



## Information Provided by the Claimants

### Information Provided by Claimant [REDACTED 1]

In the information provided by Claimant [REDACTED 1], she identified the three Account Owners as her mother, Lily Margarethe Bader; her maternal grandmother, Regina Stern; and her maternal aunt, Hilda Pollak. Claimant [REDACTED 1] submitted a Claim Form and Initial Questionnaires identifying Account Owner Bader as her mother, Lily Margarethe Bader, née Stern, who was born on 23 August 1893 in Vienna, Austria, and was married to Dr. Edwin Bader in August 1917, in Vienna. Claimant [REDACTED 1] stated that her mother resided at Wipplingerstrasse 31 in Vienna I. Claimant [REDACTED 1] further stated that her mother, who was Jewish, was the owner and director of a girls' boarding school, the *Pensionat Stern*, located at Werdertorgasse 12 in Vienna IX. In her Initial Questionnaires, Claimant [REDACTED 1] explained that her parents traveled to Switzerland before March 1938 to deposit money for safekeeping in the event that Austria was taken over by the Nazis. Claimant [REDACTED 1] further explained that after the annexation of Austria (the "*Anschluss*"), her family was afraid that the *Gestapo* would find out about their Swiss bank accounts because of the death penalty applicable to those who made unauthorized deposits in foreign banks, and especially because her family's housekeeper was a Nazi sympathizer. Claimant [REDACTED 1] also stated that her parents warned her that if she was interrogated by the Nazis, she should deny any knowledge of a Swiss bank account. According to Claimant [REDACTED 1], in 1939 her mother fled Austria to London, England, where she remained until she immigrated to the United States. Claimant [REDACTED 1] further stated that, after the Second World War ended, her parents attempted to retrieve their assets in Switzerland but were unsuccessful. Claimant [REDACTED 1] added that her mother died in December 1958 in New York, and that her father died in 1975, also in New York.

Claimant [REDACTED 1] identified Account Owner Stern as her maternal grandmother, Regine Stern, née Mayer, who was married to [REDACTED]. Claimant [REDACTED 1] stated that her grandmother was born in Vienna and died in the summer of 1935 in Bad Gastein, Austria.

In a telephone conversation with the CRT on 24 October 2002, Claimant [REDACTED 1] identified Account Owner Pollak as her maternal aunt, Hilda Pollak, née Stern, her mother's sister and the daughter of Regine Stern, who was married in approximately 1916 to [REDACTED], with whom she had two sons, [REDACTED] and [REDACTED 2] (Claimant [REDACTED 2]). Claimant [REDACTED 1] stated that her aunt was born on 23 January 1889 and was a piano teacher. Claimant [REDACTED 1] explained that her aunt, who was Jewish, fled to the United States during the Second World War, and died on 7 May 1957 in New York, and that her son, [REDACTED], died in New York on 2 October 1997.

In support of her claim, Claimant [REDACTED 1] submitted her mother's birth certificate, which indicates that her mother was Regine Stern, née Mayer; and her parents' certificate of identity issued by the British Home Office in 1940, which indicates that they had a daughter named [REDACTED].<sup>3</sup> Claimant [REDACTED 1] previously submitted two Initial Questionnaires to the

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<sup>3</sup> The CRT notes that while the Claimant's name is "[REDACTED]" and this document states "[REDACTED]," it is plausible that this difference is the result of a transliteration of the name.

Court in 1999, asserting her entitlement to a Swiss bank account owned by Dr. Edwin Bader and Lily Bader. Claimant [REDACTED 1] stated that she was born on 1 July 1924 in Vienna.

Information Provided by Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted an Initial Questionnaire with the Court on 27 October 1999, identifying Account Owner Pollak as his mother, Hilda Pollak, who was born on 23 January 1889 and who later changed her name to Hilda Parker. In a separate Initial Questionnaire submitted by Claimant [REDACTED 2], Claimant [REDACTED 2] stated that his father was [REDACTED], who later changed his name to [REDACTED]. Claimant [REDACTED 2] also stated that his parents, who were Jewish, resided at Franz Josefs Kai 49 in Vienna I. Claimant [REDACTED 2] explained that after the *Anschluss*, the Nazi authorities demanded that his parents surrender all of their foreign assets, and that his parents followed the Nazi's order and handed over all of their bank documents relating to their assets in Switzerland. Claimant [REDACTED 2] further explained that his parents remained in Austria until 1939, when they fled to England and that they later immigrated to the United States in 1945. Claimant [REDACTED 2] added that his mother died on 7 May 1957 in New York, and that his father died on 12 June 1956, also in New York. Claimant [REDACTED 2] indicated that he was born on 19 October 1920.

Information Provided by Claimant [REDACTED 3]

In the information provided by Claimant [REDACTED 3], she identified Account Owner Bader as her second cousin; Account Owner Stern as her first cousin; and Account Owner Pollak as her second cousin. Claimant [REDACTED 3] submitted a Claim Form identifying Account Owner Bader as her second cousin, Lily Bader, née Stern, who was born on 22 August 1893 in Vienna, and was married to Dr. Edwin Bader, with whom she had two daughters, [REDACTED] (Claimant [REDACTED 1]) and [REDACTED], née [REDACTED], whom Claimant [REDACTED 3] indicated is still living. Claimant [REDACTED 3] stated that her cousin, who was Jewish, resided at Wipplingerstrasse 31 in Vienna I, and owned a boarding school for children located at Werdertorgasse 12, also in Vienna I. Claimant [REDACTED 3] explained that her cousin's assets were confiscated by the Nazis, and that her cousin fled Austria to England in January 1939, and later immigrated to the United States in approximately 1941. Claimant [REDACTED 3] added that her cousin died on 18 February 1959 in New York, and that Edwin Bader died in 1975, also in New York.

Claimant [REDACTED 3] submitted a separate Claim Form identifying Account Owner Stern as her first cousin, Regine Stern, née Mayer, who was born in 1860 in Vienna, and was married to [REDACTED]. Claimant [REDACTED 3] stated that her cousin, who was Jewish, resided in Vienna I, where she also owned the same boarding school with her daughter, Lily Bader, which was located at Werdertorgasse 12. Claimant [REDACTED 3] added that her cousin died in 1935 in Austria.

Claimant [REDACTED 3] submitted a separate Claim Form identifying Account Owner Pollak as her second cousin, Hilda Pollak, née Stern, who was born on 23 January 1889 in Vienna, who later changed her name to Hilda Parker and who was married to [REDACTED]. Claimant [REDACTED 3] stated that her cousin had two sons, [REDACTED], who was formerly known as [REDACTED], and who is deceased, and [REDACTED 2] (Claimant [REDACTED 2]), who was formerly known as [REDACTED]. Claimant [REDACTED 3] also stated that her cousin, who

was Jewish, resided in Vienna I at Franz Josef Kai 49 and was a professor at the Vienna Conservatory of Music. Claimant [REDACTED 3] explained that her cousin's assets were confiscated by the Nazis, and that her cousin fled in 1939 to London, England, where she remained until 1952, when she immigrated to the United States. Claimant [REDACTED 3] added that Hilda Pollak died on 7 May 1957 in New York, and that [REDACTED] died on 12 June 1956, also in New York.

In support of her claims, Claimant [REDACTED 3] submitted the Austrian census form completed by Lily Bader, which indicates that Lily Bader was married to Dr. Edwin Bader, that she resided at Wipplingerstrasse 31 in Vienna, and that she owned a boarding school for girls located at Werdertorgasse 12. In addition, Claimant [REDACTED 3] submitted an extract from a history of the Claimants' family, which indicates that Regine Stern and Lily Bader managed a boarding school in Vienna, and that Lily Bader was married to Dr. Edwin Bader. Claimant [REDACTED 3] also submitted a detailed family tree.

Claimant [REDACTED 3] indicated that she was born on 5 January 1938 in Vienna. Claimant [REDACTED 3] is representing her brother, [REDACTED], who was born on 26 January 1935, also in Vienna.

### **Information Available in the Banks' Records**

The eleven accounts held by the Account Owners are set out in Table I and attached as Annex A to this Award. This section sets out the account details for the accounts at Bank I and Bank II.

#### Bank Records at Bank I

Bank I's records consist of a list of dormant accounts prepared by the Zurich branch of the Bank in 1959; a note on Swiss accounts reported in the Austrian census of Jewish assets of April 1938, prepared based on a survey of the records in the Austrian State Archives in the 1990s to identify such accounts; signature samples of the Account Owners; two declarations of consent, one of which was signed by Account Owner Pollak's husband; Bank I's internal correspondence; correspondence between Bank I and the Swiss Department for the Liquidation of German Assets regarding the Swiss Freeze of German Assets; several power of attorney forms; and printouts from Bank I's database. According to these records, the Account Owners were *Frau* (Mrs.) Dr. Lily Bader, *Frau* (Mrs.) Regine Stern and *Frau* (Mrs.) Hilda Pollak. Bank I's records indicate that Account Owner Bader resided at Wipplingerstrasse 31 in Vienna I, and at Türkengasse 33, Vienna IX; that Account Owner Stern resided at Werdertorgasse 12 in Vienna I; and that Account Owner Pollak resided at Franz-Josefs Kai 49 in Vienna. One of the declarations of consent, which is undated, indicates that Account Owner Stern was a widow, and the other declaration of consent was signed by Account Owner Pollak's husband, [REDACTED], on 21 April 1931.<sup>4</sup>

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<sup>4</sup> Bank I's records also indicate that Account Owner Bader was the power of attorney holder to an account held by [REDACTED], who resided in Gothenburg, Sweden. Bank I's records contain [REDACTED]'s and Account Owner Bader's street addresses, as well as their respective signature samples. In addition, Bank I's records indicate the date on which power of attorney was granted to Account Owner Bader. The CRT notes that the Claimants did not identify [REDACTED] as their relative, and there is also no indication in Bank I's records that [REDACTED] and Account Owner Bader were related. The CRT also notes that a power of attorney holder is not considered to be the owner of

Account held jointly by Account Owner Bader and Account Owner Pollak

Bank I's records indicate that Account Owner Bader and Account Owner Pollak jointly held one unnumbered custody account. Based on their interpretation of the note on Swiss accounts reported in the Austrian census of Jewish assets, the auditors who carried out the investigation of Bank I to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation") indicated that the amount in the account was 1,500.00 United States Dollars, or 6,615.00 Swiss Francs as of 19 January 1940. Bank I's records do not show to whom this account was paid. The auditors who carried out the ICEP Investigation did not find this account in Bank I's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in Bank I's records that Account Owner Bader or Account Owner Pollak or their heirs closed the account and received the proceeds themselves.

Accounts Held by Account Owner Stern

Bank I's records indicate that Account Owner Stern held a custody account and a demand deposit account, both numbered 28659. The Power of Attorney Holders to the custody account, numbered 28659, were Account Owner Bader and Dr. Edwin Bader, who resided at Türkenstrasse 33, and the Power of Attorney Holders to the demand deposit account, numbered 28659, were Account Owner Bader and Account Owner Pollak. Bank I's records indicate that the custody account and the demand deposit account were closed in January 1945. Bank I's records do not show to whom these accounts were paid, nor do these records indicate the value of these accounts. There is no evidence in Bank I's record that Account Owner Stern, the Power of Attorney Holders, or their heirs closed the demand deposit account or the custody account and received the proceeds themselves.

Account held jointly by Account Owner Stern and Account Owner Pollak

Bank I's records indicate that Account Owner Stern and Account Owner Pollak jointly held one account of unknown type. The auditors who carried out the ICEP Investigation did not find this account in Bank I's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in Bank I's records that Account Owner Stern or Account Owner Pollak or their heirs closed the account and received the proceeds themselves.

Accounts held by Account Owner Pollak

Bank I's records indicate that Account Owner Pollak held one custody account, numbered 32037, two demand deposit accounts (one denominated in Swiss Francs and the other in United States Dollars), and two savings/passbook accounts.

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(continued...)

an account, and after a power of attorney holder dies, his or her authorization to an account no longer exist, and they do not pass to his or her heirs. Therefore, the Claimants are not entitled to the account of [REDACTED].

Bank I's records indicate that the custody account, numbered 32037, was closed on 29 July 1938. Bank I's records do not show to whom this account was paid, nor do these records indicate the value of this account. Bank I's records also indicate that the Power of Attorney Holders to the custody account, numbered 32037, were Account Owner Bader and Account Owner Stern. There is no evidence in Bank I's record that Account Owner Pollak or her heirs closed the custody account and received the proceeds themselves.

Bank I's records indicate that both demand deposit accounts held by Account Owner Pollak were frozen in the Swiss Freeze of German Assets on 17 February 1945.<sup>5</sup> The demand deposit account denominated in Swiss Francs was frozen with a balance of 50.50 Swiss Francs, and later transferred to a suspense account for dormant assets on 24 November 1959, by which time the balance had been reduced to 39.50 Swiss Francs. This account remains open and dormant. The demand deposit account denominated in United States Dollars was frozen with a balance of 16.40 United States Dollars, which was equivalent to 43.65 Swiss Francs. Bank I's records do not show when the demand deposit account in United States Dollars was closed, or to whom it was paid. The auditors who carried out the ICEP Investigation did not find this account in Bank I's system of open accounts, and they therefore presumed that it was closed. These auditors indicated that there was no evidence of activity on this account after 1945. There is no evidence in Bank I's records that Account Owner Pollak or her heirs closed the demand deposit account in United States Dollars and received the proceeds themselves.

The CRT notes that the auditors who carried out the ICEP Investigation indicated that Account Owner Pollak held two additional savings/passbooks accounts. These accounts were not reported to the CRT based on directions from the ICEP that savings accounts with a balance under 250.00 Swiss Francs were not to be reported. Therefore, there is no information before the CRT as to the disposition of these accounts.

## Bank Record at Bank II

Bank II's record consists of a customer card.

### Accounts held at Bank II by Account Owner Pollak

This record indicates that the Account Owner was *Frau* (Mrs.) Hilda Pollak, who resided at Werdertorgasse 12 in Vienna I. Bank II's record indicates that Account Owner Pollak held a savings/passbook account, numbered 47018, and a custody account, numbered 3912. Bank II's record indicates that the accounts were originally jointly held by Account Owner Hilda Pollak and *Frau* (Mrs.) Dr. Lily Bader-Stern, whose name was crossed out on an unknown date. Bank II's record further indicates that the savings/passbook account was closed on 23 April 1938, and that the custody account was closed on 5 August 1938. The amounts in the accounts on the dates of

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<sup>5</sup> A letter, dated 10 June 1955, from Bank I to the Swiss Clearing House, Department for the Liquidation of German Assets (*Schweizerische Verrechnungsstelle, Abteilung für die Liquidation deutscher Vermögenswerte*) requests the lifting of the freeze imposed on a demand deposit account with a balance of 60.00 Swiss Francs held in the name of Account Owner Pollak. Bank I's records contain the reply from the Swiss Department for the Liquidation of German Assets dated 14 June 1955 approving this request, which is confirmed in an internal memorandum of Bank I dated 20 June 1955, stating that the freeze on this account was lifted on 14 June 1955. However, there is no indication in this letter as to which demand deposit account belonging to Account Owner Pollak this memorandum refers.

their closure are unknown. There is no evidence in Bank II's record that Account Owner Pollak or her heirs closed the accounts and received the proceeds herself.

### **Information Available from the Austrian State Archives**

By decree on 26 April 1938, the Nazi Regime required Jews residing within Austria who held assets above a specified level to submit a census form registering their assets. In the records of the Austrian State Archives (Archive of the Republic, Finance), there are documents concerning the assets of Lily Bader and Hilda Pollak. These records include an Austrian census form for Lily Bader, numbered 43170, identical to that submitted by Claimant [REDACTED 3], and an Austrian census form for Hilda Pollak, numbered 9371, both dated 15 July 1938.

#### Information about Account Owner Lily Bader

These records indicate that Lily Bader, née Stern, was Jewish, that she was born on 22 August 1893, and that she was married to Dr. Edwin Bader. The records show that Lily Bader resided at Wipplingerstrasse 31 in Vienna I, and owned a *Pension*, a boarding school for girls, located at Werdertorgasse 12. The records further show that Lily Bader left Austria for England on 18 August 1938. The records show that her business was valued at approximately 5,500.00 Reichsmarks (1938 value). The records also show that Lily Bader owned real estate worth approximately 24,000.00 Reichsmarks (1938 value), as well as stocks and bonds in several foreign companies worth approximately 2,500.00 Reichsmarks (1938 value).

#### Information about Account Owner Hilda Pollak

The Austrian census form for Hilda Pollak indicates that she was Jewish, that she was born on 23 January 1889, and that she was married to [REDACTED]. The records indicate that Hilda Pollak owned savings and bank assets worth approximately 6,300.00 Reichsmarks (1938 value), an insurance policy worth approximately 6,500.00 Reichsmarks (1938 value), and a considerable number of foreign stocks and bonds worth approximately 9,000.00 Reichsmarks (1938 value). The records also include a letter, dated 22 July 1938, from the *Österreichische Creditanstalt-Wiener Bankverein* regarding the sale of the securities deposited at Bank I.

#### Information about Securities held by Account Owner Bader and Account Owner Pollak

The records also indicate that Lily Bader and Hilda Pollak had inherited securities from Regine Stern (specifically Danish Kingdom bonds with a nominal value of 1,000.00 United States Dollars, and Argentine government bonds with a nominal value of 500.00 United States Dollars), which were deposited at the Zurich branch of Bank I. The Austrian census records include a letter from the *Österreichische Creditanstalt-Wiener Bankverein*, an Austrian bank, dated 22 July 1938, to Hilda Pollak, stating that these securities, together with other securities with a nominal value of 1,000.00 United States Dollars, had been sold by the Austrian bank, and that the proceeds of 2,355.91 United States Dollars had been transferred to the *Deutsche Golddiskontbank* in Berlin, Germany.

In a letter dated 19 September 1940 the *Vermögensverkehrsstelle* informed the *Gestapo* that Lilly Bader had failed to deliver to the Nazi authorities mortgage bonds with a face value of 1,000.00

Pesetas of an Argentinean bank (6% Cédulas A. Argent. National Hyp. B.), which were held at a Dutch bank, the *Amsterdamschen Bank N.V.*, Amsterdam, The Netherlands. As a result, the *Vermögensverkehrsstelle* recommended that Lily Bader's citizenship be revoked. On 8 October 1941, the *Gestapo* ordered that all assets pertaining to Lily Bader, Edwin Bader and their children, be confiscated for the benefit of the *Reich*.

## **The CRT's Analysis**

### Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (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 five claims of the Claimants in one proceeding.

### Identification of the Account Owners

The Claimants have plausibly identified the Account Owners. Claimant [REDACTED 1]'s mother's and Claimant [REDACTED 3]'s cousin's name and country and city of residence match the published name and country and city of residence of Account Owner Bader. Claimant [REDACTED 1] and Claimant [REDACTED 3] both identified Account Owner Bader's maiden name and precise street address, which match unpublished information about Account Owner Bader contained in the Banks' records; and they identified Claimant [REDACTED 1]'s father's and Claimant [REDACTED 3]'s cousin's husband's name and title which match the unpublished name and title of Power of Attorney Holder Edwin Bader contained in the Banks' records.

Claimant [REDACTED 1]'s grandmother's and Claimant [REDACTED 3]'s cousin's name and country and city of residence match the published name and country and city of residence of Account Owner Stern contained in Bank I's records. Claimant [REDACTED 1] and Claimant [REDACTED 3] both identified the precise street address of the boarding school owned by their relatives, which matches the unpublished street address of Account Owner Stern contained in Bank I's records.

Claimant [REDACTED 1]'s aunt's, Claimant [REDACTED 2]'s mother's, and Claimant [REDACTED 3]'s cousin's name and country and city of residence match the published name and country and city of residence of Account Owner Pollak. Claimant [REDACTED 2] and Claimant [REDACTED 3] identified Account Owner Pollak's precise street address in Vienna, which matches the unpublished street address of Account Owner Pollak contained in Bank I's records. The Claimants also identified the name of Account Owner Pollak's husband, which matches unpublished information about Account Owner Pollak contained in Bank I's records.

The CRT notes that while the Account Owners' names were published separately on the February 2001 list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), Claimant [REDACTED 1] and Claimant [REDACTED 3] identified the Account Owners as being related, which matches unpublished information contained in the Banks' records. The CRT also notes that the signatures of Account Owner Pollak and Account Owner Bader in Bank I's records match the signatures in the Austrian State Archive

records; and the signature of Edwin Bader, one of the Power of Attorney Holders to Account Owner Stern's custody account, in Bank I's records match the signature of Edwin Bader on Claimant [REDACTED 1]'s parents' certificate of identity issued by the British Home Office in 1940.

The CRT further notes that prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"), Claimant [REDACTED 1] submitted two Initial Questionnaires with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Dr. Edwin Bader and Lily Bader; and Claimant [REDACTED 2]'s claim is based on an Initial Questionnaire submitted with the Court on 27 October 1999. This indicates that the Claimants have based their present claims not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as their relative, but rather on a direct family relationship that was known to them before the publication of the ICEP List. It also indicates that the Claimants had reason to believe that their relative owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimants.

The CRT notes that the other claims to these accounts were disconfirmed because the other claimants provided inconsistent information about the Account Owners as contained in the Banks' records. Taking all of these factors into account, the CRT concludes that the Claimants have plausibly identified the Account Owners.

#### Status of the Account Owners as Victims of Nazi Persecution

The Claimants have made a plausible showing that Account Owner Bader and Account Owner Pollak were Victims of Nazi Persecution. Claimant [REDACTED 1] and Claimant [REDACTED 3] stated that after the *Anschluss*, Account Owner Bader remained in Austria until 1939 when she fled to England; and Claimant [REDACTED 2], Claimant [REDACTED 1] and Claimant [REDACTED 3] explained that Account Owner Pollak also remained in Austria until 1939, when she fled to England. The CRT notes that although Account Owner Stern, who died in 1935 in Austria, was not a Victim of Nazi Persecution, the heirs to her accounts, Account Owner Bader and Account Owner Pollak, were Victims of Nazi Persecution.

#### The Claimants' Relationship to the Account Owners

The Claimants have plausibly demonstrated that they are related to the Account Owners by submitting documents and detailed biographical information, demonstrating that Account Owner Stern was the grandmother of Claimant [REDACTED 1] and Claimant [REDACTED 2], and the first cousin of Claimant [REDACTED 3]; Account Owner Bader was the mother of Claimant [REDACTED 1], the aunt of Claimant [REDACTED 2], and second cousin of Claimant [REDACTED 3]; and Account Owner Pollak was the mother of Claimant [REDACTED 2], the aunt of Claimant [REDACTED 1] and the second cousin of Claimant [REDACTED 3].

In support of their claims, Claimant [REDACTED 1] submitted her mother's birth certificate, which indicates that her mother was Regine Stern, née Mayer, and her parents' certificate of identity issued by the British Home Office in 1940, which indicates that they had one daughter

named [REDACTED];<sup>6</sup> and Claimant [REDACTED 3] submitted a detailed family tree and an extract from a history of the Claimants' family, which indicates that Regine Stern and Lily Bader managed a boarding school in Vienna, and that Lily Bader was married to Dr. Edwin Bader. The CRT notes that all of the information submitted by the Claimants is consistent with each other.<sup>7</sup> The CRT also notes that all of the Claimants identified unpublished information about the Account Owners contained in the Banks' records, including specific street addresses. The CRT further notes that prior to the publication in February 2001 of the ICEP List, Claimant [REDACTED 1] submitted two Initial Questionnaires with the Court in 1999, asserting her entitlement to a Swiss bank account owned by Dr. Edwin Bader and Lily Bader; and Claimant [REDACTED 2]'s claim is based on an Initial Questionnaire submitted with the Court on 27 October 1999.

### The Issue of Who Received the Proceeds

The disposition of the eleven accounts held by the Account Owners is set out in Table II attached to this award as Annex B. In this section, the account dispositions are recorded in detail.

The Austrian State Archive records indicate that the securities in the custody account held jointly by Account Owner Bader and Account Owner Pollak at Bank I were sold and that the proceeds were paid to the Nazis.

Bank I's records indicate that on 24 November 1959 the demand deposit account held by Account Owner Pollak at Bank I was transferred to a suspense account for dormant assets, where it remains open and dormant.

The custody account, numbered 32037, held by Account Owner Pollak at Bank I, was closed on 29 July 1938; and the savings/passbook account and custody account held by Account Owner Pollak at Bank II were closed on 23 April 1938 and 5 August 1938, respectively. Given that Account Owner Pollak's other account was confiscated by the Nazis; that the Account Owner's accounts were closed after the *Anschluss*; that Nazi confiscatory legislation was in effect at the time the accounts were closed; that the Nazis had, at the time of the *Anschluss*, immediately begun a major effort to confiscate the assets of the Jewish residents of Austria, and the CRT has found numerous such confiscations of Swiss bank accounts occurred at this time; that Account Owner Pollak remained in Austria after the *Anschluss* (as evidenced by the Austrian State Archive records which she had to submit sometime after 26 April 1938) until 18 August 1938 when she fled to England and would not have been able to repatriate her accounts; that there is no record of the payment of Account Owner Pollak's accounts to her or to the Power of Attorney Holders; that Account Owner Pollak and her heirs would not have been able to obtain information about her accounts after the Second World War from Bank II due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners

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<sup>6</sup> As noted above, the CRT notes that while the Claimant's name is "[REDACTED]" and this document states "[REDACTED]," it is plausible that this difference is the result of a transliteration of the name.

<sup>7</sup> The CRT notes that Claimant [REDACTED 3] indicated that Account Owner Bader also had a daughter named [REDACTED], née [REDACTED], while Claimant [REDACTED 1] did not mention in her Claim Form that she has a sister. The CRT further notes that as of the issuance of this award, the CRT has not received a claim on behalf of [REDACTED], née [REDACTED].

because of the banks' concern regarding double liability; and given the application of Presumptions (a), (f), (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Pollak, the Power of Attorney Holders, or their heirs.

The account of unknown type held jointly by Account Owner Stern and Account Owner Pollak at Bank I was closed unknown to whom on an unknown date; the one demand deposit account held by Account Owner Pollak at Bank I was frozen in 1945 and later closed unknown to whom on an unknown date; and the two savings/passbook accounts held by Account Owner Pollak at Bank I were closed unknown to whom on unknown dates. Given the death of Account Owner Stern in 1935; that Account Owner Pollak's other account was confiscated by the Nazis, as indicated in the Austrian State Archive records; that there is no record of the payment of Account Owner Pollak's accounts to her or to the Power of Attorney Holders; that Account Owner Pollak and her heirs would not have been able to obtain information about her accounts after the Second World War from Bank I due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (a), (f), (h) and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the account proceeds were not paid to Account Owner Stern or Account Owner Pollak, the Power of Attorney Holders, or their heirs.

The custody account and demand deposit account, both numbered 28659, held by Account Owner Stern at Bank I, which designated Account Owner Bader and Account Owner Stern as the Power of Attorney Holders, were both closed in January 1945. Given the death of Account Owner Stern in 1935; that Account Owner Bader and Account Owner Stern's other account was confiscated by the Nazis; that on 8 October 1941, the *Gestapo* ordered that all assets pertaining to Account Owner Bader be confiscated for the benefit of the *Reich*; that the *Vermögensverkehrsstelle* recommended that Account Owner Bader's citizenship be revoked; that there is no record of the payment of Account Owner Stern's accounts to her or to the Power of Attorney Holders; that Account Owner Stern and her heirs would not have been able to obtain information about her accounts after the Second World War from Bank II due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (a), (h) and (j), as provided in Article 28 of the Rules, the CRT concludes that it is plausible that the accounts proceeds were not paid to Account Owner Stern, the Power of Attorney Holders, or their heirs.

Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

#### Basis for the Award

The CRT has determined that an Award may be made in favor of Claimant [REDACTED 1] and Claimant [REDACTED 2]. First, their claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that Account Owner Bader was her mother and that Account Owner Stern was her maternal grandmother; and Claimant [REDACTED 2] has plausibly demonstrated that Account Owner Pollak was his mother. Finally, the CRT has determined that it is plausible that neither the Account Owners, the Power of Attorney Holders, nor their heirs received the proceeds of the

claimed accounts. Further, the CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2], as Account Owner Bader's and Account Owner Pollak's children and Account Owner Stern's grandchildren, have better entitlements to the accounts than Claimant [REDACTED 3], the cousin of the Account Owners.

#### Amount of the Award

The calculation of the amount of Award in this case for the eleven accounts held by the Account Owners is set out in Table III attached to this Award as Annex C. This section contains the details of these calculations.

In this case, the Account Owners held a total of four custody accounts, three demand deposit accounts, one account of unknown type and three savings/passbook accounts. Account Owner Bader and Account Owner Pollak jointly held one custody account; Account Owner Stern held one custody account and one demand deposit account; Account Owner Stern and Account Owner Pollak jointly held one account of unknown type; and Account Owner Pollak held two custody accounts, two demand deposit accounts, and three savings/passbook accounts.

The values of the following accounts held at Bank I are unknown: the custody account and demand deposit account held by Account Owner Stern; the account of unknown type held jointly by Account Owners Stern and Account Owner Pollak; the custody account held by Account Owner Pollak; and the two savings/passbook accounts held by Account Owner Pollak. The values of the one savings/passbook account and the one custody account held at Bank II by Account Owner Pollak are also unknown. Pursuant to Article 29 of the Rules, when the value of an account is unknown, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs, the average value of a demand deposit account was 2,140.00 Swiss Francs, the average value of an account of unknown type was 3,950.00 Swiss Francs, and the average value of a savings/passbook account was 830.00 Swiss Francs. The current value of these accounts is calculated by multiplying the historical total, 47,580.00 Swiss Francs, by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a sum of 594,750.00 Swiss Francs.

Bank I's records indicate that the value of the custody account jointly held by Account Owner Bader and Account Owner Pollak as of 19 January 1940 was 1,500.00 United States Dollars, equivalent to 6,615.000 Swiss Francs. According to Article 29 of the Rules, if the amount in a custody account was less than 13,000.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the account shall be determined to be 13,000.00 Swiss Francs. In this case, the Austrian census records include a letter, dated 22 July 1938, in which Hilda Pollak was informed that the proceeds of 2,355.91 United States Dollars from the sale of these securities had been transferred to the *Deutsche Golddiskontbank*, Berlin, Germany. Therefore, given that there is plausible evidence to the contrary, the CRT has determined that the amount in the account was 2,355.91 United States Dollars which was equivalent to 10,295.33 Swiss Francs. The current value of this account is determined by multiplying this amount in the by a factor of 12.5, in accordance with Article 31(1) of the Rules. Consequently, the current value of this account is 128,691.63 Swiss Francs.

Bank I's records indicate that the value of one demand deposit account held by Account Owner Pollak as of 17 February 1945 was 50.50 Swiss Francs; and that the value of the other demand deposit account held by Account Owner Pollak was 43.65 Swiss Francs. According to Article 29 of the Rules, if the amount in a demand deposit account was less than 2,140.00 Swiss Francs, and in the absence of plausible evidence to the contrary, the amount in the demand deposit account shall be determined to be 2,140.00 Swiss Francs. The current value of these accounts is determined by multiplying the balance as determined by Article 29 by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a sum of 53,500.00 Swiss Francs. Therefore, the total award amount is 776,941.63 Swiss Francs.

### Division of the Award

The division of the Award of the eleven accounts held by the Account Owners in this case is set out in Table IV. This section contains the details of the division of the Award among the Claimants.

According to Article 23(1)(c) of the Rules, if the Account Owner's spouse has not submitted a claim, the award shall be in favor of any descendants of the Account Owner who have submitted a claim, in equal shares by representation. Claimant [REDACTED 2] is the son of Account Owner Pollak and the grandson Account Owner Stern, and is therefore their descendant. Claimant [REDACTED 1] is the daughter of Account Owner Bader and the granddaughter of Account Owner Stern, and is therefore their direct descendant.<sup>8</sup>

Claimant [REDACTED 3] and her brother, [REDACTED], whom the Claimant is representing in this proceeding, are both the cousins of Account Owner Stern (the descendants of Account Owner Stern's grandparents), and the second cousins of Account Owner Bader and Account Owner Pollak (the descendants of Account Owners Bader and Pollak's great-grandparents). Therefore, as stated above, Claimant [REDACTED 1] and Claimant [REDACTED 2], as direct descendants of the Account Owners, have a better entitlement to the Award than Claimant [REDACTED 3] and [REDACTED]. Accordingly, Claimant [REDACTED 3] and [REDACTED] are not authorized to participate in the Award.

Furthermore, Claimant [REDACTED 1] is the daughter of Account Owner Bader, and therefore Claimant [REDACTED 1] is entitled to all of the assets owned by her mother, Account Owner Bader; Claimant [REDACTED 2] is the son of Account Owner Pollak, and therefore Claimant [REDACTED 2] is entitled to all of the assets owned by his mother, Account Owner Pollak; and Claimant [REDACTED 1] and Claimant [REDACTED 2] are the grandchildren of Account Owner Stern, and therefore they are each entitled to half of all of the assets owned by Account Owner Stern.

Account Owner Bader and Account Owner Pollak jointly held one custody account at Bank I. Therefore, Claimant [REDACTED 1] and Claimant [REDACTED 2], as the daughter and son of

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<sup>8</sup> As stated above, the CRT notes that Claimant [REDACTED 3] indicated that Account Owner Bader also had a daughter named [REDACTED], née [REDACTED], while Claimant [REDACTED 1] did not mention in her Claim Form that she has a sister. The CRT further notes that as of the issuance of this award, the CRT has not received a claim on behalf of [REDACTED], née [REDACTED].

the Account Owners, respectively, are entitled to one-half of the amount of the custody account, 128,691.63 Swiss Francs, or 64,345.82 Swiss Francs each.

Account Owner Stern held one custody account and one demand deposit account at Bank I. Therefore, Claimant [REDACTED 1] and Claimant [REDACTED 2], as the grandchildren of Account Owner Stern, are each entitled to one-half of this amount, 189,250.00, or 94,625.00 Swiss Francs each.

Account Owner Stern and Account Owner Pollak jointly held one account of unknown type. According to Article 25(1) of the Rules, if an account is a joint account and claimants related to each of the account owners have submitted claims to the account, it shall be presumed that each account owner was the owner of an equal share of the account. Therefore, Account Owner Stern and Account Owner Pollak are each presumed to have had a half-share of the account of unknown type, 49,375.00 Swiss Francs. Accordingly, Claimant [REDACTED 2], as the son of Account Owner Pollak, is entitled to all of Account Owner Pollak's share of this account, 24,687.50 Swiss Francs; and Claimant [REDACTED 1] and Claimant [REDACTED 2], as the grandchildren of Account Owner Stern, are each entitled to half of Account Owner Stern's share of this account, 24,687.50 Swiss Francs, or 12,343.75 Swiss Francs each.

Account Owner Pollak held the following accounts at Bank I: one custody account, two demand deposit accounts, and two savings/passbook accounts. Account Owner Pollak also held one savings/passbook account and one custody account at Bank II. Claimant [REDACTED 2], as the son of Account Owner Pollak, is entitled to the total value of these accounts, or 409,625.00 Swiss Francs.

### **Scope of the Award**

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 Award**

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

Claims Resolution Tribunal

8 April 2004

ANNEX A

**TABLE I: BANKS' RECORDS**

Bank I	Account Owner Bader and Account Owner Pollak	Custody Account	6,615.00 Swiss Francs (19 January 1940). ASA records indicate that the proceeds of 2,355.91 United States Dollars from the sale of these securities had been transferred to the <i>Deutsche Golddiskontbank</i> , which was equivalent to 10,295.33 Swiss Francs.	Austrian census records indicate that the securities in the account were sold and that the proceeds were paid to the Nazis.
Bank I	Account Owner Stern	Custody Account	Value Unknown	Closed Unknown to Whom, January 1945
Bank I	Account Owner Stern	Demand Deposit Account	Value Unknown	Closed Unknown to Whom, January 1945
Bank I	Account Owner Stern and Account Owner Pollak	Unknown Type	Value Unknown	Closed Unknown to Whom, Unknown Date
Bank I	Account Owner Pollak	Custody Account	Value Unknown	Closed Unknown to Whom, 29 July 1938
Bank I	Account Owner Pollak	Demand Deposit Account	39.50 Swiss Francs (last know value)	Open and Dormant
Bank I	Account Owner Pollak	Demand Deposit Account	43.65 Swiss Francs.	Closed Unknown to Whom, Unknown Date
Bank I	Account Owner Pollak	Savings/Passbook Account	Value Unknown	Closed Unknown to Whom, Unknown Date
Bank I	Account Owner Pollak	Savings/Passbook Account	Value Unknown	Closed Unknown to Whom, Unknown Date
Bank II	Account Owner Pollak	Savings/Passbook Account	Value Unknown	Closed Unknown to Whom, 23 April 1938
Bank II	Account Owner Pollak	Custody Account	Value Unknown	Closed Unknown to Whom, 5 August 1938

**ANNEX B**

**TABLE II: ISSUE OF WHO RECEIVED THE PROCEEDS**

Bank I	Account Owner Bader and Account Owner Pollak	Custody Account	Austrian census records indicate that the securities in the account were sold and that the proceeds were paid to the Nazis.	The custody account held jointly by Account Owner Bader and Account Owner Pollak at Bank I, the Austrian census records indicate that the securities in the account were sold and that the proceeds were paid to the Nazis.
Bank I	Account Owner Pollak	Demand Deposit Account	Open and Dormant.	The demand deposit account held by Account Owner Pollak at Bank I, Bank I's records indicate that on 24 November 1959 the account was transferred to a suspense account for dormant assets, where it remains open and dormant.
Bank I	Account Owner Pollak	Custody Account	Closed Unknown to Whom, 29 July 1938	The custody account, numbered 32037, held by Account Owner Pollak at Bank I, was closed on 29 July 1938; and the savings/passbook account and custody account held by Account Owner Pollak at Bank II were closed on 23 April 1938 and 5 August 1938, respectively. Given that Account Owner Pollak's other account was confiscated by the Nazis; that the Account Owner's accounts were closed after the <i>Anschluss</i> ; that Nazi confiscatory legislation was in effect at the time the accounts were closed; that the Nazis had, at the time of the <i>Anschluss</i> , immediately begun a major effort to confiscate the assets of the Jewish residents of Austria, and the CRT has found numerous such confiscations of Swiss bank accounts occurred at this time; that she remained in Austria after the <i>Anschluss</i> (as evidenced by the Austrian State Archive records which she had to submit sometime after 26 April 1938) until 18 August 1938 when she fled to England and would not have been able to repatriate her accounts; that there is no record of the payment of Account Owner Pollak's accounts to her or to the Power of Attorney Holders; that Account Owner Pollak and her heirs would not have been able to obtain information about her accounts after the Second World
Bank II	Account Owner Pollak	Savings/Passbook Account	Closed Unknown to Whom, 23 April 1938	
Bank II	Account Owner Pollak	Custody Account	Closed Unknown to Whom, 5 August 1938	

				War from Bank II due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (a), (f), (h) and (j)
Bank I	Account Owner Stern and Account Owner Pollak	Unknown Type	Closed Unknown to Whom, Unknown Date	The account of unknown type held jointly by Account Owner Stern and Account Owner Pollak at Bank I were closed unknown to whom on an unknown date; the one demand deposit account held by Account Owner Pollak at Bank I, was frozen in 1945 and later closed unknown to whom on an unknown date; and the two savings/passbook accounts held by Account Owner Pollak at Bank I were closed unknown to whom on unknown dates. Given the death of Account Owner Stern in 1935; that Account Owner Pollak's other account was confiscated by the Nazis, as indicated in the Austrian State Archive records; that there is no record of the payment of Account Owner Pollak's accounts to her or to the Power of Attorney Holders; that Account Owner Pollak and her heirs would not have been able to obtain information about her accounts after the Second World War from Bank II due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (a), (f), (h) and (j)
Bank I	Account Owner Pollak	Demand Deposit Account	Closed Unknown to Whom, Unknown Date	
Bank I	Account Owner Pollak	Savings/Passbook Account	Closed Unknown to Whom, Unknown Date	
Bank I	Account Owner Pollak	Savings/Passbook Account	Closed Unknown to Whom, Unknown Date	
Bank I	Account Owner Stern	Custody Account	Closed Unknown to Whom, January 1945.	The custody account and demand deposit account, both numbered 28659, held by Account Owner Stern at Bank I, which designated Account Owner Bader and Account Owner Stern as the Power of Attorney Holders, were both closed in January 1945. Given the death of Account Owner Stern in 1935; that Account Owner Bader and Account Owner Stern's other account was confiscated by the Nazis; that on 8 October 1941, the <i>Gestapo</i> ordered that all assets pertaining to Account Owner Bader be confiscated for the
Bank I	Account Owner Stern	Demand Deposit	Closed Unknown to Whom, January 1945	

				<p>benefit of the <i>Reich</i>; that the <i>Vermögensverkehrsstelle</i> recommended that Account Owner Bader's citizenship be revoked; that there is no record of the payment of Account Owner Stern's accounts to her or to the Power of Attorney Holders; that Account Owner Stern and her heirs would not have been able to obtain information about her accounts after the Second World War from Bank II due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (a), (h) and (j)</p>
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## ANNEX C

### TABLE III: AMOUNT OF AWARD

Bank I	Account Owner Bader and Account Owner Pollak	Custody Account	6,615.00 Swiss Francs (19 January 1940). ASA records indicate that the proceeds of 2,355.91 United States Dollars from the sale of these securities had been transferred to the <i>Deutsche Golddiskontbank</i> , which was equivalent to 10,295.33 Swiss Francs.	10,295.33
Bank I	Account Owner Stern	Custody Account	Value Unknown	13,000.00
Bank I	Account Owner Stern	Demand Deposit Account	Value Unknown	2,140.00
Bank I	Account Owner Stern and Account Owner Pollak	Unknown Type	Value Unknown	3,950.00
Bank I	Account Owner Pollak	Custody Account	Value Unknown	13,000.00
Bank I	Account Owner Pollak	Demand Deposit Account	50.50 Swiss Francs (last known value)	2,140.00
Bank I	Account Owner Pollak	Demand Deposit Account	43.65 Swiss Francs.	2,140.00
Bank I	Account Owner Pollak	Savings/Passbook Account	Value Unknown	830.00
Bank I	Account Owner Pollak	Savings/Passbook Account	Value Unknown	830.00
Bank II	Account Owner Pollak	Savings/Passbook Account	Value Unknown	830.00
Bank II	Account Owner Pollak	Custody Account	Value Unknown	13,000.00

**ANNEX D**

**TABLE IV: DIVISION OF THE AWARD SECTION**

Bank I	Account Owner Bader and Account Owner Pollak	Custody Account	$10,295.33 \times 12.5 = 128,691.63$	Claimant [REDACTED 2] and Claimant [REDACTED 1] entitled to one-half each, 64,345.82
Bank I	Account Owner Stern	Custody Account	$13,000.00 \times 12.5 = 162,500.00$	Claimant [REDACTED 2] and Claimant [REDACTED 1] entitled to one-half each, 81,250.00
Bank I	Account Owner Stern	Demand Deposit Account	$2,140.00 \times 12.5 = 26,750.00$	Claimant [REDACTED 2] and Claimant [REDACTED 1] entitled to one-half each, 13,375.00
Bank I	Account Owner Stern and Account Owner Pollak	Unknown Type	$3,950.00 \times 12.5 = 49,375.00$	Claimant [REDACTED 2] and Claimant [REDACTED 1] entitled to one-half each of Account Owner Stern's share of account, 12,343.75; Claimant [REDACTED 2] entitled to all of Account Owner Pollak's share of account, 24,687.50
Bank I	Account Owner Pollak	Custody Account	$13,000.00 \times 12.5 = 162,500.00$	Claimant [REDACTED 2] entitled to all.
Bank I	Account Owner Pollak	Demand Deposit Account	$2,140.00 \times 12.5 = 26,750.00$	Claimant [REDACTED 2] entitled to all.
Bank I	Account Owner Pollak	Demand Deposit Account	$2,140.00 \times 12.5 = 26,750.00$	Claimant [REDACTED 2] entitled to all.
Bank I	Account Owner Pollak	Savings/Passbook Account	$830.00 \times 12.5 = 10,375.00$	Claimant [REDACTED 2] entitled to all.
Bank I	Account Owner Pollak	Savings/Passbook Account	$830.00 \times 12.5 = 10,375.00$	Claimant [REDACTED 2] entitled to all.
Bank II	Account Owner Pollak	Savings/Passbook Account	$830.00 \times 12.5 = 10,375.00$	Claimant [REDACTED 2] entitled to all.
Bank II	Account Owner Pollak	Custody Account	$13,000.00 \times 12.5 = 162,500.00$	Claimant [REDACTED 2] entitled to all.