

# CLAIMS RESOLUTION TRIBUNAL

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

## **Certified Award Amendment**

to Claimant [REDACTED]

## **in re Accounts of Simon Benesch and Irma Benesch**

Claim Number: 221561/HS<sup>1</sup>

Award Amount: 135.63 Swiss Francs

This Certified Award Amendment is based upon the claim of [REDACTED], née [REDACTED] (the “Claimant”) to the published accounts of Simon Benesch (“Account Owner Benesch”) and Irma Benesch, née Taussig, (“Account Owner Taussig”) (together the “Account Owners”) at the [REDACTED] (“Bank I”), the Zurich branch of the [REDACTED] (“Bank II”), and the Zurich branch of the [REDACTED] (“Bank III”) (together the “Banks”).

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

On 30 June 2003 the Court approved an Award to the Claimant for two demand deposit accounts, two custody accounts, and one savings account owned by Account Owner Benesch, and one demand deposit account and one custody account owned jointly by the Account Owners (the “June 2003 Award”). In this Award Amendment, the CRT adopts and amends its findings set out in the June 2003 Award. Based upon further evidence regarding the reliability of the declarations made in the Nazi decreed 1938 Census of Jewish-owned assets (the “1938 Census”), the CRT determines that the value of Account Owner Benesch’s demand deposit account at Bank III was 2,140.00 Swiss Francs (“SF”), and that given the foregoing, the June 2003 Award amount shall accordingly be increased by SF 135.63.

The CRT notes that in the June 2003 Award, the CRT determined that the Claimant plausibly identified the Account Owners, that he plausibly demonstrated that she is related to the Account Owners, and that she made a plausible showing that the Account

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<sup>1</sup> The Claimant submitted four additional claims to the accounts of [REDACTED], [REDACTED], [REDACTED] and [REDACTED], which are registered under the Claim Numbers 223004, 216941, 216991 and 217256, respectively. On 15 July 2003, the Court approved an Award to the Claimant for the account of Emil Klein. The CRT will treat the Claimant’s remaining claims to the above-mentioned accounts in a separate decision.

Owners were Victims of Nazi Persecution. Based on the information contained in the Bank's records and the Austrian State Archives regarding the Account Owners' 1938 Census declarations, the CRT determined that Account Owner Benesch held two demand deposit accounts, two custody accounts and one savings account, and that the Account Owners jointly held one custody account and one demand deposit account. Additionally, in the June 2003 Award, the CRT determined that it is plausible that the Account Owners did not receive the proceeds of their accounts. Finally, the CRT determined that the June 2003 Award amount was SF 581,845.80.

## **The CRT's Analysis**

### Amount of the Award Amendment

The CRT notes that in the June 2003 Award, the CRT determined that the value of Account Owner Benesch's demand deposit account at Bank III was SF 2,129.15, which is the amount recorded in Account Owner Benesch's 1938 Census declaration.

However, the CRT determines that it is unable to rely on the balance amount declared in the 1938 Census as it has no evidence regarding the circumstances of Account Owner Benesch's declaration. The CRT notes that, as evidenced in a number of cases, Account Owner Benesch may not have declared all his assets, or understated their value, in the belief that this might help him safeguard some of them. Pursuant to Article 29 of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), if the amount in a demand deposit account is less than SF 2,140.00, and in the absence of plausible evidence to the contrary, the amount in the demand deposit account shall be determined to be SF 2,140.00.

Accordingly, the CRT does not find that the value of the demand deposit account indicated in Account Owner Benesch's 1938 Census declaration constitutes plausible evidence to the contrary sufficient to rebut the presumption of Article 29 of the Rules, and concludes that the value of Account Owner Benesch's demand deposit account shall be determined to be SF 2,140.00. The amount of SF 2,129.15, which is the account value used in the June 2003 Award, is then subtracted from the Article 29 value, resulting in a difference of SF 10.85. 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. Accordingly, the amount of the June 2003 Award is increased by SF 135.63, which reflects the adjusted difference between the value of Account Owner Benesch's demand account at Bank III recorded in the 1938 Census and the value determined by Article 29 of the Rules.

**Certification of the Award Amendment**

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

Claims Resolution Tribunal  
21 October 2004