based on the assembled documentation, the CRT concludes that there is no evidence that flight tax was paid from any sources other than those listed in the compensation of the fiscal authorities, *i.e.*, the assets recorded as having been seized within the Reich on behalf of the NSDAP and the State of Austria. This conclusion is also supported by the fact that no post-War documentation to the contrary appears to exist. Even though the additional documentation provided by the Claimants includes five brief documents, dated between 19 March 1959 and 10 December 1959, relating to the settlement of the restitution claim reached between the Executor and Trustee of Alfons Thorsch' estate and the Berlin Restitution Offices (*Wiedergutmachungsämter* Berlin), and the Supplemental Statement mentions restitution claims filed in Austria,⁸⁵ there is no indication of the pursuit of claims for compensation of flight tax payments including other than the assets recorded as having been confiscated within Austria. In fact, the express exclusion of the claimed securities from the 1959 Berlin restitution settlement is ample proof that there was no evidence of any payment of the flight tax demand involving the "Austrian bonds" or indeed any other securities outside the direct reach of the Reich. Given the thoroughness of the Executor's efforts to recover Alfons Thorsch' assets, it is reasonable to assume that these efforts would have included such flight tax payments if any suggestion of their payment from assets other than those confiscated in Austria had existed.⁸⁶ Finally, the Claimants

⁸² ASA, letter to Revenue Office Inner City-East, dated 10 August 1940. Sender not legible, but based on the preceding exchange of letters clearly from the State Administration.

⁸³ Document submitted by the Claimants, Copy of Gestapo Prague Confiscation Order, dated 17 September addressed to Dr. jur. Hans Kramer, as the person officially appointed to receive such communications (*Zustellungsbevollmächtigter*).

⁸⁴ ASA, Internal File note (*Aktenvermerk*) addressed to the various Sections of the VVSt, dated 21 November 1940 and signed Halik.

⁸⁵ No documentation provided.

⁸⁶ The CRT notes in this context that, unlike post-War documentation for other confiscatory measures of the Nazi regime, the flight tax files of the Revenue Office Inner City-East survived the War and were preserved through the late 1950s. See Peter Böhmer in *Die österreichische Finanzverwaltung und die Restitution entzogener Vermögen 1945 bis 1960*, Österreichische Historikerkommission, Oldenbourg Verlag, Vienna Munich, 2003, p. 233. This is

make much of Dr. Pestalozzi's already referred to reply to Alfons Thorsch' son-in-law, [REDACTED], dated 18 June 1959 regarding his enquiry about transfers to official entities in Vienna made by Alfons Thorsch in the years 1938 to 1940.⁸⁷ They argue that as this reply refers to [REDACTED]'s inquiry regarding any documents relating to "the transfers your father-in-law made....", the use of the article "the" provides proof that such transfers indeed were made and that this "further suggests that the Austrian Bondswere indeed transferred to the Germans at some point following June 1938."⁸⁸

Clearly the use of the article "the," and yet clearer from the German original, refers to the way the inquiry was formulated rather than to explicit knowledge on the part of the writer. More telling is the fact that Dr. Pestalozzi states in his reply that he has no documentation about such transfers in his files, but that he has other files, which if they might be of use, he would send on. Among these he cites: "A listing of securities holdings of Dr. A. T. as of 31 December 1939, photocopy" and "A listing relating to the flight tax declaration with explanations (*eine Aufstellung zum Reichsfluchtsteuerbekenntnis mit Erläuterungen*) and copies of two letters from the administrative head (*kommissarische Leiter*) of the Vienna Stock Exchange, dated 26 August and 26 September 1938." None of these documents is available to the CRT. Both the extent of Dr. Pestalozzi's files and the fact that he was retained by the Executor and Trustee of Alfons Thorsch' estate at least through 1950, make it obvious that the absence of any information on large – and clearly restitutable – flight tax payments from assets other than those claimed for that purpose is no accident. On this basis, together with the documentary evidence that at least through August 1940 no flight tax payments had been made, the CRT cannot but reaffirm its conclusion above namely that "there is no evidence that flight tax was paid from any sources other than the assets recorded as having been seized within the Reich."

Claimant [REDACTED 1] posits in her additional submission of 27 August 2007 that the contents of the accounts at Bank IV and Bank V may have been utilized to pay ransom for the release of Alfons and Marie Thorsch' daughter [REDACTED].⁸⁹ This seems to be negated entirely by the notarized statement, dated 20 March 1959, of [REDACTED] detailing the circumstances of this release. In his statement, [REDACTED] describes step by step how, on 10 or 11 May 1938, they heard of the arrest of his sister-in-law, [REDACTED] [sic], how a day later he traveled from Switzerland to Vienna, accompanied by Dr. Pestalozzi, retrieved the jewelry, the hiding of which had been the reason of [REDACTED]'s [sic] arrest, and how he handed it over to the Gestapo. According to his statement, [REDACTED] [sic] was released ten days later and left for Switzerland on 2 July 1938. [REDACTED] and his family followed on 5 July, after which "until after the end of World War II, there was no immediate family member in Vienna or Austria."⁹⁰

also evidenced by the many cases, documentation for which the CRT has examined, where files of the *Abgeltungsfonds* (Compensation Fund, the Austrian institution dealing with restitution claims for financial assets) include, among other tax documents, detailed Revenue Office documentation on flight tax payments. It is further noted that the Claimants did not make any documentation relating to claims filed with the *Abgeltungsfonds* available.

⁸⁷ Supplemental Statement, Exhibit 23.

⁸⁸ Supplemental Statement, p. 16.

⁸⁹ Submission by Claimant [REDACTED 1]'s representative, dated 27 August 2007.

⁹⁰ Supplemental Statement, Exhibit 1.

Alternatively, the Claimants aver that if the Austrian bonds were not used to pay the Thorsch' outstanding flight tax, they remained dormant in the two custody accounts at Bank IV and Bank V. The Claimants contend that this must be so because the securities held in the accounts at Bank IV and Bank V were in default throughout the War and furthermore, were not listed in the Executor's Interim Accounting of Alfons Thorsch' estate in November 1950, even though they did not mature until the mid-1950s.

As noted above, the CRT considers the proposition that these two accounts remained dormant throughout the post-War period to flout all the facts of this case. Not only would this have been inconsistent with Alfons Thorsch' very consistent behavior pattern with respect to the protection of his and his wife's assets, but it also is inconsistent with the post-War behavior of his Executor, his heirs and, notably, the fact that his Swiss lawyer continued to be involved in the affairs of his estate.⁹¹ The Claimants assert that the fate of the contents of these two accounts is open only to the two possibilities they posit as being plausible, namely that they either were transferred to the Reich or they remained dormant with the Banks. They simply put aside the obvious third possibility, namely that they could have been sold. Although these bonds were in default and considered not sellable in April 1938, they were not without any value. This explains also why Alfons Thorsch did not list them among the *Nonvaleurs* on his 1938 Census declaration, but among his securities of value, even if their market value could not be determined at the time. And, obviously there is no reason why bonds should not be sold before their maturity date. Thus, the fact that these particular bonds did not appear among those listed in the estate does not mean that their proceeds were not received by Alfons Thorsch. A telling example in this respect is provided by the SF 121,000.00 worth of Swiss Railroad 3% of 1890 bonds, which Alfons Thorsch reported on his 1938 Census declaration and which do not appear in the estate documentation as available to the CRT. The information from the TS ledgers and the Banks' documentation allows us to track these bonds from a TS deposit at Bank I, to a TS account at Bank III, to an account owned by Alfons and Marie Thorsch at Bank III, to a transfer on 23 June 1938 to *Lippmann, Rosenthal & Co.* in Amsterdam. There the track ends. However, the fact that these bonds are not listed in the inheritance tax documentation of 1946, as obtained from the NAC files, indicates that they most likely would not appear in the Executor's Interim Accounts either, and thus that they had been disposed of earlier.⁹² The CRT notes that as of 1950 none of these bonds had yet been called for redemption, documenting that they would have been sold at market price before redemption.⁹³ It is obvious that Alfons Thorsch, in the period following June 1938, until his death, managed his portfolio actively, as he had done before, and it is therefore not surprising that some of the assets listed on his and his wife's 27 April 1938 Census declarations no longer figure in his estate in 1946.

⁹¹ Thus the Executor's Interim Accounts of 1950 list payments to Dr. Hans Pestalozzi, including for legal services.

⁹² The CRT notes that in post-War correspondence with [REDACTED], *Lippmann, Rosenthal & Co.* expressed its satisfaction that they had been able to keep the assets left in the Netherlands intact, explicitly saying that it took the risk of preventing their being handed to the robber bank *Lippmann, Rosenthal & Co, Sarphatistraat*, so that the possibility that the Swiss Railroad bonds could have been forcibly moved to that bank and thereafter confiscated does not apply. Claimants' submission IV, item XVI of the 18 exhibits and included in the listing IV(1) (see p. 4, *supra*): Letter to [REDACTED], Montreal, dated 30 November 1945 and signed Lippmann, Rosenthal & Co., p.p. M. E. Fuld and p.p. Alberding.

⁹³ Moody's Manual of Investments, American and Foreign Government Securities 1950, Moody's Investors Service, New York, N.Y., p.1974.

The Claimants, in their Supplemental Statement, submit that Alfons Thorsch reacted passively to the Reich's reach for his and his family's assets and that, therefore, the CRT's conclusion that his pattern of behavior was consistently and pro-actively aimed at protecting his control over these assets is "deeply flawed."⁹⁴ In support of this statement, they posit that the Nazi regime "initiated lawsuits against Alfons Thorsch in Switzerland and England in an attempt to acquire TS Bank assets,"⁹⁵ and that "[t]he CRT incorrectly stated in its January 15, 2007 letter [the Finding of Fact Memorandum] ...that the Swiss lawsuit was initiated by Alfons Thorsch."⁹⁶

These statements are, however, themselves erroneous. Their error, as with earlier assertions in the Claimants' submissions, originates from their citing documents out of context or events out of their proper time sequence, or from simple misreading of documentation. In this instance, the documentation clearly shows that initiation of legal action, both in Switzerland and in Great Britain, indeed lay with Alfons Thorsch. As set out in detail in the section on The Liquidation of Thorsch & Söhne, starting on p. 12 *supra*, and more specifically in the sub-section Litigation in Swiss Courts regarding Thorsch & Söhne Assets, starting on p. 27 *supra*, Alfons Thorsch engaged the courts in Great Britain in June 1938 and in July 1938 in Switzerland to protect his funds from the reach of the Reich. Thus, on 22 June 1938 in order to block the *Cassen-Verein* from gaining access to TS deposits in Britain he initiated a suit against two London Banks in which the *Cassen-Verein* was joined as defendant. Not long thereafter he initiated a similar action in Zurich and petitioned the Zurich District Court for protection of the TS deposits at the Zurich branch of Bank I. The Court, as set out above (see *supra* p. 29) accepted the petition on 7 July 1938 and prohibited the Zurich branch of Bank I from disposing over the deposits of TS, an order that was later followed by the transfer of the deposits held by TS at both Bank I and Bank III to the custody of the Court. It was only after these actions that the *Cassen-Verein* engaged in litigation in order to gain access to these funds. The *Cassen-Verein*, in its Final Report, accordingly wrote:

...efforts to withdraw these deposits were only partly successful because in the case of the Swiss and the British deposits, Dr. Alfons Thorsch had either prevailed upon the Courts to block the deposits or had withdrawn them himself.⁹⁷ (See *supra* pp. 13-14.)

The assembled documentation surfaces without any doubt a clear and consistent pattern of proactive measures taken at every juncture by Alfons Thorsch to ensure the safety of his and his family's assets.

In her Supplemental Statement, Claimant [REDACTED 2] cites the Court's explanation of the

...principle in law called "spoliation." ...the law assumes that (the) destroyed evidence was harmful to the destroyer. For over half a century

⁹⁴ Claimant [REDACTED 2], Supplemental Statement, dated 14 May 2007, p. 2.

⁹⁵ *Id.*

⁹⁶ *Id.*, p. 6.

⁹⁷ "Unsere Bemühungen diese Guthaben abzudisponieren waren nur teilweise erfolgreich, da Dr. Alfons Thorsch die Guthaben in der Schweiz und in England, durch die zuständigen ausländischen Gerichte sperren liess, bezw. behoben hatte."

the Swiss banks destroyed evidence they knew to be relevant to legitimate claims that were being made by account holders and their heirs. The banks knew that, if substantiated through documentation, these claims would expose the banks to liability. The fact that the destruction may not have violated Swiss law – which was not amended to accommodate the claims of heirs of account holders whom [sic] the Swiss knew were slaughtered in the Holocaust and who could not make a successful claim if records were destroyed – is nothing more than a sad commentary on the manner in which the banks were permitted to operate. Edward R. Korman, Rewriting the Holocaust History of Swiss Banks, in Holocaust Restitution: Perspectives on the Litigation and its Legacy 129 (2006).⁹⁸

Claimant [REDACTED 2] further cites the Court’s

...detailing Swiss banks’ policies and practices of stonewalling in response to inquiries from heirs and representatives of Nazi victims and affirming, *inter alia*, the CRT’s presumption (j) based on the principle of spoliation. See also *In re Holocaust Victim Asset Litigation*, 2004 WL 121 1906 (E.D.N.Y. 2004) (C.J. Korman).⁹⁹

Claimant [REDACTED 2] also cites Article 28 presumptions (a) and (d) and Article 17 detailing the standard of proof to be applied by the CRT. Based on these citations and the Claimant’s argumentation, Claimant [REDACTED 2] concludes, “... the Claimants respectfully submit that the CRT should award Claimants the value of the Austrian Bonds held in the two Custody Accounts.”¹⁰⁰

The CRT notes that the cited presumptions in Article 28, which in whole relates to claims to certain closed accounts, refer (a) to the closure dates of accounts closed “unknown by whom”; (d) to accounts declared in a Nazi census of Jewish assets or other Nazi documentation; and (j) to there being no indication in the bank records that the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account. The head note to Article 28 also stipulates that

a determination shall be made as to whether the Account owners or their heirs received the proceeds of the Account prior to the time when the claim was submitted to the CRT.

According to Article 28, the CRT presumes, “in the absence of evidence to the contrary that neither the Account Owners, Beneficial Owners, or their heirs received the proceeds of the Account in cases involving one or more” of the circumstances described in these, and other, presumptions. With respect to the standard of proof, Claimant [REDACTED 2] cites Article 17(1), which reads: “Each Claimant shall demonstrate that it is plausible in light of all the

⁹⁸ Supplemental Statement, pp. 19-20.

⁹⁹ *Id.*, footnote 55, p. 20.

¹⁰⁰ *Id.*,

circumstances that he or she is entitled, in whole or in part, to the claimed account.”¹⁰¹

With regard to the presumptions under Article 28, the CRT notes first that the CRT’s determinations are generally based upon the standard of plausibility, but that the Article 28 presumptions are explicitly premised upon the absence of evidence to the contrary sufficient to rebut the presumptions. Second, whereas Claimant [REDACTED 2] is correct in citing the Court’s explanation for the application of adverse inference based on the behavior of the Swiss banks, the point here is that the destruction of documents, which is the focus of her argument, was symptomatic of their behavior rather than the reason for that behavior.¹⁰² As detailed amply in many studies of the behavior of Swiss banks during the Nazi era, but most prominently in the studies of the Independent Expert Commission Switzerland – Second World War (the “Bergier Commission”), the Swiss banks’ general pattern of behavior was motivated entirely by self-interest. Whereas the Swiss Federal Court had issued clear decisions rejecting the application of the Nuremberg laws on Swiss soil well before 1938, when the banks increasingly were confronted with the Reich’s confiscatory demands to transfer Jewish-owned assets into its hands, the banks sought to find ways of complying with the Reich’s demand “because of their interests in the Third Reich,” while avoiding the consequences of possible legal complaints on the part of the account owners.¹⁰³ Jewish account owners, whose assets either were being demanded by “*kommissarische Verwalter*” in aryanization proceedings or whose foreign currency denominated assets had been transferred to the Swiss account of a Reich-designated German or Austrian bank, to the extent that they were outside the Reich and preferably in Switzerland, could increasingly rely on precedent for successful action in Swiss courts to protect or regain their Swiss-held assets.¹⁰⁴ In civil law cases, the courts consistently denied the application of the Nuremberg laws on Swiss soil. They did so on basis of the “*ordre public*” clause, which holds that foreign law, to be enforceable in Switzerland under international agreements, must not contravene any of the fundamental principles of Switzerland’s legal system. Early cases involved breach of contract questions relating to dismissals of Jews on racial grounds, but later cases increasingly concerned confiscatory actions by the Reich. Of course, Thorsch is a famous case in point, as is *Böhmische Union Bank vs Heynau*. In both cases, the court found for the persecuted party on basis of breaches of property rights and equality of treatment before the law, which are fundamental norms in the Swiss legal system.¹⁰⁵ Given the growing certainty that once suits were initiated, the original account owner would prevail, banks conscious of their self interest, tried to avoid being caught between a rock and a hard place, so that case histories

...also show that this court record caused the banks to cooperate in the

¹⁰¹ *Id.*, p.25

¹⁰² It may be noted here that the Claimant’s assertion that Bank IV and Bank V refused to provide “voluntary assistance” in the search for account documentation not found by ICEP is incorrect. The CRT requested such assistance and both banks replied that a further search had not uncovered additional documentation.

¹⁰³ Lussy, Bonhage and Horn, *Schweizerische Wertpapier-geschäfte mit dem “Dritten Reich,”* Independent Expert Commission Switzerland – Second World War (“Bergier Commission”), Volume 14, Chronos Verlag, Zurich, 2001, p. 238-39.

¹⁰⁴ See, for example, Bonhage, Lussy and Perrenoud, *Nachrichtenlose Vermögen by Schweizer Banken*, Bergier Commission, Volume 15, Chronos Verlag, Zurich, 2001, p. 148.

¹⁰⁵ See Adolf Lüchinger in *Die Schweiz, der Nationalsozialismus und das Recht, II. Privatrecht*, Bergier Commission, Volume 19, Chronos Verlag, Zurich, 2001, p. 67 ff.

search for appropriate solutions in the interest of victims of Nazi persecution, **in cases in which the clients had the resources and the possibility, to sue in Switzerland against the transfer of their assets** [emphasis added].¹⁰⁶

Sadly, the number of account holders who could avail themselves of such defensive actions pales relative to those who were unable to do so, as noted by the Court

Perhaps most significantly, forced transfers continued throughout the duration of the war even though the Swiss courts recognized that they were illegal. [Bergier Report] at 276 (finding that when opponents of forced transfers had been 'able to take legal action in Switzerland, the requests made by the [Nazi authorities] were rejected by the judges and the blocked assets were deposited with the court.)¹⁰⁷

Alfons Thorsch, however, was one of the few who could, and did, successfully take the course of defensive court action.

On basis of the documented consistent behavior of the banks, the CRT considers it implausible that either Bank IV or Bank V, knowing that Alfons Thorsch had the demonstrated means and opportunity to engage in court action to maintain his sole control over his and his family's assets, would have acted to undercut this control. The implausibility of either the accounts having remained dormant in the post-War period, given the efforts of the Executor to recover the estate's assets with the involvement of the same Swiss lawyer, who had intimate knowledge of Alfons Thorsch' financial affairs in Switzerland before and during the Nazi era, is fully discussed above, as is the implausibility of a transfer of the contents of the accounts to the Reich to cover flight tax. The argument that Alfons Thorsch still had relatives inside the Reich, who might have been put under threat, is materially weakened by the fact that his actions to protect his assets in Switzerland and the United Kingdom from the reach of the Reich did not appear to have been impeded by such threats.

The CRT, thus after carefully considering the Supplemental Statement and documentation provided by the Claimants on 14 May 2007 and 27 August 2007, determines that these do not provide grounds to alter the conclusion stated above, or the reasons given, namely that Alfons Thorsch retained control over these two accounts and that he, in conformity with his actions regarding his other assets, closed these accounts and received the proceeds himself.

Right of Appeal and Request for Reconsideration

Pursuant to Article 30 of the Rules, the Claimants may appeal this decision or submit a request for reconsideration within ninety (90) days of the date of the letter accompanying this decision.

¹⁰⁶“Die Fallbeispiele zeigen aber auch, dass diese Gerichtspraxis die Banken veranlasste, in Fällen, in denen die Kunden die Mittel und die Möglichkeit hatten, in der Schweiz die Herausgabe der übertragenen Vermögenswerte einzuklagen, bei der Suche nach angemessenen Lösungen im Interesse der durch den Nationalsozialismus Verfolgten mitzuwirken.” Id., p. 151.

¹⁰⁷ *In re Holocaust Victim Assets Litig.*, 319 F.Supp. 2d 301, 307 (E.D.N.Y. 2004).

An appeal must be based upon a plausible suggestion of error regarding the CRT's conclusions set out in this decision. Any appeals which are submitted without a plausible suggestion of error shall be summarily denied. A request for reconsideration must be based on new documentary evidence not previously presented to the CRT that, if considered, would have led to a different outcome of the claim. Claimants should briefly explain the relevance of the newly submitted documents in view of the conclusions stated in the certified decision.

The Claimants should send appeals and/or requests for reconsideration in writing to the following address: Oren Wiener, Claims Resolution Tribunal, Attention: Appeals / Request for Reconsideration, P.O. Box 9564, 8036 Zurich, Switzerland. If more than one account has been treated in this decision, the Claimants should identify the account, including, where available, the Account Identification Number, that forms the basis of the appeal and/or request for reconsideration.

Scope of the Denial

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they 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 Denial

The CRT certifies this Denial for approval by the Court.

Claims Resolution Tribunal
18 December 2008

Appendix A

Detailed Information Regarding Swiss Bank Accounts held by *M. Thorsch & Söhne*, Alfons Thorsch and Marie Thorsch

The CRT identified a total of 29 accounts in the documents provided by the Claimants and in the Banks' records. Of these 29 accounts, 21 are documented in materials provided by the Claimants and 12 are documented in records obtained from the ICEP Investigation or from the Banks.¹⁰⁸

Accounts Identified in the TS bank ledgers (For key to TS bank ledger labels see Appendix B)

The Claimants submitted voluminous documentation regarding bank accounts held by *Thorsch & Söhne*. The documents include certified copies of excerpts from ledger and accounting books pertaining to accounts held by *Thorsch & Söhne* dating from 1931 to 1940. To facilitate analysis and discussion of these documents, the CRT has labeled the pages of each book. A description of the labels attributed to the documents by the CRT is provided in Appendix A-1. The TS bank ledgers document the existence of 19 accounts held by *Thorsch & Söhne* at various Swiss banks.¹⁰⁹

According to entries in these books, *Thorsch & Söhne* held 12 demand deposit accounts. The TS bank ledgers contain entries relating to debits from and credits to each of the accounts, as described below.

- Bank IX: The TS bank ledgers contain an entry indicating that *Thorsch & Söhne* held a demand deposit account at the Zurich branch of Bank IX as of 7 July 1931 (C00027-28). The contents of this account were transferred in full to the Zurich branch of Bank III on 7 July 1931. (C00027-28)
- Bank VIII: The first entry pertaining to the demand deposit account at Bank VIII is dated 1 January 1931 and the last entry is dated 29 April 1935, at which time SF 1,238.00 was transferred to the Basel branch of Bank I. The documents indicate that SF 1.00 remained in the account, which was charged to fees three days later. (A00035-36; C00009-10)
- Bank VII: The first entry pertaining to the demand deposit account at Bank VII is dated 1 January 1931, and the last entry is dated 29 April 1935, at which time SF 632.00 was transferred to the Zurich branch of Bank I. The documents reflect that no funds remained in this account subsequent to the transfer. (A00093-94)
- Zurich branch of Bank VI: The first entry relating to this account is dated 1 January 1931, and the last entry is dated 21 January 1937, at which time SF 35.00 was transferred to the Zurich branch of Bank I. The documents reflect that no funds remained in this account subsequent to the transfer. (A00173-176)
- Geneva branch of Bank I: The entries regarding the demand deposit account at the Geneva branch of Bank I date from 1 January 1931 to 14 June 1937, at which time a sum

¹⁰⁸ The CRT notes that these subtotals do not total 29, because four of the accounts are documented in both the Claimants' submissions and in records obtained from the Banks.

¹⁰⁹ Two of the accounts documented in the Bank Ledgers are also evidenced in bank records identified during the course of the ICEP Investigation and in documents provided to the CRT by Bank III during Voluntary Assistance.

of SF 3,783.75 was transferred to the Zurich branch of Bank I. The final entry notes that no funds remained in this account subsequent to the transfer. (A00177-178; A00227-228; C00069-70)

- Geneva branch of Bank III: The entries regarding the demand deposit account at the Geneva branch of Bank III date from 1 January 1931 to 14 June 1937, at which time a sum of SF 4,222.50 was transferred to the Zurich branch of Bank III. The entries indicate that no funds remained in the account subsequent to this transfer. (A00057-60; A00235-236).
- Bank IV: The entries pertaining to the demand deposit account at Bank IV are dated from 1 July 1933 to 30 June 1938, at which time SF 2,354.50 was transferred to the Zurich branch of Bank III. The entries indicate that no funds remained in the account subsequent to this transfer. (A00203-204; A00223-224; A00323-324)
- Bank V: The entries pertaining to the demand deposit account at Bank V are dated from 1 July 1937 to 30 June 1938, when SF 1,993.80 was transferred to the Zurich branch of Bank III. The entries indicate that no funds remained in the account subsequent to this transfer.
- Zurich branch of Bank I: The entries relating to the demand deposit account at the Zurich branch of Bank I begin with an entry dated 1 January 1931 and end with an entry dated 31 December 1939. One entry, dated 25 April 1935, indicates that SF 632.00 was transferred into the account from the *Thorsch & Söhne* account at Bank VII. An entry dated 14 June 1937 indicates that SF 3,783.75 was transferred into the account from the Geneva branch of Bank I on that date. These credit entries correspond to the debit entries regarding the *Thorsch & Söhne* accounts at Bank VII and the Geneva branch of Bank I, as detailed above. The last entry contains a notation “written off” (*per Abbuchung*) and indicates that the account balance totaled SF 7,504.00 on that date. (A00159-162) The CRT notes that this account was addressed in the legal dispute detailed above and corresponds to an account reported by the ICEP auditors.
- Zurich branch of Bank III: The entries regarding the demand deposit account at the Zurich branch of Bank III date from 1 January 1931 to 31 December 1939. According to entries dated 30 June 1938, sums totaling SF 2,354.50 and SF 1,993.80 were transferred on that date into this account from Bank IV and Bank V, respectively. These entries correspond with the entries regarding Bank IV and Bank V described above. The last entry contains a notation “written off” (*per Abbuchung*) and indicates that the demand deposit account contained SF 20,000.00 on that date. (A00167-172; A00217-218; A00233-234; A00243-244) The CRT notes that this account was also addressed in the litigation in the Swiss courts.
- Basel branch of Bank I: The first entry relating to the demand deposit account at the Basel branch of Bank I is dated 1 January 1931, and the last entry is dated 31 December 1939. The last entry contains a notation “written off” (*per Abbuchung*) and indicates that the amount in the account was SF 7,405.00 on that date. (A00163-166; A00361-362)
- Bank II: The first entry relating to the demand deposit account, which was denominated in British pounds, at Bank II is dated 1 January 1931, and the last entry is dated 31 December 1939. The last entry contains a notation “written off” (*per Abbuchung*) and indicates that the amount in the account on that date was £ 212.12.10. (A00143-150; C00047-48)

Entries in another TS bank ledger submitted by the Claimants detail activity on seven custody accounts held by *Thorsch & Söhne*.

- Zurich branch of Bank I: With regard to the custody account at the Zurich branch of Bank I, the first entry is dated 1 January 1934 and indicates that the custody account contained 3% *Schweiz. Bundesbahn Rte 1890 Ser. I*, with a nominal value of SF 75,000.00. The excerpts show that these securities were transferred to a custody account at the Zurich branch of Bank III on 12 June 1937.
- Basel branch of Bank I: The excerpts indicate that the securities in this account were transferred to the Zurich branch of Bank III on 12 June 1937.
- Zurich branch of Bank III: The excerpts indicate that, as of 1 January 1934, this account contained 3% *Schweiz. Bundesbahn Rte 1890 Ser. I* with a nominal value of SF 46,000.00 and 5% *Rumän. Staats Rte Obl. 1926 Tr. A* with a nominal value of £ 70.00. According to an entry dated 12 June 1937, additional 3% *Schweiz. Bundesbahn Rte 1890 Ser. I* bonds with a nominal value of SF 75,000.00 were deposited into the account. The CRT notes that this corresponds to the information contained in the entry for the account at the Zurich branch of Bank I. An entry dated 17 November 1937 indicates that 4 ½% *Konsolid. Anl. v. Königreiches Rumänien 1934* bonds with a nominal value of FF 100.00 and FF 5.00 were deposited into the account. There are no entries pertaining to this account subsequent to that date. The CRT notes that this account corresponds with custody account 30162 detailed in the documents obtained during Voluntary Assistance and described below.
- Bank IV: The excerpts regarding the custody account at Bank IV contain statements of interest dated 1 January 1937 generated on £ 47,280.00, ITL 90,000.00, and FF 300,000.00 worth of 5% 25 yr. *Abrechng. Obl. E, G and H* respectively. Notations in the excerpts indicate that these securities were transferred to a custody account belonging to Alfons and Marie Thorsch at Bank IV on 10 December 1937.
- Bank V: The entries pertaining to the *Thorsch & Söhne* custody account at Bank V are dated from 1 January 1937 and reflect interest on £ 46,970.00, ITL 50,000.00 and FF 300,000.00 worth of 5% 25 yr. *Abrechng. Obl. E, G and H* bonds respectively. The excerpts contain notations indicating that on 13 December 1937 these securities were transferred to a custody account belonging to Alfons and Marie Thorsch at Bank V.
- Bern branch of Bank I: The TS bank ledgers indicate that *Thorsch & Söhne* held a custody account at the Bern branch of Bank I (C00069-70). The records, however, contain only one entry, dated January 1937.
- Bank II: The TS bank ledgers indicate that *Thorsch & Söhne* held a custody account at Bank II (B00044-45; D00011). The last recorded entry on this account is January 1936.

Information Available in the Banks' Records

The auditors who carried out the ICEP Investigation reported a total of eight accounts belonging to the Account Owners. Two additional accounts were evidenced in documents provided by Bank I and one account was evidenced in documents provided by Bank III during the course of Voluntary Assistance. One account at Bank II was documented in correspondence between Bank II and the Basel managers of Bank I. The CRT notes that one account reported by the auditors, one account evidenced in documents provided by Bank III in Voluntary Assistance and

one account documented between Bank II and the Basel headquarters of Bank I correspond to accounts referenced in the TS bank ledgers provided by the Claimants. One further account corresponds to an account documented by the Claimants.

Accounts at Bank III

The records consist of account registry cards from the Zurich branch of Bank III. Pursuant to the CRT's request for Voluntary Assistance, Bank III provided additional account registry cards and account statements. According to these records, *Thorsch & Söhne* held a custody account, numbered 30162. The records also indicate that Dr. Alfons Thorsch, who resided in Vienna, Austria, held one demand deposit account, one custody account, numbered 41392, and one safe deposit box, numbered S 814. Further, the records indicate that Dr. Alfons and Marie Thorsch jointly held a custody account numbered 59479, a related demand deposit account, and a second demand deposit account.

With regard to the *Thorsch & Söhne* custody account numbered 30162, the records indicate that it was opened on 22 August 1931 and closed on 2 December 1937, at which time its contents were transferred to the custody account numbered 59479 belonging to Alfons and Marie Thorsch. At the time of the transfer the account held the following securities: £ 70.00 nominal of 5% *Amort. Rumänische Rente* of 1926, Tranche A and SF 121,000.00 nominal of 3% *Schweizerische Eisenbahnrente of 1890, Serie I*. The CRT notes that, according to the TS bank ledgers, SF 75,000.00 nominal of the latter bonds had been received on 12 June 1937 from the *Thorsch & Söhne* custody account at the Zurich branch of Bank I. The custody account numbered 30162 also previously held £ 22,500 worth of 5% *Oesterreichische steuerfreie Bundesschuld-verschreibungen von 1923, Kateg. A*, all of which had been disposed of by 15 February 1933. The CRT notes that this account corresponds to the account at the Zurich branch of Bank III held by *Thorsch & Söhne* referenced in the TS bank ledgers and discussed above.

With regard to the accounts held by Alfons Thorsch, the records indicate that custody account numbered 41392 was opened on 10 November 1930 with shares of *H.P.I. Mij.* with a face value of fl 1,100,000.00 and *Intercontinentale* shares with a face value of fl 200,000.00. On 8 December 1932, shares of *H.P.I. Mij.*, with a face value of fl 365,000.00, were transferred to *Lippmann, Rosenthal & Co.* in Amsterdam. The remaining *H.P.I. Mij.* shares, with a face value of fl 735,000.00, together with the *Intercontinentale* shares with a face value of fl 200,000.00, were transferred to *Lippmann, Rosenthal & Co.* on 23 June 1938, and the account was closed on 28 June 1938. The records regarding Alfons Thorsch' accounts indicate that the related demand deposit account was closed on an unknown date, and that the safe deposit box, numbered S 814, was closed on 19 December 1938.

With regard to the custody account numbered 59479 held by Alfons and Marie Thorsch, the records indicate that it held the securities transferred from custody account number 30162. The contents of this account were transferred to *Lippmann, Rosenthal & Co.*, Amsterdam on 23 June 1938 and the account was closed on 28 June 1938. The related demand deposit account was similarly closed two days later.

Accounts at the Zurich Branch of Bank I

The auditors reported one account of unknown type at the Zurich branch of Bank I. The records provided by the auditors indicate that the reported account corresponds to the demand deposit account held at the Zurich branch of Bank I that was placed in the custody of the Swiss court. These records are described in detail below.

Under Voluntary Assistance, Bank I provided the CRT with additional documents consisting of excerpts of an account register. These documents indicate that *Thorsch & Söhne* held two accounts of unknown type, numbered 7449 and 7195. The accounts appear on a register of accounts closed as of 31 December 1937.

Account at Bank IV

The records provided by the auditors consist of opening documents for a custody account, signed by Alfons and Marie Thorsch on 6 December 1937. The records indicate that, on 8 December 1937, account number 22738 was issued to them. Bank IV's records do not indicate the contents of the account or when the account was closed. The records contain a letter to Bank IV on stationery of the Hotel Baur au Lac in Zurich, dated 12 June 1938 and signed by Alfons Thorsch, regarding his and his wife's account at that bank. In the letter, Alfons Thorsch explained that they recently had granted an attorney in Vienna general authority to represent them in a litigation matter, but that this power of attorney did not extend to any rights over their account at Bank IV. Accordingly, he wished to reiterate that exclusively he personally and/or his wife Marie Thorsch, through their personal signatures, had the right to dispose over the account.¹¹⁰

The entries in the TS bank ledgers provided by the Claimants document the deposit of securities into this account as well as their nominal value. Thus, securities with nominal value of £ 47,280.00, ITL 90,000.00, and FF 300,000.00 were deposited on 10 December 1937 from the *Thorsch & Söhne* custody account at Bank IV (D00016). Further, the list of deposit receipts included in the papers seized by the Gestapo at TS in May 1938 also refers to both this account and this deposit.

Summary of Swiss Bank Accounts

The combined records indicate the existence of 29 accounts, of which 21 were held by *Thorsch & Söhne*, five by Alfons and Marie Thorsch, and three by Alfons Thorsch. Of the 21 accounts held by *Thorsch & Söhne*, 12 were demand deposit accounts, seven were custody accounts, and two were of unknown type. Of the five accounts held by Alfons and Marie Thorsch, three were custody accounts and two were demand deposit accounts. Alfons Thorsch held one custody account, one demand account, and one safe deposit box. A summary table of these accounts, including references to the source of the evidence showing the accounts' existence and their

¹¹⁰ The German original reads: "Da wir kürzlich einem Anwalt in Wien allgemeine Prozessvollmachten ausgestellt haben, die jedoch nicht zur Verfügung über unser Conto dienen sollen, erlaube ich mir, neuerdings festzustellen, dass zur Verfügung über das oben bezeichnete Conto ausschliesslich ich persönlich und/oder meine Frau Marie Thorsch durch persönliche Unterschrift verfügungsberechtigt sind. Ich bitte Sie, hievon [sic] Vormerk zu nehmen und mir die Kenntnisnahme freundlichst zu bestätigen."

disposition, is contained in Appendix C.

Appendix B

Key to TS bank ledger labels

Source	Number Range	Source Document Title / Description
A	00001-364	<i>Saldakonti Nostro</i> 1931 – 1939
B	00001-314	<i>Depot-Engagementbuch</i> 1934 – 1939
C	00001-98	Excerpts from Demand Deposit Account Register
D	00001-16	Excerpts from Custody Account Register
E	00001-42	<i>Hauptbuch 1</i> Januar 1937 - 31 Dezember 1939
F	00001-44	<i>Kassa-Journal</i> 1938 Januar – Juni
G	00001-32	<i>Kassa-Journal</i> 1938 Juli – Dezember
H	00001-14	<i>Kassa-Journal</i> 1939 Januar - 1940 Januar
I	00001-14	Excerpts from Demand Deposit Account Register
J	00001-11	Excerpts from Custody Account Register
K	00001-10	Excerpts from Custody Account Register

Appendix C

Account and Disposition Information

	Bank, Branch	Account Owner	Account Type And Nr.	Account Information	Disposition	Source
1.	Bank VIII	TS	DD	Transferred to Bank I Basel on 29 April 1935.	Pre- <i>Anschluss</i> closure	A00035-36; C00009-10
2.	Bank VII Zurich	TS	DD	Transferred to Bank I Zurich on 25 April 1935.	Pre- <i>Anschluss</i> closure	A00093-94
3.	Bank IV	TS	CA	£ 47,280; ITL 90,000, FF 300,000 nominal 5% 25 yr. <i>Abrechng. Obl.</i> E, G and H respectively. Bonds were in default and noted as not sellable at the time. Transferred to CA 22738 belonging to Alfons and Marie Thorsch at Bank IV on 10 Dec 1937; account referenced in document seized by Gestapo at TS in 1938.	Pre- <i>Anschluss</i> closure	D00016
4.	Bank I Basel	TS	CA	Transferred to Bank III Zurich on 12 June 1937.	Pre- <i>Anschluss</i> closure	D00012
5.	Bank I Bern	TS	CA	One entry dated January 1937.	Pre- <i>Anschluss</i> closure	K00006-8
6.	Bank I Geneva	TS	DD	Transferred to Bank I Zurich on 12 June 1937.	Pre- <i>Anschluss</i> closure	A00177-178; A00227-228; C00069-70
7.	Bank II	TS	CA	Last entry dated January 1936.	Pre- <i>Anschluss</i> closure	Voluntary Assistance B00044-45; D00011
8.	Bank I Zurich	TS	CA	SF 75,000 nominal 3% <i>Schweiz. Bundesbahn Rte 1890 Ser. I</i> Securities transferred to Bank III Zurich, account number 30162, on 12 June 1937.	Pre- <i>Anschluss</i> closure	K00003
9.	Bank I Zurich	TS	UA 7449	Closed as of 31 December 1937.	Pre- <i>Anschluss</i> closure	Voluntary Assistance
10.	Bank I Zurich	TS	UA 7195	Closed as of 31 December 1937.	Pre- <i>Anschluss</i> closure	Voluntary Assistance
11.	Bank VI Zurich	TS	DD	Transferred to Bank I Zurich on 21 January 1937.	Pre- <i>Anschluss</i> closure	A00173-176
12.	Bank III Geneva	TS	DD	Transferred to Bank III Zurich on 14 June 1937.	Pre- <i>Anschluss</i> closure	A00057-60; A00235-236
13.	Bank III Zurich	TS	CA 30162	SF 46,000 nominal 3% <i>Schweiz. Bundesbahn Rte 1890 Ser. I</i> ; SF 75,000 idem; £ 70 nominal 5% <i>Rumän. Staats Rte. Obl. 1926 Tr. A</i> ; FF 105 nominal 4 1/2% <i>Konsolid. Anl. V. Königreiches Rumänien</i>	Pre- <i>Anschluss</i> closure	Voluntary Assistance D00013

	Bank, Branch	Account Owner	Account Type And Nr.	Account Information	Disposition	Source
				1934, both Romanian bonds were in default; Swiss railway bonds deposited on 12 June 1937 from CA at Bank I Zurich (K00003). Transferred to CA 59479 at Bank III on 2 December 1937.		
14.	Bank V	TS	CA	£ 46,970; ITL 50,000; FF 300,000 nominal 5% 25 yr. <i>Abrechng. Obl.</i> E, G and H respectively. Bonds were in default and noted as not sellable at the time. Transferred to Alfons and Marie Thorsch account numbered 44865 at Bank V on 6 December 1937, as reflected in <i>Depotscheine</i> in document seized by Gestapo at TS in 1938 referencing a deposit for same amount to Alfons and Marie Thorsch account at Bank V on 6 December 1937.	Pre- <i>Anschluss</i> closure	K00009; securities to the exact amount reported in 1938 Census declaration.
15.	Bank IX Zurich	TS	DD	Last entry dated 7 July 1931, when entire contents were transferred out.	Non-Relevant Period account.	C00027-28
16.	Bank IV	TS	DD	SF 2,354.50. Transferred to Bank III Zurich 28 June 1938.	Transferred to other Thorsch account.	A00203-204; A00223-224; A00323-324
17.	Bank V	TS	DD	SF 1,993.80. Transferred to Bank III Zurich on 30 June 1938.	Transferred to other Thorsch account.	A00185-188; A00219-220; A00241-242; C00081-82
18.	Bank I Zurich	TS	DD 112	Written off by the <i>Kommissarische Verwaltung</i> in the books of TS in Vienna on 31 December 1939; transferred in connection with the Court case to the custody of the District Court at the <i>Bezirksgerichtskasse Zurich</i> , deposit number 03.765.	Placed in custody of the court. Judgment entered in favor of Alfons Thorsch. Determined to have been received by Alfons Thorsch.	Reported by ICEP auditors A00159-162
19.	Bank III Zurich	TS	DD	Written off by the <i>Kommissarische Verwaltung</i> in the books of TS in Vienna on 31 December 1939 but had been transferred in connection with the Court case to the custody of the District Court at the <i>Bezirksgerichtskasse Zurich</i> , deposit number 03.785.	Placed in custody of the court. Judgment entered in favor of Alfons Thorsch. Determined to have been received by Alfons Thorsch.	A00167-172; A00217-218; A00233-234; A00243-244; C00083-84; I00011-12
20.	Bank II	TS	DD	Written off by the <i>Kommissarische Verwaltung</i> in the books of TS in Vienna on 31 December 1939.	Following Court action in London and Court decision in Switzerland and on basis of established pattern of vigorous defense of rights of disposition, determined to	A00143-150; C00047-48

	Bank, Branch	Account Owner	Account Type And Nr.	Account Information	Disposition	Source
					have been received by Alfons Thorsch.	
21.	Bank I Basel	TS	DD	Written off by the <i>Kommissarische Verwaltung</i> in the books of TS in Vienna on 31 December 1939	Following Court decision in Switzerland and on basis of established pattern of vigorous defense of rights of disposition, determined to have been received by Alfons Thorsch.	A00163-166; A00361-362; C00097-98
22.	Bank III Zurich	Alfons & Marie Thorsch	CA 59479	£ 70 5% nominal <i>Amort. Rumänische Rente 1926, Tranche A</i> ; bond in default; SF 121,000 nominal 3% <i>Schweizerische Eisenbahnrente 1890, Serie I</i> . Of the latter, SF 75,000 nominal had been received on 12 June 1937 from TS' Bank I account (K00003); <i>See</i> account 30162. <i>Depotscheine</i> referenced account in document seized by Gestapo at TS in 1938; securities transferred to <i>Lippmann, Rosenthal & Co., Amsterdam</i> on 23 June 1938.	Transferred to Thorsch account in Amsterdam in June 1938.	Reported by ICEP auditors
23.	Bank III Zurich	Alfons & Marie Thorsch	DD	Held in conjunction with Bank III CA 59479. Transferred to Amsterdam June 1938.	Transferred to Thorsch account in Amsterdam in June 1938.	Reported by ICEP auditors
24.	Bank III Zurich	Alfons & Marie Thorsch	DD	Closed 20 September 1939 when Alfons and Marie Thorsch resided in UK	Account closed while Alfons Thorsch resided in UK, just after Swiss Superior Court judgment became final.	Reported by ICEP auditors
25.	Bank IV	Alfons & Marie Thorsch	CA 22738	£ 47,280; ITL 90,000, FF 300,000 nominal 5% 25 yr. <i>Abrechng. Obl. E, G, and H</i> respectively, bonds were in default and noted as not sellable at the time; <i>Depotscheine</i> referenced account in document seized by Gestapo at TS in 1938; securities came from TS account at Bank V. No closure date available.	Sufficient evidence to rebut presumption. Personal account that existed after initiation of widely publicized lawsuit and established pattern of protection of assets from the reach of the Reich and vigorous defense of rights of disposition.	Reported by ICEP auditors Assets referred to in 1938 Census declaration, but no reference to their being held in Switzerland.
26.	Bank V	Alfons & Marie Thorsch	CA 44865	£ 46,970; ITL 50,000; FF 300,000 nominal 5% 25 yr. <i>Abrechng. Obl. E, G, and H</i> respectively, bonds	Sufficient evidence to rebut presumption. Personal	Assets referred to in 1938 Census declaration, but no

	Bank, Branch	Account Owner	Account Type And Nr.	Account Information	Disposition	Source
				were in default and noted as not sellable at the time; <i>Depotscheine</i> referenced account in document seized by Gestapo at TS in 1938; securities came from TS account at Bank V. No closure date available.	account that existed after initiation of widely publicized lawsuit and established pattern of protection of assets from the reach of the Reich and vigorous defense of rights of disposition.	reference to their being held in Switzerland.
27.	Bank III Zurich	Alfons Thorsch	CA 41392	Opened with shares of <i>H.I.P. Mij.</i> with face value of fl 1,100,000 and <i>Intercontinentale</i> shares with face value of fl 200,000 on 10 November 1930. On 8 December 1932, shares of <i>H.I.P. Mij.</i> with face value of fl 365,000 were transferred to <i>Lippmann, Rosenthal & Co.</i> Remaining <i>H.I.P. Mij.</i> shares with face value of fl 735,000, and all fl 200,000 worth of <i>Intercontinentale</i> shares, were transferred to <i>Lippmann, Rosenthal & Co</i> on 23 June 1938; account closed on 28 June 1938.	Transferred to Thorsch account in Amsterdam in June 1938.	Reported by ICEP auditors
28.	Bank III Zurich	Alfons Thorsch	SD S 814	Closed 19 December 1938 when Alfons Thorsch resided in Switzerland	Closed 12 days after District Court Judgment issued, while Alfons Thorsch resided in Switzerland.	Reported by ICEP auditors
29.	Bank III Zurich	Alfons Thorsch	DD	No closure date available.	Sufficient evidence to rebut presumption. Personal account held in same bank involved in Swiss court litigation and established pattern of vigorous defense of rights of disposition.	Reported by ICEP auditors

Appendix D

List of Acronyms, Appellations and Abbreviations

A: Alfons Thorsch

A&M: Alfons and Marie Thorsch jointly

Anschluss: the incorporation of Austria into the German Reich in March 1938

Bezirksgericht Zürich: Zurich District Court

Bezirksgerichtskasse: District Court Cashier

Cassen-Verein: *Wiener Giro- & Cassen-Verein*

H.P.I. Mij.: *N.V. Hollandsche Petroleum-en Industrie Maatschappij*

Intercontinentale: *N.V. Intercontinentale Petroleum Land en Handel-Maatschappij*

Kommissarischer Verwalter: administrator imposed by Nazi authorities

Privozer: *Privozer Mineralölwerke A.G.*: (the Privoz Mineral Oil Works or Refinery)

TS: *Thorsch & Söhne*