

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award**

to Claimant Helmut Bates

## **in re Account of Kurt Bauchwitz**

Claim Number: 217627/MBC

Award Amount: 26,750.00 Swiss Francs

This Certified Award is based upon the claim of Helmut Bates (the “Claimant”) to the account of Kurt Bauchwitz (the “Account Owner”) at the Basel branch of the [REDACTED] (the “Bank”). On 28 January 2002, the Court approved the Award of one of the Account Owner’s two accounts at the Bank.<sup>1</sup> The CRT did not reach a decision regarding the second account, pending further consideration as to whether or not the Account Owner or his heirs received the proceeds of that account. This Award is the result of further consideration on whether the Account Owner received the proceeds of the second account.

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the name of the bank has been redacted.

## **Information Provided by the Claimant**

The Claimant submitted a Claim Form identifying the Account Owner as his father, Kurt Bauchwitz, who was born in 1890 in Halle, Germany, and was married to Else Schwabach in 1916. According to the Claimant, Else Bauchwitz Schwabach died in 1931. The Claimant explained that his father, who was Jewish, worked as a lawyer and notary in Berlin, Germany, until March 1939, when he fled from Germany. The Claimant stated that his father lived in Japan until 1940 or 1941, and that he subsequently settled in the United States, where he died in 1974. The Claimant submitted his birth certificate indicating that his parents were Kurt Bauchwitz, a lawyer, and his wife, Elsa Bauchwitz, née Schwabach. The Claimant also submitted a list of Jewish lawyers from Berlin that included his father’s name. The Claimant stated that he is the only child of his parents and that he was born in 1919.

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<sup>1</sup> See In re Accounts of Kurt Bauchwitz (approved on 28 January 2002), hereinafter the “January 2002 Award.”

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

The Bank's record consists of a customer card. The Bank's record indicates that the co-owners of the account were initially Dr. Kurt Bauchwitz, a lawyer, and Elsa Bauchwitz, née Schwabach. The latter's name was subsequently crossed out, which suggests that Elsa Bauchwitz died, and Kurt Bauchwitz became the sole Account Owner. The Bank's record indicates that the Account Owner resided in Berlin. According to the Bank's record, the Account Owner held a demand deposit account, which was closed on 30 April 1934. The Bank's record does not indicate the value of the account on the date of its closure. There is no evidence in the Bank's record that the Account Owner or his heirs closed the account and received the proceeds themselves.

## **The CRT's Analysis**

### Identification of the Account Owner

In the January 2002 Award, it was determined that the Claimant had plausibly identified the Account Owner. His father's name matches the published name of the Account Owner. The Claimant stated that his father, Kurt Bauchwitz, was a lawyer, and that he was married to Else Bauchwitz, née Schwabach. This information matches the unpublished information about the Account Owner contained in the Bank's record. In support of his claim, the Claimant submitted his birth certificate indicating that his parents were Kurt Bauchwitz, a lawyer, and his wife, Elsa Bauchwitz, née Schwabach. The CRT notes that one other claim to this account was disconfirmed because that claimant provided a different profession than the profession of the Account Owner and did not identify the co-owner of the account.

### Status of the Account Owner as a Victim of Nazi Persecution

In the January 2002 Award, it was determined that the Claimant had made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that his father was Jewish, and fled Germany in 1939 to Japan, and later to the United States.

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

In the January 2002 Award, it was determined that the Claimant had plausibly demonstrated that he is related to the Account Owner by submitting his birth certificate demonstrating that the Account Owner was his father. There is no information to indicate that the Account Owner has other surviving heirs.

### The Issue of Who Received the Proceeds

In evaluating whether the Account Owner or his heirs received the proceeds of the demand deposit account, the CRT took into account the facts of the closing of the Account Owner's demand deposit account in 1934, and considered that: the Nazis embarked on a campaign in 1933 to seize the domestic and foreign assets of Jewish nationals in Germany at the time of its closing through the enforcement of flight taxes and other confiscatory measures, including

confiscation of assets held in Swiss banks; the Account Owner remained in Germany until 1939, and would not have been able to repatriate his account to Germany without its confiscation; the Account Owner and his heirs would not have been able to obtain information about his account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquires by account owners because of the Banks' concern regarding double liability; and there is no record of the payment of the Account Owner's account to him. Based on these factors, indicating a practical inability to receive the proceeds of his demand deposit account during the period in which the Account Owner lived in Germany, and given the application of relevant Presumptions (a), (h) and (j),<sup>2</sup> which establish a presumption of such a result in this context, the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner or his heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

### Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was his father, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed account.

### Amount of the Award

In this case, the Account Owner held one demand deposit account closed on 30 April 1934. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of a demand deposit account was 2,140.00 Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of 26,750.00 Swiss Francs.

### **Scope of the Award**

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he 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).

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<sup>2</sup> These presumptions are provided for in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), as set forth in the attached Appendix A and in Appendix C to the Rules. Appendix C appears on the CRT II website -- [www.crt-ii.org](http://www.crt-ii.org).

**Certification of the Award**

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

Claims Resolution Tribunal  
September 30, 2003